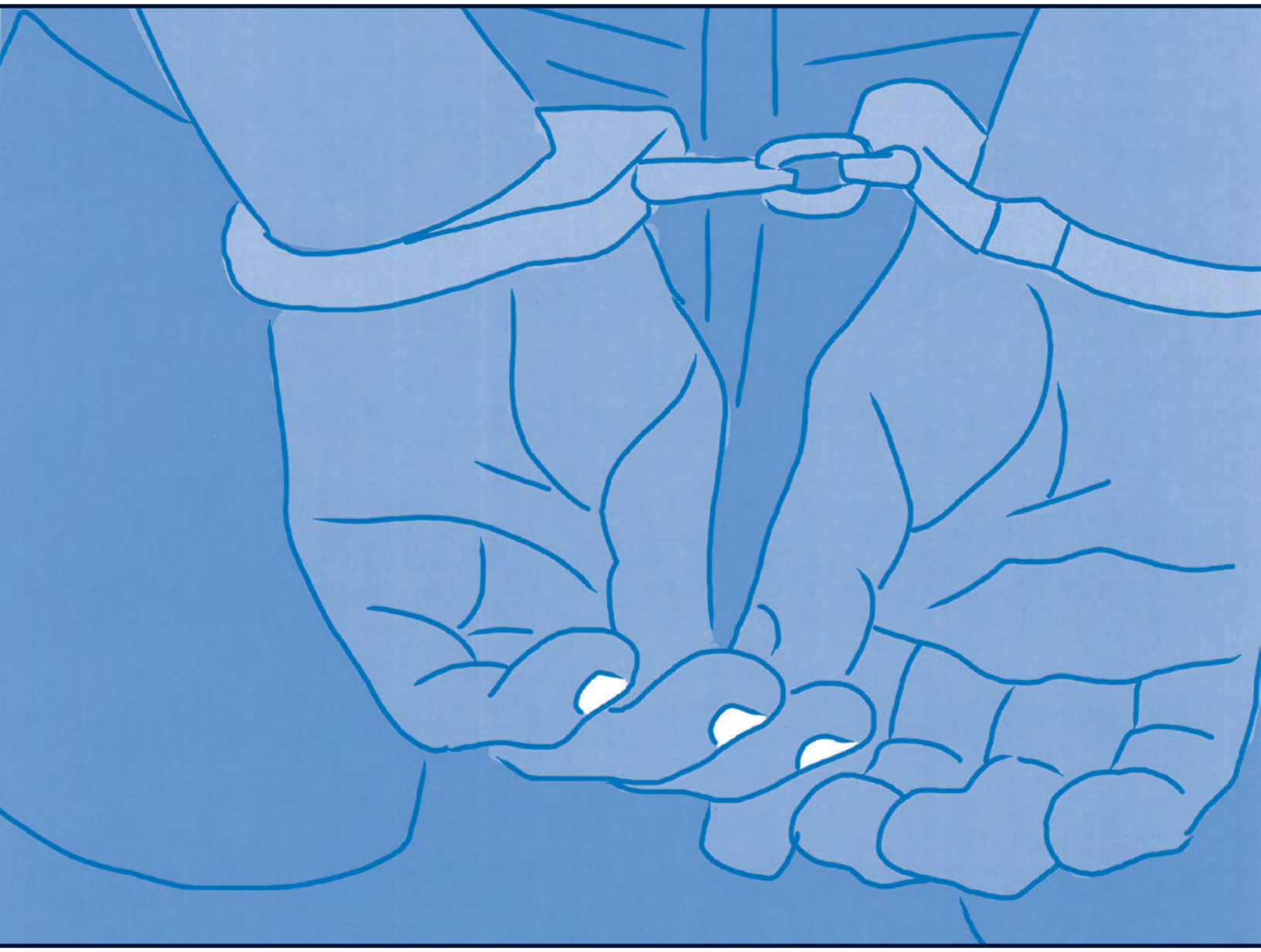
Defend Against ICE Raids and Community Arrests



A TOOLKIT TO PREPARE AND PROTECT OUR COMMUNITIES

IDP IMMIGRANT DEFENSE PROJECT

center for constitutional rights

Table of Contents

1 Purpose of Toolkit

4 Foreword

7 Acronyms and Abbreviations

8 Why the Focus on Home Raids

10 Who ICE Targets for Deportation

15 Where and How ICE Locates People in Communities

22 ICE Arrest Tactics

30 Emergency Preparedness for Those at Risk of Deportation

33 Legal Challenges to ICE Raids

39 Community Responses to ICE Raids

42 Appendix A

152 Appendix B

203 Appendix C

210 Acknowledgments

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Purpose of Toolkit

This toolkit is a collaboration between the Immigrant Defense Project (IDP) and the Center for Constitutional Rights (CCR), and a culmination of our collective work against Immigration and Customs Enforcement (ICE) home raids during the G.W. Bush and Obama administrations. It aims to help advocates prepare for fighting back against ICE raids under a Trump administration.

In 2013, IDP and CCR, along with the Hispanic Interest Coalition of Alabama (HICA), filed a Freedom of Information Act (FOIA) request on DHS and ICE's controversial tactic of arresting immigrants at their homes, often without judicial warrants.[1] We are still litigating the FOIA, but have received some information on the recent history of ICE trainings and practices around home raids. These materials include internal memos and training manuals that we have included in the Appendix.[2] In addition, IDP has monitored and tracked ICE raids, primarily in the New York City area, for three years. After reviewing over two hundred reports of ICE activity, we have identified the key tactics used by ICE in recent years to arrest people at homes and in the community.

In this toolkit, we have assembled our research from the FOIA and monitoring of home raids to support community defense against ICE's deportation dragnet. It contains information on: (1) who ICE targets for deportation; (2) where and how ICE locates people in communities; and (3) ICE arrest tactics during raids. We also include ideas on how to fight back against these

1 For more information about the FOIA, *Immigrant Defense Project, et al. v. ICE, et al.*, *see* https://ccrjustice.org/home/what-we-do/our-cases/immigrant-defense-project-et-al-v-ice-et-al#

2 *See* Appendix A, select documents obtained in *Immigrant Defense Project, et al., v. ICE, et al.*

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abusive practices that destroy the fabric and safety of communities, emergency preparedness resources for those at risk of deportation, and possible legal and community challenges for those who have experienced raids.

ICE raids are one piece of a vast deportation apparatus the federal government that has built up in recent decades to help ICE meet "performance goals"[3] and deport as many people as possible. It is clear from our research that many of the specific tactics ICE agents currently employ during raids are legacies of past practices that have shifted and changed shape with the political tide, successful legal challenges and significant protest. Despite public claims of change, there is a lot that remains the same. The agency has demonstrated at best, an indifference to community members' constitutional rights — particularly when left to their own devices — and have shown little interest in internal accountability for misconduct. Under the new administration, we expect ICE to resurrect some of its past problematic tactics and can learn from successful challenges advocates mounted previously.

3 Rivas, Jorge, "ACLU Obtains Emails that Proves ICE Officials Set Deportation Quotas," *Colorlines*, Feb. 15, 2013, available at http://www.colorlines.com/articles/aclu-obtains-emails-prove-ice-officials-set-deportation-quotas [hereinafter "Colorlines"]

Based on our historical research, the FOIA production, and local tracking of raids, we have identified the following key lessons:

— Throughout both the G.W. Bush and Obama administrations, ICE has institutionalized a militaristic approach to civil arrests with little regard for constitutional principles or violations.
— Despite proactive litigation that resulted in significant damages settlements and improved training materials for agents and officers during the G.W. Bush and Obama administrations, ICE continues to illegally enter and search homes without proper warrants through deceptive ruses, such as pretending to be local police, and the use of threats and violent force.
— Even though DHS claims to engage in "targeted enforcement," ICE's deceptive and violent home raid tactics often have traumatic impacts on people who are not the target, including children, as residents are frequently present during raids.

