

IMMIGRATION ENFORCEMENT RAIDS

In the United States, there has been growing debate over the policies of the federal agency that investigates and enforces the nation's immigration laws. That agency is Immigration and Customs Enforcement (ICE). Agents of ICE frequently conduct immigration enforcement operations, commonly called "raids," in early morning hours to arrest undocumented immigrants.



The ICE agency was formed in 2002. In the wake of the terrorist attacks of September 11, 2001, Congress created the Department of Homeland Security (DHS). This department was made responsible for enforcing the nation's immigration laws, among other law enforcement powers. In this new organization of the federal government, ICE took over immigration law enforcement from the Immigration and Naturalization Service.

Probably the most well-known branch of ICE is its Office of Enforcement and Removal Operations, which is responsible for investigation and arrests of unauthorized immigrants.

Once an unauthorized immigrant is arrested or detained, there are two ways that immigration officials may deport him or her:

- **Return.** When officials send a person to his or her home country *without* formal hearing, fingerprinting, or creation of a permanent record, it is called a "return." An immigrant does not face potential criminal prosecution for re-entry to the US after a return to the home country.
- **Removal.** When officials send a person to his or her home country *with* formal proceeding in front of a hearing officer (or judge), fingerprinting, and the creation of a permanent record, it is called a "removal." ICE is responsible for removals, which is also the official term for "deportations." An immigrant does face potential criminal prosecution for re-entry to the US after removal.

Answering a call for increased national security by many in the country, ICE started a program in 2002 to "identify, locate, apprehend, process and remove fugitive aliens from the United States." A *fugitive alien* is a person who has not followed an immigration court's final order for removal or who has

returned to the United States after a prior removal. Highest priority was placed on “those fugitives who have been convicted of crimes.”

Increased federal funding for ICE’s program in the early years of Barack Obama’s presidency led to more immigrants being *removed* under Obama’s two terms as president than under George W. Bush’s two terms. More immigrants were *returned*, however, under Bush’s presidency.

Fugitive operations teams have used raids (quick arrests or “sweeps” of a number of immigrants in a single location). Raids can occur in a workplace, often of a large-scale employer, or residential area, such as an apartment building.

Case Study: San Rafael

A 2007 raid in San Rafael, California, sparked a national debate about ICE’s methods. On March 6, 2007, agents of ICE conducted a sweep of an apartment complex in this town of 56,000 people north of San Francisco. The agents arrived just after dawn in order to apprehend 30 fugitive aliens in the apartment complex. There were reports that agents shined flashlights into the faces of children in the apartments, handcuffed parents in front of children, and even detained children for several hours.

At a hearing before a subcommittee of Congress in May 2008 to address workplace immigration raids and specifically the effects of raids on children in the San Rafael congressional district, spokespeople on both sides of the issues testified.

Supporters of ICE’s methods argued that the undocumented immigrant parents have the primary responsibility for their children. In response to testimony critical of ICE, Republican Representative Buck McKeon argued that any child custody difficulties and humanitarian issues are the parents’ fault. “A person who entered the country illegally,” he said, “or overstays their visa—they are the ones who are really putting those children in jeopardy by their own actions.”

James Spero, Deputy Assistant Director at the ICE, testified that the agency’s teams go to great lengths to prepare for the humanitarian aid of children in the arrest operations. “ICE takes this responsibility very seriously,” he stated, “and these humanitarian factors are carefully taken into account when ICE makes custody decisions.” Part of what ICE agents do is to coordinate efforts with local public health services to care for children’s needs.

Critics of ICE’s tactics, such as Janet Murguia of the National Council of La Raza, testified that innocent children suffer too many hardships in these raids. Because many detained parents are denied access to telephones, no one calls family relatives to care for the children. As a consequence, said Murguia, “school systems and child care centers must scramble to find relatives or caregivers for children whose parents have abruptly disappeared.”

Lynn Woolsey, the Democratic representative for the San Rafael district, gave a statement at the hearing. She stated that the raids cause anxiety, depression, fear, and even post-traumatic stress disorder in children. “They have been separated from their families in the cruelest of ways for long periods of time,” she stated, “and many of their parents have been deported.” She further stated that the San Rafael raid led to dramatically decreased school attendance among the children involved.

