Latest ICE Data Details Increasingly Indiscriminate Arrests

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Under Trump, the agency is returning to a pattern abandoned by the Obama administration.

DUI, traffic tickets, simple drug possession and immigration violations made up nearly half the criminal convictions for unauthorized immigrants arrested by Immigration and Customs Enforcement last year, according to data obtained by HuffPost.

The data, obtained through the Freedom of Information Act, offer the first detailed look at ICE's shifting arrest strategy since President Donald Trump took office and scrapped his predecessor's system of prioritizing the removal of people with serious criminal records or prior deportations. The statistics confirm what the less complete numbers reported by the agency last year already indicated — ICE is going after people with pettier criminal records than in recent years. Roughly one-quarter of the 143,470 migrants ICE arrested last year had no criminal convictions at all, and 11 percent had no outstanding criminal charges.

Immigration and Customs Enforcement assistant Field Office Director Jorge Field (left), 53, arrests an Iranian immigrant in San Clemente, California.(Lucy Nicholson / Reuters)

Many of the convictions and charges of those ICE arrested last year were serious offenses, including approximately 2,000 crimes involving sexual abuse of minors, nearly 200 hundred convictions for willful homicides committed with weapons, and more than 4,500 cases of stolen vehicles.

But most of the convictions and charges amount to the same sorts of mundane offenses that clog state courts and county jails on a daily basis. And many of the offenses recorded in the data appear far pettier than the broader headings ICE now uses to classify them in its end-of-year reports. (The broad classifications ICE uses to code offenses for agency bookkeeping predated Trump but did not typically appear in previous end-of-year reports.)

Perhaps the most misleading of those headings is "Dangerous Drugs." More than 9,300 — one-sixth — of the convictions for arrestees logged by ICE were for simple marijuana possession or unspecified weed charges. ICE logged an additional 3,000 marijuana charges with no conviction at all. Unspecified drug possession accounted for another 9,138 of the convictions. Some of those convictions are four decades old.

Today, recreational marijuana consumption is entirely legal in nine states, along with the District of Columbia, leaving ICE classifying thousands of people as criminals for conduct that in much of the country is now legal.

About a quarter of one of the most disturbing group of offenses ICE logged — 1,531 convictions for "Homicide" — involved either traffic accidents or negligence with a weapon, rather than premeditated killing. That figure is possibly an underestimate — most of the homicide convictions are unspecified.

And the agency designates parole violations or failure to appear in court as "Obstructing Judiciary, Congress, Legislature, Etc."

ICE did not immediately respond to a request for comment.

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Based on the data provided, which is organized by date rather than individual, it's not possible to know which convictions or charges were part of a larger rap sheet. ICE arrested 143,470 suspected unauthorized immigrants last year. But the agency recorded three times as many convictions, meaning many were repeat offenders. Nearly another 150,000 charges logged by ICE include no conviction date, meaning the charges were either dropped or the agency took custody of the accused before

the case was adjudicated. Many of the charges without convictions are several years old.

By far the most commonly cited offenses in the ICE data were DUI and other, largely unspecified traffic tickets — some dating back decades. While the data did not elaborate on the non-DUI traffic offenses, driving without a license likely accounted for the lion's share, according to John Sandweg, who headed ICE as an acting director during the Obama administration.

Some 14 percent of the convictions logged were immigration violations, the vast majority of them either the misdemeanor of illegal entry or the felony of illegal re-entry, though human smuggling, fraudulent documents or false citizenship claims made up a small minority of those offenses.

'It's Intentionally Going Backwards'

Nothing in U.S. immigration law requires ICE to focus arrests on people convicted of anything. But the agency, founded in 2002 and housed under the Department of Homeland Security as part of the response to the Sept. 11 attacks, has long tied its civil immigration enforcement mission to combating crime by highlighting the number of criminal convicts the agency arrests and removes.

The data for the 2017 fiscal year — which includes four months under Barack Obama, as well as Trump's first eight months in office — represents less a radical new trajectory for the agency as much as a return to the old status quo of the late George W. Bush and early Obama years.

"It's intentionally going backwards," Sandweg said. "This administration tries to characterize all undocumented immigrants with the same brush — that if you're an undocumented immigrant, you're somehow a public safety threat. And this data demonstrates that's not true."