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— ICE relies on widespread surveillance and deception to arrest people outside of their homes, on the street, in the courts and in government-run spaces like homeless shelters.
— ICE's definition of a "public safety threat" includes a wide range of people — including people with serious medical and mental health issues, those with decades-old convictions, and those who never served time in jail.
— With a possible return to the more abusive, unconstitutional tactics ICE used under G.W. Bush, it is helpful to revisit and consider successful strategies from the past — like strategic litigation — as communities create a new, adaptable toolbox for fighting back against raids.

The infrastructure that has been created in recent decades will become the baseline for what Trump's administration can execute in its quest to deport millions of people. The key elements include the constellation of a massive police force, a further militarized southern border, surveillance, expansive data-sharing between local police and ICE, and the maintenance of a sprawling network of prisons [4] for immigrants. The success of this apparatus relies on decades of extensive criminalization that impacts all communities of color — including racialized policing, discriminatory prosecution and harsh sentencing, and mass imprisonment.

As we develop strategies to fight back against Trump's promise to immediately deport millions of people, it is critical to draw lessons from the struggles against the system of mass deportation and criminalization that has expanded over the past decades. This toolkit will address the need for details about previous and ongoing tactics the federal government has used to deport people from their communities. It also proposes some possible strategies to prepare for what may come in the months and years ahead.

4 Wellek, Alisa, "Brutal Bedfellows: Mass Incarceration And Immigrant Detention", *The Huffington Post*, Nov. 22, 2016, available at http://www.huffingtonpost.com/entry/brutal-bedfellows-mass-incarceration-immigrant-detention_us_58179437e4b096e87069692e

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Foreword

Shortly after winning the presidential election, Donald Trump reiterated his plans to rapidly deport "2 to 3 million" people. This was not surprising given that Trump had campaigned extensively on a sensationalist anti-immigrant platform. Though it is hard to predict exactly how the next president will move this hate-based agenda forward, in an early interview, he named individuals he described as "criminal and [those that] have criminal records" as the key first targets.[5]

For social justice advocates everywhere, there is much to be concerned about in the coming months and years. But in order to fully address the challenges ahead of us, we need to take stock of the conditions that make our current moment possible. Today's attacks on immigrants are the result of an ongoing cycle of expulsion, exclusion, and criminalization of those deemed "unworthy" of belonging. Since the founding of this country, the aggressive policing of immigrants — particularly from the Global South — has been a defining feature of U.S. immigration policy and practice.

The deportation of non-citizens with criminal convictions has been a stated focus of the federal government's since the 1980s.[6] Such efforts depend on both an ever-expanding discourse that demonizes immigrants and justifies excessive and perpetual punishment, as well as on tremendous government investment in a massive deportation apparatus. The political climate of the subsequent years helped to realize this focus through various initiatives. These included the passage of harsh laws in 1996 that expanded the criminalization of immigrants and consequently, the government's power to arrest, imprison and deport non-citizens on a massive scale.

5 Schultheis, Emily, "President-elect Trump says how many immigrants he'll deport," *CBS News*, Nov 13, 2016, available at http://www.cbsnews.com/news/president-elect-trump-says-how-many-immigrants-hell-deport/

6 Kandel, William A. "Interior Immigration Enforcement: Criminal Alien Programs," *Congressional Research Service*, Sept. 8, 2016, available at https://fas.org/sgp/crs/homesec/R44627.pdf

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Over the past three decades, the federal government has increasingly justified massive investments in its immigrant detention and deportation infrastructure by using the labels "criminal," "illegal," or "felon" to more effectively dehumanize, surveil, punish, and exile millions of people. Through harsh laws and policies, the government has significantly expanded who can be defined as a "criminal." By linking the policing and imprisonment of immigrants to a broadly defined "national security," the government is able to justify the massive funding allocated to "homeland security."

Procedurally, the founding of the Department of Homeland Security (DHS) in 2003 required a major restructuring of government agencies and priorities, along with a tremendous diversion of federal spending. For a department tasked with protecting "national security," the permanent removal of people with criminal convictions has increasingly served as the justification for the funding of the world's largest policing, imprisonment, and deportation apparatus. A key feature of the growing political convergence of the War on Terror with the War on Immigrants has been the expansion of collaboration efforts between local police and ICE and of the ICE police state — requiring the diversion of hundreds of billions of government dollars — towards the mass policing, imprisonment, and expulsion of immigrants.

The creation of the "homeland security state" has involved the normalization of criminalization and deportation. As a result, DHS — its underlying logic, the profound human suffering it has caused, its relationship with other agencies, and the political interests it serves — has not received the kind of public scrutiny an institution of such magnitude and influence deserves. In the past 15 years, the U.S. has deported 5 million people — almost twice as many people than in the previous 110 years combined!

Not only have millions of lives been irreparably disrupted, these policies are at odds with the current forward-thinking movement to reduce the harms of over-policing and mass incarceration. The success of this cruel system

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depends, in part, on the dehumanization of whole social groups, including strategically deploying labels such as "criminal," "illegal," or "felon" to shape public attitudes. At the same time, the government has incorporated and exploited the harmful ideologies and tactics of the so-called "War on Crime" and "War on Drugs" to escalate the racialized policing, mass imprisonment, surveillance, and excessive punishment of immigrants and other socially marginalized groups. The lines between the criminal legal system and immigration system have become dangerously thin.

It is no accident that ICE guides and trains its officers to use techniques that further militarize the policing of communities of color. Much like other law enforcement agencies with documented discriminatory outcomes, ICE policies and strategies encourage and justify overly-aggressive policing tactics, widespread surveillance, and a disregard for constitutional and human rights. ICE's unchecked zeal to target, arrest, and deport immigrants with convictions not only destroys families and communities, but also reinforces the inequalities of the criminal legal system upon which many of its policies rest.

Yet despite the enormity of this system, it is not without its weaknesses. A system that creates so much human pain, erodes fundamental fairness and human rights, and threatens the safety of millions in the name of "security" is, at its source, unsustainable. With every iteration and expansion over the years, growing numbers of communities in every part of the country have organized to reject its dehumanization, curb its growth, and uphold dignity and justice. The next "version" should expect increased resistance. If we can revisit key learnings, adjust our approach, and expand our toolbox accordingly, we can better support each other as well as the leadership of communities on the frontlines.

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Acronyms and Abbreviations

CBP	Customs & Border Protection ("Border Patrol")
CCR	Center for Constitutional Rights
CRCL	Office of Civil Rights and Civil Liberties
DHS	Department of Homeland Security
FOT	Fugitive Operations Team
FTCA	Federal Tort Claims Act
HICA	Hispanic Interest Coalition of Alabama
ICE	Immigration and Customs Enforcement
IDP	Immigrant Defense Project
NCIC	National Crime Information Center
NFOP	National Fugitive Operations Program
NYPD	New York Police Department
USCIS	United States Citizenship and Immigration Services

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Why the Focus on Home Raids

There are a variety of tactics ICE uses to identify people with criminal contact or convictions in the interior. The primary tactics [7] are: 1) the **Criminal Alien Program** in which ICE screens people in prisons and jails, 2) **287(g) agreements** whereby ICE partners directly with local law enforcement to conduct specific immigration functions, 3) **Secure Communities and the Priority Enforcement Program**, where ICE works with local jails to target specific individuals, and 4) **task force operations** to conduct home raids and community arrests. ICE uses these tactics in their enforcement actions to arrest immigrants and meet its "annual performance goals." [8] The predominance of a particular enforcement tactic will vary over time and place, given changing political contexts and imperatives—such as changes in ICE's stated priority targets and the willingness of a locality to collaborate with ICE detainers [9] or to participate in the of 287(g) program. [10]

This report, however, focuses on ICE home raids, while acknowledging that home raids are just one of the primary tactics employed by ICE to target immigrants outside of the U.S.-Mexico borderlands. We began to monitor home raids in the New York City area in 2013, while we were also tracking ICE detainer practices in our ongoing advocacy to end the City's entanglement with ICE through a series of detainer policies. [11]

Shortly after the founding of the Department of Homeland Security (DHS) in 2003, the agency developed a ten-year strategic plan to meet its goals under the "War on Terror." Entitled "Endgame: Office of Detention and Removal Strategic Plan 2003-2012", [12] its stated mission was: "a 100% rate of removal for all removable aliens ... to allow ICE to provide the level

7 Rosenblum, Marc. R., "Oversight of the Administration's Criminal Alien Removal Policies," Testimony before U.S. Senate Committee on the Judiciary, Dec. 2, 2015.