On the one hand, ICE reports that its efforts target lawbreakers, particularly those who might pose threats to American society, such as gang members who are fugitive aliens. On the other hand, immigrants, their families, and civil liberties advocates have filed numerous lawsuits alleging that ICE operations have violated the US Constitution.

In one case, a 6-year-old boy named Kebin Reyes, a US citizen, sued ICE based on its San Rafael raid. Under the Fourth Amendment (protection against unlawful search and seizure), Kebin alleged that ICE agents detained him for 12 hours without a warrant and without lawful cause. Under the Fifth Amendment (protection of the right to due process of law), he alleged that he was deprived of food and the opportunity to make a phone call to any relatives.



U.S. Dept. of Homeland Security, Bureau of Immigration and Customs Enforcement.

In response, ICE stated numerous defenses for its actions. One defense was that ICE agents showed “due care and diligence” for Kebin Reyes before the raid and during the raid. Another defense was that the agency was protected by “sovereign immunity” (a doctrine that the state can do no legal wrong). ICE has also argued that Kebin’s injuries, through his father (who was arrested), were caused by his own negligence (lack of care).

Four months after the raid, ICE changed its policy to make sure not to detain US citizens, like Kebin Reyes, and legal residents during the course of enforcement raids. But at the time of the raid, ICE agents argue, Reyes’ rights had still not been violated.

Presidents Obama and Trump on ICE Raids

Under Obama’s administration, ICE used several residential raids to apprehend, or capture, fugitive aliens in January 2016 and took more than 120 Central American immigrants into custody in three states. The Obama administration defended its policy as a means to target fugitive aliens who have most recently entered the US, who happened to be mostly Central American. Of the thousands of families that migrated from Central America from 2014 to 2015, ICE took only 11 into custody in the raids.

Opponents, including many Obama’s own Democratic Party, argued that Central American immigrants should be treated as refugees since they are fleeing from violence in their home countries. Also, many of them are children, and therefore vulnerable.

With a new administration, raids remained a subject of intense debate. On January 25, 2017, President Donald Trump signed an executive order on border security and immigration enforcement. Part of the order called for immediate action to detain “aliens apprehended for violations of immigration law” while they wait for removal hearings. ICE conducted a series of enforcement raids in six states in mid-February, taking more than 680 people into custody.

ICE officials said the raids targeted unauthorized immigrants with criminal records. The ICE field director in Los Angeles said that 75 percent of 160 people detained had records of felony convictions. The rest had either misdemeanor convictions or were simply not authorized to be in the United States.

Supporters of ICE’s actions under Trump argued that most of the people caught had criminal records. “The evidence we have so far,” said Alfonso Aguilar of the Latino Partnership for Conservative Principles, “is that the majority of the people detained were people with serious criminal records.”

Opponents of ICE’s actions under Trump argued the raids were unnecessary and caused panic. Democratic Representative Joaquin Castro of Texas told the press, “I am asking ICE to clarify whether these individuals are in fact dangerous, violent threats to our communities, and not people who are here peacefully raising families and contributing to our state.”

It was unclear if the raids directly resulted from President Trump’s executive order. Homeland Security John F. Kelly said that the raids were “routine” and consistent with operations done “on a daily basis.” Trump himself, however, wrote on Twitter, “The crackdown on illegal criminals is merely the keeping of my campaign promise. Gang members, drug dealers & others are being removed!”

Writing & Discussion

1. What does “fugitive alien” mean?
2. Why is removal a more serious consequence than return for an unauthorized immigrant to the US?
3. What tactics does Immigration and Customs Enforcement use to apprehend fugitive aliens? What controversies have resulted from ICE’s tactics?
4. Opponents of ICE raids in residential areas claim that the human rights of children who may be fleeing dangerous home countries outweigh the fact that they and their parents may have violated valid court orders for removal back to their home countries. Do you agree? Explain your answer.
5. Were there differences between raids conducted under President Obama and those under President Trump? Why or why not? Use evidence from the article to support your claims.
6. What are the opinions of both supporters and critics of ICE’s tactics in the San Rafael case study? Which side do you think has the stronger arguments? Why?

Sources

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