Critics derided Obama as the "deporter-in-chief" for carrying out more deportations from the interior of the country than any modern president. But by 2011, the administration began a prosecutorial discretion policy that focused ICE's arrest and deportation efforts on recent border-crossers and migrants with prior deportations or criminal histories. By his second term, ICE often passed over those with pettier offenses, leading interior deportations to plummet to 65,332 — about a quarter of his first year in office.

There is no apples-to-apples comparison between the types of people ICE arrested under Trump's first year in office and those it arrested under Obama.

The system developed under Obama reported criminal convictions for deportees using a three-pronged system of priority levels grouped by offense, but did not detail data for ICE arrests. The top criminal priority included people convicted of

immigration offenses, skewing that data considerably — the Obama administration prosecuted more than 630,000 migrants for illegal border crossing over its eight years.

More detailed data released through FOIA on criminal convictions for deportees during the Obama period to date also doesn't distinguish between those arrested in the interior of the country and those arrested at the border, where [migrants are routinely prosecuted for immigration violations](#).

Under the leadership of recently departed acting ICE Director Thomas Homan, ICE's public statistical compilations now include independent data for arrests and deportations, making them more transparent.

Former acting ICE Director Thomas Homan.(Drew Angerer via Getty Images)

Within a week of taking control of the White House, Trump signed an executive order doing away with prosecutorial discretion — an act that made virtually any undocumented immigrant a target for arrest. [Homan gave the new status quo](#) an unapologetic slogan last year, telling a congressional subcommittee: "If you're in this country illegally and you committed a crime by entering this country, you should be uncomfortable. You should look over your shoulder, and you need to be worried."

Ditching prosecutorial discretion immediately led to the more indiscriminate arrest patterns documented in the data. ICE stepped up "collateral arrests," when the agency apprehends unauthorized bystanders or family members during an operation targeting someone else. Homan also issued guidance to take custody of people from local jails whether or not their charges result in a conviction, contending that ICE need not wait for a judge or jury to act before taking custody of someone accused of a crime.

Why Local Policing Matters

The figures for marijuana arrests and traffic offenses also highlight the degree to which local policing policies outside ICE's control determine who winds up in the agency's custody, according to Randy Capps, a researcher at the Migration Policy Institute.

ICE makes most of its arrests at local jails, identifying unauthorized immigrants among those arrested by police in criminal cases. Doing so is safer for ICE's officers, more efficient and less politically contentious than carrying out its arrests in neighborhoods or public places.

But because ICE relies on local jails to funnel most of the people they arrest into custody, states that have legalized marijuana or that allow undocumented immigrants to obtain driver's licenses don't book either U.S. citizens or immigrants into jails for those actions.

In Gwinnett County, Georgia, for example, ICE arrests increased by 258 percent since Trump took office, according to a [study Capps co-authored in May](#). The researchers found that 70 percent of the arrests originated with a traffic offense.

"We saw this in action in the research we did last year," Capps said. "A really large portion of those [ICE arrests] were driving without a license."

Few traffic tickets other than DUI prompt booking into local jails, Sandweg said.

"There just aren't that many traffic offenses that trigger arrests," he said. "In my experience, a lot of people in local law enforcement will book those people just to get their fingerprints to make sure that person doesn't haven't an outstanding warrant."

On top of that, Capps noted, hundreds of largely Democratic-led jurisdictions, including the entire state of California, have limited ICE's access to local jails to impede immigration arrests. Perhaps for those reasons, while ICE arrests have grown more indiscriminate under Trump, they have yet to reach the scale seen during the early Obama years. ICE arrested [292,545 unauthorized migrants in 2009](#)— more than twice the number last year.

The 2017 ICE arrest data was made public amid the growing politicization of the agency under Trump and [the combative leadership of Homan](#). A growing number of Democrats, spurred by a rising tide of young progressives, have called for abolishing the agency altogether and doling out its vital functions to other agencies in some unspecified bureaucratic reshuffling.

Despite ICE's less discerning pattern of arrests under Trump, the White House is unlikely to scale up deportations to the level seen under Obama's first years in office in the near future. The immigration court backlog has more than doubled to 710,000 cases after the Obama administration prioritized complicated proceedings for Central American families and children, who often make asylum claims that can take years to adjudicate.