8 See Colorlines, note 3.

9 Immigrant Legal Resource Center, "Searching for Sanctuary," Dec. 19, 2016, available at: https://www.ilrc.org/searching-sanctuary.

10 Immigrant Legal Resource Center and United We Dream, "Ending Local Collaboration with ICE: A Toolkit for Immigrant Advocates," Aug. 2015, available at: https://www.ilrc.org/sites/default/files/resources/toolkit_final.compressed.pdf

11 *See* http://www.immdefense.org/campaign-to-end-secure-communities/

12 U.S. Department of Homeland Security, "ENDGAME: Office of Detention and Removal Strategic Plan, 2003-2012: Detention and Removal Strategy for a Secure Homeland," Aug. 15, 2003, available at https://aclum.org/sites/all/files/education/ice/endgame.pdf [hereinafter "ENDGAME"]

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of immigration enforcement necessary to keep America secure." [13] The National Fugitive Operations Program (NFOP)—the division of ICE primarily tasked with home raids—continued to grow and evolve as a critical component of the DHS strategic plan.

Under the guise of "national security," the government has continued to shift its named "priority" immigrant targets — as a response to changing political priorities — but without providing evidence as to how mass punishment and deportation provide such security. The G.W. Bush administration initially targeted people from countries with large Muslim populations and people crossing the southern border as the primary threats.[14] In doing so, it built up the apparatus for large-scale raids of immigrants at work and at home, as well as for increased collaboration with local law enforcement. The Obama administration furthered the focus on immigrants with convictions as its primary target — both materially and rhetorically — while simultaneously accelerating the criminalization of immigration-related offenses at unprecedented levels.[15] Employing seemingly neutral labels — such as "criminal," "illegal," or "felon" — the government's drive to massively deport immigrants has not only been facilitated by the legacy of the War on Crime but has also led to a precipitous acceleration of racialized policing, mass imprisonment, surveillance, and excessive punishment.

The government's expansive and uncritical use of home raids to arrest immigrants for deportation not only legitimates the highly problematic use of SWAT teams,[16] but also justifies the continual expansion of the federal policing system, as well as the reach of local police. The DHS impact on the militarization of local policing is profound:[17] it includes the establishment of massive surveillance and data sharing networks; joint training and joint task forces with local police; the use of local police as a "force multiplier" for immigration policing; and the transfer of billions of dollars of military equipment.

The fight against home raids is not solely to protect people from deportation. It is also about challenging the normalization of an ever-expanding police state in the name of "homeland security."

13 *See* ENDGAME, note 12, at 2-2.

14 Fernandes, Deepa, Targeted: Homeland Security and the Business of Immigration, Seven Stories Press, 2007.

15 *Immigration Now 52 Percent of All Federal Criminal Prosecutions*, TRACReports, Nov. 28, 2016, available at http://trac.syr.edu/tracreports/crim/446/ [hereinafter "TRACReports"] and Light, Michael T., Hugo Lopez, Mark, and Gonzalez-Barrera, Ana, *The Rise of Federal Immigration Crimes*, Mar. 18, 2014, available at http://www.pewhispanic.org/2014/03/18/the-rise-of-federal-immigration-crimes/

16 American Civil Liberties Union, "The War Comes Homes: The Excessive Militarization of American Policing," available at: https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police

17 Bauer, Shane, "The Making of the Warrior Cop," *Mother Jones*, October 2014, available at: http://www.motherjones.com/politics/2014/10/swat-warriorcops-police-militarizationurban-shield

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ICE's Deportation Targets

How does the federal government decide whom to deport?

Immigration laws passed by Congress define who is legally at risk of deportation (i.e. "removable"). The President and Department of Homeland Security (DHS) then decide how the agency will allocate its resources in enforcing the laws by setting deportation priorities. The priorities guide Immigration and Customs Enforcement (ICE) agents by creating categories of people that the agents target for arrest, detention and deportation.

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Who can be deported?

Under current immigration laws, people at risk of deportation generally include:

— **People without lawful immigration status:** People who are undocumented do not have authorization from the federal government to be in the U.S. and can be deported at any time for this reason. This includes people who entered without status and those who entered lawfully—for example, with a temporary visa—but whose status is no longer valid. Some undocumented people may be eligible to avoid deportation and become documented.

— **People with lawful immigration status (e.g. Lawful Permanent Residents or refugees) who have criminal convictions:** People with legal status can be deported based on criminal convictions. This is true even if the conviction is decades old, if the person did not serve any time in jail, if the case was considered minor or a misdemeanor, if the person has had status for a long time, and/or the person has other family members who are U.S. citizens.

While these groups of people are legally at risk, whether they are actually detained and placed in removal proceedings depends largely on the policies set by the federal government priorities for enforcement.

What groups of people have been "priorities" for deportation?

Historically, the priorities have been quite broad, covering those with and without legal status as well as those with and without criminal convictions. ICE practices have reflected longstanding goals but also varied in emphasis and scale depending on the political climate. For example, during the Obama administration, ICE focused more on immigrants with convictions rather than those with only civil immigration violations (such as those with only a prior order of removal).[18] ICE states its priorities are used as a means to focus ICE resources, but ICE is clear that agents are not discouraged from arresting, detaining or deporting anyone who is not identified as a priority. [19]

18 Memo from Jeh Johnson, *"Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,"* Nov. 20, 2014, available at https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf

19 See PEP memo, note 18.

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Since the founding of DHS in 2003, the agency has spent billions of dollars toward its mission to "identify, locate, apprehend, process and remove" immigrants that DHS claims are "threats to national security, border security, and public safety." [20] Below are some of the common categories that have been used by DHS to criminalize a broad range of people and classify immigrants as key targets for deportation:

— **"Criminal Alien":** "Criminal alien" is not defined in immigration law or regulations, and has been used inconsistently by the federal government to dehumanize a broad category of people to justify mass deportation. Generally, a "criminal alien" is a non-citizen who is legally deportable or is not eligible for legal status due to a criminal conviction or contact with the criminal legal system. Applied very broadly, this term may include people who have served their sentence and rebuilt their lives, people convicted of misdemeanors or of immigration offenses such as illegal re-entry, [21] and those with infractions that are not even considered "convictions" under state law such as traffic violations. [22] If the person has a conviction, it doesn't matter to ICE how long ago the conviction happened, or often even if it is on appeal; ICE also ignores other positive aspects of the person's life, such as community contributions or family ties. The vast majority of people deported for criminal offenses do not even meet ICE's own standards of serious offense. [23]

— **"Convicted criminal":** A "convicted criminal" is a term used by ICE in its enforcement statistics and defined as "an individual convicted in the United States for one or more criminal offenses. This does not include civil traffic offenses." [24] In November 2014, ICE identified this category, along with people who crossed the border without authorization after January 1, 2014, as top priorities.

— **"Suspected or Confirmed Gang Member":** According to a Federal Register notice, ICE maintains ICEGangs, a database that collects and

20 *See* ENDGAME, note 2.

21 The government has been aggressively prosecuting immigration related offenses—primarily "illegal entry" and "illegal re-entry"— over the past 10 years. Immigration violations made up 52% of all federal criminal prosecutions in FY 2016. See *TRACReports*, note 15.

