

CRIMMIGRATION COMMUNICATION

LONG ISLAND
REGIONAL IMMIGRATION ASSISTANCE CENTER

A Summary and Discussion of the *Immigration and Customs Enforcement Activities 2023 Report*

Immigration and Customs Enforcement (ICE) recently issued a [Fiscal Year 2023 Report](#). This report confirms anecdotal reports of our experience in Nassau and Suffolk Counties and explains ICE operations in accordance with recent observations. ICE reported a daily nationwide average of 28,289 noncitizens in ICE custody. ICE has “nearly doubled” removals, and increased administrative arrests by 19.5% over 2022. Of the total ICE arrests in FY 2023, 43.3% of those arrested had been **convicted of a criminal offense or were awaiting adjudication of pending criminal charges**, up from 32.5% in FY 2022. DWI, “dangerous drugs,” and assault were the state crime convictions most frequently cited. A chart on the reverse shows the number of administrative arrests in each category of crime.

ICE reports over 20,000 law enforcement and support personnel who work in more than 400 offices around the United States, including at the jails in Suffolk and Nassau Counties. 7,600 of these people work in Enforcement and Removal Operations. The annual agency budget is approximately \$8 billion dollars. More than 6.2 million people are facing removal on the dockets of the Immigration Courts nationwide.

ICE officials exercise an extraordinary level of discretion. According to the report, “As law enforcement personnel, ERO’s deportation officers are trained to make enforcement decisions on a case-by-case basis, considering the totality of circumstances for each noncitizen and focusing their resources on

those noncitizens who represent the greatest threats to public safety or national security.” The current administration has set enforcement priorities to guide DHS personnel in the exercise of prosecutorial discretion. The Supreme Court upheld authority to set such priorities in *United States v. Texas*, 599 U.S. 670 (2023). Priorities include “threats to national security, public safety, and border security,” but the guidance also points to a “non-exhaustive list of aggravating and mitigating factors that officers should consider in each case to ensure fair and effective enforcement.” This priority group includes noncitizens who are known or suspected of involvement in terrorism or gang activity, and those who have committed egregious human rights violations or war crimes. In FY 2023, ERO removed 3,406 known or suspected gang members, an increase of 27.7%, 139 known or suspected terrorists, a 148.2% increase, and six human rights violators.

DETAINERS/NOTIFY REQUESTS

ICE also reports a 59% increase over FY 2022 and a 90.1% increase over FY 2021 in the use of “detainers,” (also called “notify requests”) for noncitizens with criminal histories. Detainers are requests to law enforcement to notify and hold non-citizens scheduled for release “beyond the time the individual would otherwise be released.” In FY 2023, ERO issued 125,358 detainers. According to ICE, “ERO carefully considers

when to lodge detainers and relies on prosecutorial discretion and ICE’s stated enforcement priorities when making these decisions.”

New York law prohibits local law enforcement from engaging in the practice of prolonging detention. *People, ex rel. Jordan Wells, on behalf of Susai Francis v. DeMarco*, 2018 NY Slip Op 07740, 2018 WL 5931308 (2d Dept 2018). Nevertheless, we have observed many ICE arrests upon release from local jails.

OPERATIONS AND DECISIONMAKING

ICE’s Enforcement and Removal Operations division engages in administrative arrest, detention, and coordination with local law enforcement by a variety of means. Following the identification and analysis of potential targets, ERO administratively arrests select noncitizens who are removable from the United States through two primary administrative mechanisms: (1) at-large arrests: enforcement actions within the community (i.e., outside of prisons and jails); and (2) custodial arrests, when CAP works with prisons and jails to identify noncitizens who are potentially amenable to removal and who have already been arrested for crimes by state and local authorities.

ICE generates enforcement leads in three ways: (1) by analyzing data in law enforcement and immigration databases to identify and locate priority targets and deliver leads to ERO field offices, ICE Headquarter components, and other law enforcement partners for analysis and possible enforcement; (2) by providing real-time data on criminal noncitizens to a variety of federal, state, and local law enforcement partners; and (3) by reviewing data on removable noncitizens with criminal charges and/or convictions and providing near-

real time leads and referrals to ERO teams operating across all 25 field offices. In this way ICE deploys its resources to target non-citizens, primarily those engaged with the criminal legal system.

If you anticipate that a non-citizen client will become a priority for Ice enforcement, please reach out to the Long Island Regional Immigration Assistance Center to discuss with Jackie or Michelle the strategies available to avoid negative immigration consequences for your client.

Criminal Charge Category	Criminal Charge	Criminal Conviction	Total Offenses
Traffic offenses - DUI	16,488	26,556	43,044
Dangerous drugs	13,769	26,929	40,698
Immigration	6,041	29,804	35,845
Assault	16,580	16,629	33,209
Traffic offenses	11,374	15,778	27,152
Obstructing judiciary, Congress, legislature, etc.	6,296	5,467	11,763
Obstructing the police	4,473	5,319	9,792
Larceny	3,746	5,941	9,687
General crimes	4,677	4,975	9,652
Weapon offenses	3,118	4,402	7,520
Invasion of privacy	3,384	3,971	7,355
Burglary	2,241	4,723	6,964
Fraudulent activities	2,305	4,012	6,317
Sex offenses ⁸	1,637	4,109	5,746
Public peace	2,290	2,780	5,070
Sexual assault	1,361	3,029	4,390
Family offenses	1,712	1,727	3,439
Stolen vehicle	1,184	2,085	3,269
Robbery	834	2,263	3,097
Damage property	1,466	1,508	2,974
Liquor	1,474	990	2,464
Flight/escape	945	1,231	2,176
Stolen property	875	1,220	2,095
Forgery	742	1,305	2,047
Homicide	390	1,323	1,713
Kidnapping	729	926	1,655
Threat	523	522	1,045

Figure 6. FY 2023 ERO Administrative Arrests by Charges and Convictions⁹

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