22 Harsh immigration laws passed in 1996 vastly expanded the criminal offenses that trigger deportation. See Wellek, Junck & Shah "20 Years Ago Today This Terrible Law Set the Foundation for Mass Detention and Deportation," *Colorlines*, September 30, 2016 available at http://www.colorlines.com/articles/20-years-ago-today-terrible-law-set-foundation-mass-detention-and-deportation. For number of deportations by criminal charge see Secure Communities and ICE Deportations: A Failed Program?, *TRACReports*, Apr. 8, 2014 available at http://trac.syr.edu/immigration/reports/349/

23 Rosenblum, Marc R. and McCabe, Kristen, Deportation and Discretion: Reviewing the Record and Options for Change, Migration Policy Institute, Oct. 2014, available at http://www.migrationpolicy.org/research/deportation-and-discretion-reviewing-record-and-options-change

24 U.S. Immigration and Customs Enforcement, "FY 2015 ICE Immigration Removals," available at https://www.ice.gov/removal-statistics

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stores information about adults and juveniles "who qualify as suspected or confirmed gang members and associates under ICE criteria." How ICE defines or identifies a gang member, whether suspected or confirmed, is not publicly available, but its gang definition seems broader than the federal law definition of gangs and California's definition of street gangs. ICEGangs also collects information about associates, but the criteria for affiliates and associates of gangs have also not been disclosed. [25]

25 This definition has been provided by Paromita Shah from the National Immigration Project of the National Lawyers Guild. For any questions, please contact Paromita at paromita@nipnlg.org.

— **"Fugitive alien":** ICE classifies people as "fugitive aliens" if they have been ordered removed, deported, or excluded by an immigration judge, but have not left the U.S. or have failed to report to DHS after receiving notice to do so. A "fugitive alien" does not necessarily have a criminal record. The original purpose of the ICE program that conducts home raids—the National Fugitive Operations Program (NFOP) founded in 2002—was to eliminate backlogs by deporting all "fugitive aliens" by 2012.[26] In 2009, Congress expanded NFOP's mandate to include other classifications of immigrants. Prior to DHS removing "fugitive aliens" from its priorities in November 2014, people within this category were a significant target.

26 *See* Fugitive Operations Manual obtained in *Immigrant Defense Project et al. v. ICE et al.*, at Appendix A.

— **"Other Removable Alien" or "Important Federal Interest":** As per the enforcement priorities issued by DHS in the PEP Memo in November 2014, this is a catch-all category for anyone who may be otherwise subject to deportation but does not fit the priorities as stated. This may include people with pending criminal charges and people subject to orders of protection.

DHS' changing priorities over the years have amounted to attempts to disguise mass criminalization of immigrants by using different names and labels. The categories have been used to perpetuate fear and boost the agency's budget for a mission that has not been adequately scrutinized.

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What we may see under the Trump administration:

— **Expansion of who is considered a "criminal":** ICE may again prioritize individuals with with civil immigration violations ("fugitive aliens"). This will include immigrants at the point of arrest with pending criminal cases who have not yet been convicted of an offense.[27]

— **Criminalization for offenses related to employment:** During the G.W. Bush administration, ICE conducted large scale worksite raids and charged undocumented workers with criminal offenses, such as felony identity theft. The criminal legal system often leads immigrants directly into the federal deportation apparatus.

— **Aggressive home raids where ICE arrests people who are not stated priorities:** ICE home raid operations in the past have included wide sweeps where agents arrest others on site whom they suspect to be undocumented (collateral arrests) without regard for whether the person fits the federal government's stated priorities for deportation.

— **Increased criminalization of immigration-related conduct:** The Department of Justice and Attorney General could increasingly criminalize undocumented individuals and their families, friends, and employers by making increasing use of federal criminal statutes for alien smuggling and harboring, hindering removal, illegal entry and re-entry, and employment-related offenses.

— **Expanded use of fast-track deportation:** DHS could expand the use of fast-track deportation procedures (i.e., expedited removal, stipulated removal, administrative removal) at the borders and in the interior.

27 Prior to November 2014, ICE would target immigrants who were still in criminal proceedings.

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Where & How ICE Locates People in Communities

Where does ICE conduct arrests?

For years, ICE has arrested people for deportation in the following locations:

Jails: The most common way for ICE to locate and arrest non-citizens is from local jails.[28] Because of database sharing programs, ICE receives notice of arrests when a non-citizen is fingerprinted. If that individual is in criminal custody and deemed a priority for deportation, ICE sends the jail a "detainer" request for voluntary transfer of the person to ICE or notification of release timing so ICE can then detain the person. Some local law enforcement cooperate with these requests; others place limits on it or have refused cooperation.

28 *See* https://www.ilrc.org/toolkit-challenging-ice-hold-requestsimmigration-detainers

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Homes: ICE agents commonly arrest non-citizens directly outside of or inside of their homes. This includes supportive housing residences, apartment buildings, and homeless shelters. Sometimes ICE agents linger around the neighborhood, surveilling the home and blocks surrounding it for the target.

Courthouses: ICE agents regularly come to criminal courthouses to arrest non-citizens who are targets, meaning they have been identified as "criminal aliens" or as a priority for enforcement, regardless of the charges they are facing in their open cases. Agents are usually dressed in street clothes and wait in the court hallways. Sometimes the agents wait inside the courtroom and have already alerted the court clerk or the District Attorney of their intentions to make an arrest. ICE often detains people regardless of whether they have appeared before the judge on their open case.

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Probation/Parole: Non-citizens who are on probation or parole are a common target for ICE enforcement. Individuals who are on probation or parole are regularly turned over to ICE. Commonly, ICE agents arrest people at a regular check-in. Sometimes a probation/parole officer calls people to schedule a new check-in during which ICE arrests the person. **Note:** At the time of publication, the New York City Department of Probation has a policy that limits their cooperation with ICE.[29] Barring certain narrow exceptions, they do not turn people over to ICE in most cases. This does not include individuals who are on Federal probation in NYC. *If you hear of an ICE arrest at a NYC probation office, please contact IDP.*

29 City of New York Department of Probation, Probation # 10-03-15, available at http://immdefense.org/wp-content/uploads/2015/10/epap_civil_immigration_detainers_100315.pdf

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Checkpoints: Both Customs and Borders Protection (CBP) and ICE agents have the ability to detain and arrest individuals who they have a reasonable suspicion are not in the U.S. lawfully. CBP can do this within 100 miles of the borders and ICE agents can do this throughout the rest of the U.S. Agents usually set up car checkpoints, stopping certain cars and asking individuals for proof of their legal status where there is reasonable suspicion that they are not lawfully in the U.S. If they cannot offer proof of lawful status, officers arrest them. In some jurisdictions, local law enforcement turn over non-citizens to ICE through separate police checkpoint activity.

Are there places where ICE is not supposed to conduct arrests?

Since October 2011, ICE has had a policy prohibiting enforcement activities (arrest, interview, search, or surveillance of non-citizens) at the following "sensitive locations," barring extraordinary circumstances:

- **schools** (includes pre-school through colleges/universities and vocational or trade school)
- **hospitals**
- **churches, synagogues, mosques or other institutions of worship**
- **the site of a funeral, wedding, or other public religious ceremony**
- **a site during a public demonstration, such as a march, rally or parade**

The policy, which may be subject to change under the next administration, can be found here:
https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf

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How does ICE identify and locate people at risk of deportation?

ICE regularly identifies people at risk of deportation in the following ways:

— **Data sharing with police:**

- **At street encounter:** Police routinely conduct warrant checks. One of the databases they check is the FBI's National Crime Information Center (NCIC), a centralized database of crime-related data including records on people who are wanted by law enforcement. ICE adds information into this database, including people who have been ordered deported in the past.
- **At time of criminal arrest:** Through fingerprint sharing programs run by the FBI, DHS has access to information that is entered at the time of arrest and can compare it to their own database. If ICE is interested in deporting that person, they will either ask the police to notify ICE when the person is being released from criminal custody, or to detain the person for ICE to come pick them up. [30]

30 *See* http://www.immdefense.org/ending-ice-police-entanglement/

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— **Data sharing with state agencies:**
  - **DMV:** ICE uses the "National Law Enforcement Telecommunications System" (Nlets) to obtain certain information provided in driver's license applications and subsequent driver history (e.g., accidents and traffic offenses). If ICE is interested in particular individuals, it can use this information to locate them.[31]
  - **State criminal records:** ICE regularly contacts Criminal Court clerks to get copies of non-citizens' criminal records (in NY, the RAP sheet), criminal complaint, and Certificates of Disposition or final judgement from the criminal case.
  - **State registries:** ICE appears to access information placed on state registries, including order of protection and sex offender registries, particularly those fed into national databases like NCIC. Under Operation Predator, ICE tracks who is on the sex offender registries and targets them for enforcement activities.

— **International travel:** Non-citizens with lawful immigration status (e.g. green card holders, asylees, students) who travel internationally go through Customs when they return to the U.S. They are fingerprinted upon re-entry, triggering a criminal record review. Sometimes they are also interviewed by CBP agents about their criminal history. This is a common way for ICE to locate non-citizens with criminal convictions.

— **Immigration applications:** All applications submitted to United States Citizenship and Immigration Services (USCIS) require the biometrics (fingerprinting and eye scanning) of applicants. USCIS uses the information to run a search of databases [32] to determine if the applicant is eligible for the benefit they are seeking and/or whether they are removable.

31 For more information about ICE & DMV data sharing, see https://www.nilc.org/issues/drivers-licenses/ice-dmvs-share-information/

32 USCIS, "Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens", Nov. 7, 2011, available at https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/NTA%20PM%20%28Approved%20as%20final%2011-7-11%29.pdf

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What we may see under the Trump administration:

— **More workplace enforcement:** ICE may return to the workplace raids common under the G.W. Bush administration (see page 23 in toolkit), particularly the raiding of factories or other locations with a high number of immigrant employees.

— **More jail and local law enforcement cooperation:** In some jurisdictions, jail and local law enforcement cooperation have been hallmarks of enforcement under President Obama. It is likely that the federal government will put more pressure on local jurisdictions to cooperate with ICE in providing information and turning over non-citizens to them.

— **More agents conducting raids throughout the country:** Fugitive Operations' budget is anticipated to increase with the new administration, meaning that there will be more enforcement and more raids throughout the US.

— **Expanding the use of databases (e.g. gang membership lists):** ICE already relies on databases for information and this is only likely to increase. The federal government will probably pressure local law enforcement to grant more access to local database information, including inaccurate gang membership lists [33] that undergo little vetting by the public or the courts.

33 Winston, Ali "Obama's Use of Unreliable Gang Databases for Deportations Could be a Model for Trump," *The Intercept*, November 28, 2016, available at: https://theintercept.com/2016/11/28/obamas-use-of-unreliable-gang-databases-for-deportations-could-be-a-model-for-trump/

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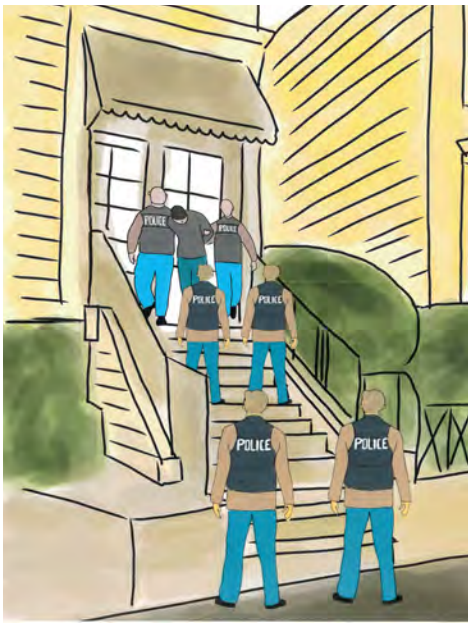
ICE Arrest Tactics

IDP and CCR has compiled our collective knowledge of ICE arrest tactics under the G.W. Bush and Obama administrations, which are laid out below, as well as what we anticipate under the new administration.

What were the hallmark raids under G.W. Bush?

From DHS' inception in 2003 under the G.W. Bush administration, the government rapidly expanded the National Fugitive Operations Program (NFOP), the ICE program founded a year earlier, to conduct home raids with the purpose of arresting "fugitive aliens."[34] The Fugitive Operations Teams (FOTs) were trained to use aggressive tactics similar to SWAT teams and mainly conducted two types of raids:

— **Home Raids:** ICE conducted home raids on a mass scale, claiming that these raids were important mechanisms to apprehend "fugitives" and "criminals," often labeling them "gang operations" or criminal "cross-check" operations. DHS heavily relied on a SWAT-like approach, where groups of armed officers appeared at residences early in the morning or late at night searching for people.



34 In 1995, the government created "alien abscondee teams," but they were not prioritized until the founding of DHS. See Mendelson, Margot, Storm, Shayna, and Wishnie, Michael, "Collateral Damage: An Examination of ICE's Fugitive Operations Program," *Migration Policy Institute*, Feb. 2009, available at http://www.migrationpolicy.org/research/ice-fugitive-operations-program

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— **Workplace Raids:** Although workplace raids had been a feature of immigration enforcement for decades, many of the ICE workplace raids under President G.W. Bush were large-scale and also resulted in federal criminal charges for use of false documents such as social security cards or other identity information. Workers arrested in large factory round-ups with little access to legal counsel, limited proficiency in the English language and/or no familiarity with the judicial system suddenly faced significant time in federal prison before being deported.

What tactics did ICE use under President G.W. Bush?

Collateral arrests and quotas: Most of the arrests in the home and in the workplace, were of "collaterals"— individuals at risk of deportation who happened to be present when ICE burst into an address looking for a purported target. Collateral arrests became a standard feature of ICE operations, which increasingly met their arrest quotas [35] by making mass collateral arrests. The new quota requirements corresponded with increased reports of racial profiling of non-target individuals.

Coercion: ICE used coercive tactics specifically to enter homes without proper warrants and without proper consent. Teams of half a dozen agents or more would surround a home in the pre-dawn hours, with guns visible or drawn prior to knocking loudly on doors and windows to urge residents to open the door. The agents did not have proper judicial warrants and needed permission from residents to enter. If a resident merely opened the door, ICE agents would then enter and sweep through the home, often

35 In January 2006, ICE increased the FOTs quota to 1000 arrests per year from 125. In September of that same year, ICE issued a memorandum instructing agents that the 1000-arrest goal could include anyone encountered in an operation, even if they were not initially a target. See Memo from John Torres, "Fugitive Operations Case Priority and Annual Goals," Jan. 31, 2006 and Memo from John Torres, "Fugitive Case Management System Reporting and the 1000 Arrests Annual Goal for Fugitive Operations Teams," Sept. 29, 2006, available at http://graphics8.nytimes.com/packages/pdf/nyregion/2009/20090205_RAID_FINAL.pdf.

In 2010, however, ICE issued a new policy on priorities for enforcement that instructed agents to direct resources primarily toward "aliens who pose a risk to national security or a risk to public safety"; "recent illegal entrants," and "aliens who are fugitives or otherwise obstruct immigration controls." See Memo from John Morton, "Civil Immigration Enforcement: Priorities for the Apprehension, Detention and Removal of Aliens," June 30, 2010, available at https://www.ice.gov/doclib/news/releases/2010/civil-enforcement-priorities.pdf.

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characterizing the fact of the opened door as evidence of consent to enter. Agents usually caused significant property damage due to the forceful and violent nature of these operations. Throughout the G.W. Bush-era, individuals challenged these tactics in federal courts and a number of judges found the conduct unconstitutional for lack of proper consent to enter or search.[36]

Threats and force: ICE agents during home raids frequently used force, for example, drawing weapons; grabbing, hitting and pulling residents; damaging doors, windows and other property; and threatening to residents to obtain entry or to conduct searches without warrants. When individuals challenged this behavior in federal courts, some judges deemed this kind of conduct an "egregious" violation of the Fourth Amendment.[37]

Deception: Under President G.W. Bush, ICE agents routinely used a range of deceptive tactics, known as ruses, to enter homes or workplaces. In 2005 and 2006, for the first time, ICE issued two memoranda setting guidelines for ICE agents' use of deception.[38] The memos explicitly prohibited ruses that involved health and safety programs (e.g. pretending that they were workers checking on a gas leak) or agents identifying themselves as representatives of "another agency (federal, state or local) or that of a private entity" without prior permission. In practice, however, officers regularly raided homes by identifying themselves as "police," asserted they were looking for an individual other than the purported target, pretended to be investigating a crime such as identity theft, and even claiming an emergency inside that required their entry. Once inside, ICE agents would arrest anyone in the home at risk of deportation.

36 As part of one of the lawsuit settlements, in *Aguilar, et al., v. ICE, et al.*, ICE was ordered to issue a new training and policy statement on these issues. See ICE Training and Policy Statement, Immigration and Customs Enforcement, Apr. 13, 2013, obtained in *Immigrant Defense Project, et al. v. ICE, et al.*, at Appendix A. For more information on the Aguilar litigation, see https://ccrjustice.org/home/what-we-do/our-cases/aguilar-et-al-v-immigration-and-customs-enforcement-ice-et-al

37 *See*, e.g, *Lopez-Rodriguez v. Mukasey*, 536 F.3d 1012 (9th Cir. 2008).

38 *See* Memo from John Torres, "Addition to Section 5, Chapter 19 (Field Operations and Tactics) of the Detention and Deportation Field Officer's Manual (DDFM) - USE OF RUSES DURING ARREST OPERATIONS", Aug. 18, 2005, and Memo from John Torres, "Uses of ruses in enforcement operations," Mar. 6, 2006, obtained in *Immigrant Defense Project, et al. v. ICE, et al.*, at Appendix A.

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Local law enforcement collaboration: ICE regularly collaborated with local police, probation officers, and parole officers to investigate targets. In addition, in many cases ICE was accompanied on operations by local law enforcement agents, giving them the ability to announce that they were "police" rather than ICE agents when seeking entry and increasing the number of law enforcement present.

Use of local law enforcement databases to label those targeted or arrested as gang members or associates: ICE made frequent use of local law enforcement databases to identify targets as gang members or associates, regardless of whether such individuals had ever been arrested, charged, or convicted of any crime. In some cases, ICE agents labeled individuals as gang associates simply by virtue of having been arrested during a gang operation or living in a home where a gang member was thought to have lived at one time.

What tactics has ICE used under President Obama?

Under President Obama, DHS continued to use surveillance, force and deception to rip unsuspecting people out of their communities for removal proceedings. After successful legal challenges to the G.W. Bush-era approaches, DHS shifted gears and promoted its work as "targeted enforcement," minimizing its use of sweeping raids. The Obama era nonetheless will have been marked by the continuation of abusive ICE practices that undermine the fabric of communities and raise policy concerns. Below are common tactics ICE agents have used, as reported to IDP in hundreds of stories over the past three years. To read individual reports of these tactics, see Appendix B.

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Under Obama, when attempting to arrest people in the community, ICE agents generally:

— Work in teams
— Arrive early in the morning to homes (e.g. between 5am and 8am)
— Have only an "administrative" warrant[39] signed by a supervisor at ICE rather than a judge
— Must get consent from a resident to look for someone in a home because the agents usually do not have a warrant signed by a judge authorizing entry
— Use surveillance and database research to locate and detain people in public spaces outside of the home

39 *See* ICE Administrative Warrant obtained in *Immigrant Defense Project, et al. v. ICE, et al.*, at Appendix A.

Under Obama, common ICE arrest tactics include:

Physical force:[40] Although the frequency appears to have decreased, the Obama administration did not abandon the violent tactics employed during G.W. Bush-era raids. At homes, ICE agents have pushed past people who have merely opened the door and sometimes forced open closed or locked doors— in one case, to arrest someone who no longer lived at the address. Agents have stormed into homes without identifying themselves and sometimes drawing their guns immediately, including in front of children.

40 To read individual reports of such raids under the Obama Administration see Appendix B.

Threats: Community members reported ICE threatening them with the use of force—particularly those asking to see a warrant before allowing entry. Agents warned that, if they had to go and get a warrant, they would return and destroy the place or rip the house apart. ICE agents have also threatened to knock down a door, search a home without consent, or to have someone arrested for harboring an "illegal alien" if the person at the door did not assist them in locating their target.

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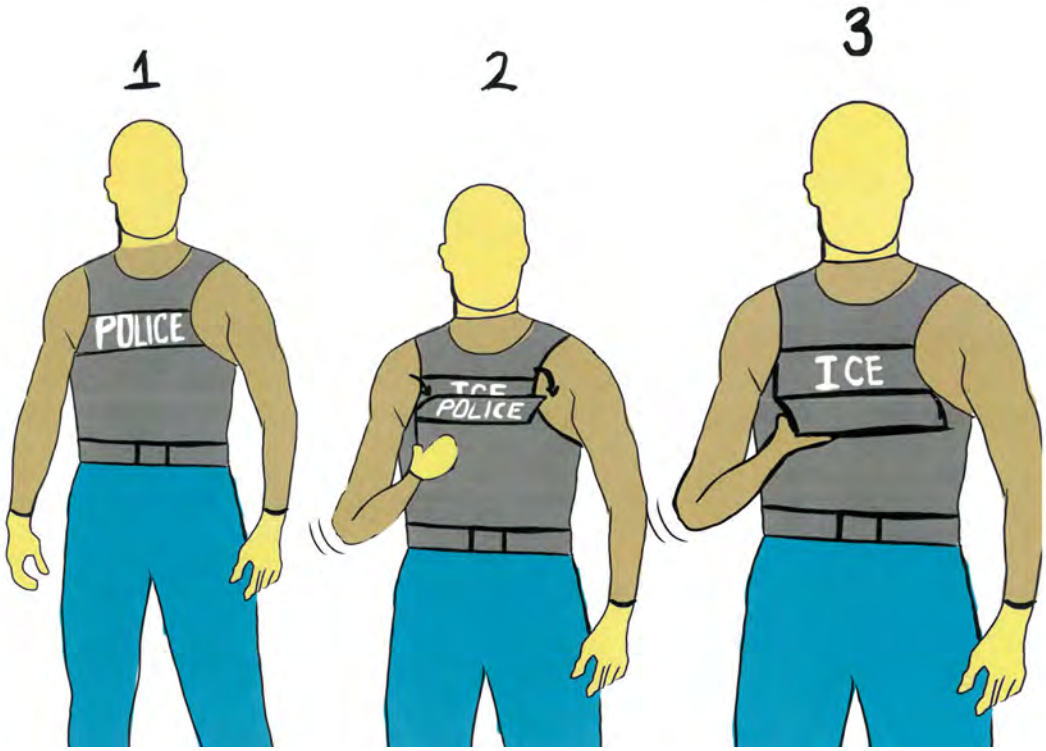
Intimidation: In addition to flat-out threats, ICE has used the public nature of raids to pressure people into allowing entry to minimize embarrassment, parking multiple DHS cars prominently outside of a home and banging and yelling loudly at the door. ICE agents have also waited for long periods outside of a home or visited a residence multiple times, essentially harassing and stalking fearful residents until they help ICE locate the targeted person.



Deception: Under President Obama, ICE agents without judicial warrants increasingly began to enter homes through deception, also known as "ruses." Agents trick residents into believing the officers are local police investigating criminal matters, even announcing themselves as "police." Residents—not knowing the agents' true purpose—often then help ICE locate a loved one for deportation by letting ICE into the home or helping the officers arrange a meeting with the person ICE eventually detains. ICE agents have also used similar lies to call targeted people and lure them to specific public locations, even going so far as to arrange meetings at NYPD precincts only to detain the person outside. Pretending to be local police, ICE agents:

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— Request **help with a criminal investigation**
  - Ask residents to review photographs/mugshots of criminal suspects
  - Use a stranger's photograph but the targeted person's name when describing a criminal suspect, prompting residents to locate loved ones to correct the error
  - Claim someone is using a person's name to commit crimes and request to speak to the person to clear this up
  - Say that a criminal suspect or fugitive has been using that address or is in the vicinity and thus officers need to enter and search to ensure the person is not present

— Claim that the targeted person has been the **victim of identity theft or fraud** and they are investigating

— **Call a targeted person to clear up an accusation** and arrange a meeting
  - Describe the person's vehicle and claim they need to meet to inspect it, as it is reported to have been in an accident
  - Claim they need to inspect the individual's body for signs of injury, as s/he is suspected of having been in a fight reported to police
  - Claim they need to see proof of compliance with a prior court case

Surveillance: Under President Obama, ICE has used significant resources to research, identify, and track the locations of removable people agents intend to arrest in the community.[41] They have used information from the criminal legal system to arrest people who are not incarcerated at their court dates as well as at probation/parole. They have used information from federal and local databases and immigration applications to identify home addresses. They also have used physical surveillance to follow and detain people in various public spaces, including outside of homes, shelters or workplaces — even arresting a woman in front of her child's pre-school where she had just dropped him off. These agents typically presented themselves immediately as ICE officers and quickly detained the individual.

41 *See* Fugitive Operations Handbook at Appendix A.

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Targeted arrests using tactics that instilled fear in witnesses:

Under President Obama, ICE reduced its use of collateral arrests. This has meant that, for the most part, when ICE agents showed up at homes, workplaces or in public spaces, they located and detained the target only. Despite this, during some home raids, ICE has requested identification, photographed identity documents and taken fingerprints from people who were not the target. Although the witnesses generally were not detained in the moment, these tactics put many people in fear of deportation. Moreover, it was unclear how or if the information collected by ICE would be used in the future. In a few cases reported to IDP from New Orleans, LA, ICE agents did review identity documents or fingerprints and immediately detain other individuals present who were not initially targeted.

What we may see under the Trump administration:

- An **increase in the number of raids** and agents conducting arrests in communities
- A return to **more sweeping raids** with collateral arrests (i.e., people who were not the initial target but nonetheless at risk of deportation)
- Continued if not expanded **use of force**
- Continued **use of ruses** with evolving prompts
- More **pressure on employers & others to turn people over** to ICE
- More **joint task force operations** between local police and ICE (e.g. gang task forces) [42]

42 See e.g. Nashville Raid Joint Taskforce Worksheets obtained in *Immigrant Defense Project, et al. v. ICE, et al.*, at Appendix A.

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Emergency Preparedness for Those at Risk of Deportation

For advocates working with people at risk of deportation, encourage community members to do the following:

1 Organize your personal documents.

— Keep original identity & personal documents in a safe place. Make and store copies where someone you trust can access them if you are detained.
— Gather immigration and criminal history documents. These will help a lawyer screen you for any legal defenses against deportation ("relief").
  - **Immigration documents:** any applications submitted to immigration or any documents showing your A# (alien number), if you have one.
  - **Criminal documents:** certificates of disposition from courts and/or rap sheet

2 Get screened by a lawyer as soon as possible to see if you are eligible for any legal defenses against deportation ("relief").

Many nonprofits offer free legal screenings across the country. Be careful of scams!
— Always keep your original documents.
— If hiring a lawyer to represent you, always have a signed contract and make sure to review the document in your preferred language. Make sure both of you sign the contract and you get a copy.
— If hiring a private lawyer, always get a second opinion before paying and get a receipt for payment (ideally paying by check or money order instead of cash).

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3 Plan for medical needs.

— Write down crucial medical information to carry with you, including contact information for your doctors and any medications you take with names and dosages.
— Identify someone you trust and arrange for them to have access to your medical information in case they need to provide it in support of your legal case or so you have proper medical care if detained.
— To do this, consider signing a HIPAA form, giving them access to your medical files and allowing your doctors to communicate with them about your medical needs.

4 Plan for childcare needs.

— Write down crucial contact information for childcare to carry with you.
— Identify someone who can care for your children if you are detained. Make sure that person agrees to act as a caretaker and has the following information:
  - School location and contact information
  - Any medical conditions your child has and how to address their needs, including contact information for doctors and information on medications and/or allergies.
  - Emergency contact information for other loved ones
— Put important documents for each child in a safe place accessible to your emergency caretaker. This may include your child's medical/school records, birth certificate, and any legal agreements you have made with your emergency caretaker.
— Consult with a lawyer about whether to grant a loved one power to make legal decisions for your child if you are detained. Some options include:
  - **Special Power of Attorney:** This is a legal document in which a parent authorizes another adult to act temporarily in the parent's place on behalf of the child. It is a private agreement and can be cancelled at any time.

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- **Guardianship:** This is a more formal arrangement than Power of Attorney and typically involves Family Court. This allows your loved one to make medical, educational or other decisions while you are detained. It is harder to reverse and can mean giving up some of your power to make decisions for your child. So it is important to talk to an expert before doing this.

5 Plan for financial needs.

Consult with an expert about whether to grant a loved one power to access your finances and make financial decisions if you are detained. There is a special power of attorney form for financial matters. This legal document allows a loved one to do things like access your bank account, pick up your paycheck, pay bills, and use your money to pay bond.[43]

43 Families for Freedom "Financial Handbook for Families Facing Detention + Deportation" April 2008, see http://familiesforfreedom.org/sites/default/files/resources/FFF%20_Financial%20Handbook%20for%20Families%20Facing%20Detention%20and%20..pdf

Carry crucial information on your person at all times.

This should be written down—not relying on access to your phone—and includes:

— **Medical information:**
  - Contact information for your doctors
  - A list of any medications you take, including the names and dosages

— **Childcare information:**
  - Contact information for school and point of contact in case of detention

— **Contact information for lawyers who have represented you or agreed to represent you**

— **Contact information for loved ones**

For resources on emergency preparedness, go to: http://www.immdefense.org/ice-arrests

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Legal Challenges to ICE Raids

Anyone who has been subject to or has witnessed an ICE raid should document what happened. The details of a raid can be useful for the non-citizen's legal case and can also be important to bring lawsuits against the government for any abuses suffered.

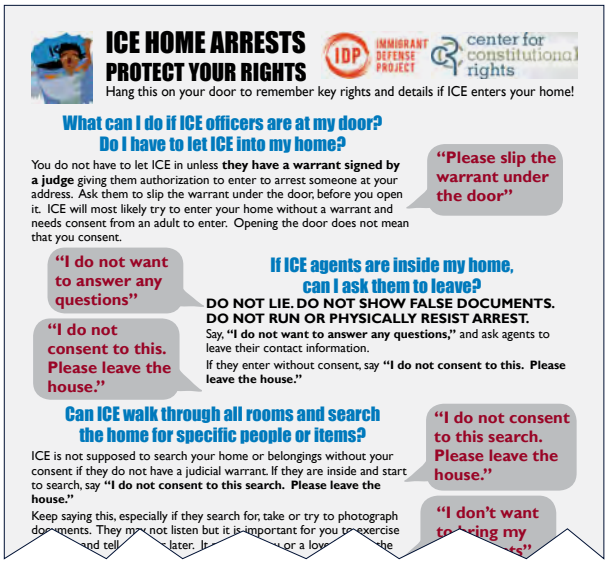
This includes if agents:

— **Entered** the home **without** proper **consent**
— **Searched** the home **without** proper **consent**
— **Dismissed medical or childcare concerns** raised during arrest
— **Harassed or threatened witnesses**, including the use of racial profiling
— Engaged in **abusive behavior** related to your gender identity or sexual orientation, including sexual harassment or derogatory remarks
— Used **force** (verbal or physical) or **weapons** against individuals

What are ways to document a raid?

It is important for those who have experienced raids to document details as soon as possible afterwards when memories are fresh.

— **In writing:** IDP has created a wall poster that guides people on what information is relevant to document and give to a lawyer. The poster is available in multiple languages at http://www.immdefense.org/ice-arrests.



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— **Videotaping:** Many people have asked whether they can or should videotape an ICE raid. There are no states in which it is against the law to film law enforcement while they are engaged in their public duties. However, because of the variety of laws and court cases regarding recording audio and video in different states, **it is important to consider several things** before videotaping an arrest in the home or in public.

Important considerations before videotaping an arrest in the home or in public:

- ICE agents are armed law enforcement officials who are first and foremost concerned for their own safety. Before taking out a recording device, it is best to **assess the situation and determine whether taking a video could escalate the situation** and endanger anyone present.
- It is extremely important that if you choose to record, **you must make it obvious that you are recording.** Almost every state has laws against "secret" recordings. Do not cover up, hide or conceal your camera/phone.
- Your right to record law enforcement usually comes with the qualification that you must not "interfere" as they are carrying out their "duties." **This means you should stand several feet away from any law enforcement action taking place if you choose to record.**

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Tell someone.

Contact local organizations to report a raid.

For raids in New York State, contact IDP at 212-725-6422. IDP can also support those interested in bringing legal challenges to raids.

For raids in California, contact the TRUST hotline at 844-878-7801.

For raids elsewhere, contact United We Dream at 844-363-1423.

How can I bring legal challenges to ICE's abusive practices and how will that benefit me?

Many of the tactics ICE uses to arrest people they believe are eligible for deportation violate the U.S. Constitution and/or the federal regulations and statutes that establish the limits on what conduct is permissible in the course of immigration enforcement.[44] Victims of illegal ICE conduct can challenge the validity of their deportation proceedings, suppress evidence of deportability, file complaints against ICE agents, and file lawsuits against ICE agents in federal court. The following legal tools to challenge raids may be available:

Challenging Deportability in Immigration Court:

— **Move to Suppress Evidence of Alienage or Challenge the Reliability of Evidence:** Although options for challenging the use of illegally obtained evidence are more limited in the immigration context than

44 For example, the Fourth Amendment protects against search, seizure and arrest without probable cause, and does not permit police or agents to enter homes without judicial warrants or consent. The Fifth and Fourteenth Amendments protect against discrimination because of race, national origin, or gender (though not immigration status). In addition, federal law permits people to file damages claims to federal agencies if you have suffered a "tort," like property damage, physical battery, or emotional distress.

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in criminal courts, immigration judges can suppress evidence of deportability based on unlawful conduct by ICE. To pursue deportation against someone DHS charges as undocumented, DHS must first establish in immigration court that the person is foreign-born. Where DHS' only evidence of "alienage" (where a person was born) was obtained through unlawful conduct, individuals may argue that this evidence should be suppressed and excluded because of violations of the Fourth Amendment's protections against unlawful search and seizure [45] or the Fifth Amendment's Due Process Clause. A similar argument is available to challenge the reliability of evidence obtained through unlawful conduct. Unlawful conduct can include coercive tactics, force, illegal ruses, or racial profiling.

45 *See INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984).

Many federal court decisions have upheld the suppression of illegally obtained evidence in immigration court proceedings. [46] **When the only evidence of alienage is suppressed, removal proceedings must be terminated because DHS has not proven, as required, that the subject of the proceeding is not a U.S. citizen.** [47] In the case of documented immigrants (e.g. lawful permanent residents, asylees, and refugees), or immigrants who were known to immigration authorities prior to a raid, for example through a visa or work authorization application or a prior encounter with ICE, suppression challenges can face more obstacles but are worth discussing with a lawyer.

46 *See*, e.g., *Sicajau-Cotzojay v. Holder*, 725 F. 3d 172 (2nd Cir. 2013); *Oliva-Ramos v. Attorney General*, 694 F. 3d. 259 (3rd Cir. 2013); *Pretzantzin v. Holder*, 725 F. 3d 161 (2nd Cir. 2013); *Orhorhaghe v. INS*, 38 F. 3d 488 (9th Cir. 1994).

47 Note that individual assessments on whether to pursue motions to suppress should be made on each case. Individuals who may have a form of relief against deportation available to them, such as cancellation of removal or asylum, may want to move forward on those applications rather than seek to suppress evidence.

— **Move to Terminate Removal Proceedings Based on Violations of the Governing Regulations or the Constitution.** Federal regulations require ICE agents to refrain from unlawful conduct during enforcement operations. [48] Where ICE agents violate individual rights during a raid or other arrest, an individual in removal proceedings can move to terminate those proceedings based on the agents' conduct that violates the regulations or the Fourth or Fifth Amendments. [49]

48 E.g., 8 C.F.R. 287.8(c)(2)(vii) (prohibiting use of coercion during arrest and interrogation by immigration officer); 8 CFR 287.8(a)(1)(ii) (permitting the use of non-deadly force only when an officer has "reasonable grounds" to believe that such force is necessary).

49 *See Rajah v. Mukasey*, 544 F.3d 427, 431, 443, 446 (2d Cir. 2008).

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In Federal Court:

— **File Suit for Monetary Damages Under the Federal Tort Claims Act (FTCA):** The FTCA, 26 U.S.C. §§ 2671 *et seq*., permits individuals harmed by federal agencies to sue the United States for monetary damages. Before filing suit, a form setting out the type of damage suffered, the date of the injury, the amount of money sought, and other details must be filed with the federal agency. That form is available here: https://www.gsa.gov/portal/forms/download/116418. If the federal agency does not respond within six months, or if you disagree with the way they respond, you can file a complaint in federal court, specifying the specific tort laws in your state that were violated, for example, "trespass," "negligent infliction of emotional distress," or "property damage." The statute of limitations for FTCA claims depends on the statute of limitations for each specific "tort" in your state, but is typically two years depending on the state. **You do not have to be a U.S. citizen or have lawful status to file these claims. You can also file these claims as a witness to a raid, if you have suffered emotional, physical, property, or other damage. Organizations may also bring FTCA claims.**

— **File Suit for Constitutional Violations by Federal Officers and Agents:** When agents or officers violate the Constitution — for example, by using excessive force during a raid, or by racial profiling to make an arrest — they can be sued individually in *Bivens* claims.[50] *Bivens* claims allow victims of unconstitutional conduct by agents operating "under color of law" (meaning those who act in their official capacity) to file suit in federal court, seeking monetary damages for violations of constitutional law. In some cases where it is shown to be a pattern of unconstitutional behavior, **suits can be brought to stop the illegal conduct or stop future illegal conduct.** Suits can be brought not only against those who personally conducted the raids, but also against their supervisors and high-level officials who ordered or otherwise guided the conduct. **You do**

50 *See Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

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not have to be a U.S. citizen or have lawful status to file these claims. Organizations may also, in some cases, bring constitutional claims.

— **File Suit for Constitutional Violations by State and Local Authorities:** Where state or local police and other enforcement agencies collaborate with federal immigration authorities to violate the Constitution, they too can be sued for damages under 42 U.S.C. §1983. In addition, **the law enforcement agency itself** — for example, the local police department or state highway authority — **can be sued for monetary damages or to stop the illegal conduct**. Individual state officers can also be sued under state tort laws. **You do not have to be a U.S. citizen or have lawful status to file these claims. Organizations may also, in some cases, bring constitutional claims.**

Within DHS:

— **Complain to DHS' Office of Civil Rights and Civil Liberties (CRCL):** DHS, through its CRCL office, has a complaint mechanism for individuals alleging misconduct by federal agents and officers. Complaint forms can be found here: https://www.dhs.gov/file-civil-rights-complaint. If investigations are done fully, those who complain must provide sworn statements in interviews with the federal agency.

While complaints must be investigated, they are very rarely substantiated, and **there is no possibility of obtaining damages, injunctive relief or remedies from deportation**. We recommend that all those who participate in sworn interviews be accompanied by an attorney.

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Community Responses to ICE Raids

People and organizations have been steadfastly fighting back against ICE's practice of criminalizing immigrants and arresting people in their communities. Our approach is to continue reevaluating tactics and strategies to identify key leverage points and expand our toolbox accordingly. The ultimate goal is to maximize our ability to take care of each other, prevent abuses, and support the leadership of frontline communities for long-term change.

We will continue to update and prioritize effective tactics as we learn more about the practices on the ground during the Trump administration. Visit: http://www.immdefense.org/ice-arrests to learn more about community responses to ICE raids and detention and deportation overall:

— **Policy initiatives**
— **Know Your Rights materials and trainings**
— **Organizing community defense strategies**
— **Building a case campaign**
— **Seeking support from elected officials**

Information on all of the above can be found at:
http://www.immdefense.org/ice-arrests

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