CRS Report Highlights

Background: Obama administration officials at the Department of Homeland Security (DHS) have made numerous changes to Secure Communities that opened the door to allow potentially millions of illegal and criminal immigrants avoid current immigration laws. Specifically, the Director of U.S. Immigration and Customs Enforcement (ICE) issued multiple memos to agency officials on the agency's "priorities" for removal. One memo contains 19 categories of potential illegal immigrants who are not a priority for removal. Other memos discuss how to exercise "prosecutorial discretion," such as granting deferred action, deciding whom to stop, question, arrest, or detain, and dismissing a removal proceedings on broad categories of individuals. While this authority is justifiable when exercised properly, the Obama administration has used it recklessly and to the detriment of the American people.

As part of the House Judiciary Committee's oversight responsibility, the Immigration Subcommittee issued a subpoena to DHS in November 2011 for a list of illegal and criminal immigrants that have been brought to the attention of ICE through Secure Communities but have not been detained or placed in removal proceedings by the agency. This information was originally requested by House Judiciary Committee Chairman Lamar Smith (R-Texas) in August 2011 in order to inform Congress on the problem of criminal immigrants and their effect on public safety. In December 2011, DHS produced documents to the House Judiciary Committee that were in compliance with the Immigration Subcommittee's subpoena.

Key Report Findings: The Congressional Research Service (CRS), in cooperation with the House Judiciary Committee, crosschecked the subpoenaed data to determine if the illegal and criminal immigrants released by ICE have gone on to commit more crimes. Of note, CRS found the following facts in their research.

- The data provided to the House Judiciary Committee by DHS includes 276,412 records of charges against illegal and criminal immigrants identified by Secure Communities between October 27, 2008 and July 31, 2011. There are 159,286 unique individuals in the database and 205,101 unique arrest incidents.

- Of those released, CRS found that about 17% of illegal and criminal immigrants, or 26,412, were rearrested on criminal charges within three years of release. These 26,412 recidivists accounted for a total of 42,827 arrests and 57,763 alleged violations.

- The categories of crimes charged include nearly 8,500 DUI (14.6%), over 6,000 Drug Violations (10.9%), more than 4,000 Major Criminal Offenses (7.1%), which includes murder, assault, battery, rape, and kidnapping, nearly 3,000 Theft (4.9%), and over 1,000 Other Violent Crimes (2.1%), which includes carjacking, child cruelty, child molestation, domestic abuse, lynching, stalking, and torture.

- These crimes committed by both illegal and legal immigrants include 59 murders, 21 attempted murders, and 542 sex crimes.

- Of those rearrested, nearly 30%, or 7,283, were illegal immigrants. Since 46,734 illegal immigrants were released, this means they have a recidivism rate of 16%. These illegal immigrants should have been deported but the Obama administration's lax immigration policies released them back into our communities.

- The crimes charged against these illegal immigrants include nearly 2,000 DUI (11.9%), over 1,400 drug violations (8.8%), and more than 1,000 major criminal offenses and violent crimes (6.9%), including murder, assault, battery, rape, kidnapping, child molestation, domestic abuse, lynching, stalking, and torture.

- These crimes committed by illegal immigrants include 19 murders, 3 attempted murders, and 142 sex crimes.

In researching one of the identified murder cases, the House Judiciary Committee found one case where an illegal immigrant was flagged by Secure Communities under the Obama administration's watch – for vehicle theft in June 2010 – and he was arrested again for an attempt to commit grand theft just five months later. After this illegal immigrant was released, he and another illegal immigrant were arrested on suspicion of killing a man who'd chased the perpetrators who had robbed his 68-year-old grandfather.

Prepared by the House Judiciary Committee.

Congressional Research Service

MEMORANDUM   Updated July 27, 2012

To: House Judiciary Committee
               Attention: Chairman Lamar Smith

From: ████████ Specialist in Immigration Policy, ████
               ████████, Analyst in Immigration Policy, ████

Subject: **Analysis of Data Regarding Certain Individuals Identified Through Secure
               Communities: Updating the Previous Analysis with Citizenship Data**

This memorandum responds to your request that the Congressional Research Service (CRS) provide additional analysis of data provided to the House Judiciary Committee by the U.S. Department of Justice (DOJ), Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE). The data include records (entries) regarding individuals who were identified through ICE's Secure Communities program[1] between October 27, 2008 and July 31, 2011, but who were not removed or taken into custody. This memorandum provides additional analysis to the July 10, 2012 CRS memorandum entitled, "Analysis of Data Regarding Certain Individuals Identified Through Secure Communities," and the July 13, 2012 CRS memorandum entitled, "Additional Analysis of Data Regarding Certain Individuals Identified Through Secure Communities: Other Crimes Category."

Specifically, the House Judiciary Committee received data from ICE that contains information on the citizenship and immigration status of the individuals in the original dataset. In this memorandum, CRS performed the same analysis as in the first two memoranda using the new information on citizenship and immigration status. With certain methodological limitations discussed below, this memorandum attempts to answer the questions:

- How many individuals were identified through Secure Communities during this time period, but were not removed or taken into custody (i.e., what is the total number of unique individuals in the data set)?

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[1] Secure Communities is an information sharing program between DOJ and DHS that uses biometric data to screen for removable aliens as they are being booked into jails. Under the program, when participating law enforcement agencies submit the fingerprints of arrestees to the FBI for criminal background checks though the Integrated Automated Fingerprint Identification System (IAFIS), the fingerprints also are automatically checked against DHS databases, and potential matches from the DHS databases are forwarded to ICE's Law Enforcement Support Center (LESC). ICE agents at the LESC confirm the identity of matched prints and screen the records for immigration violations and criminal histories. This is often referred to as a match in the Automated Biometric Identification System (IDENT). If the LESC determines that the arrestee may be a removable alien, the LESC evaluates the alien's criminal history and notifies the ICE Enforcement and Removal field office in the arresting jurisdiction about the match. For more on the Secure Communities program, see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William A. Kandel.

- Of the individuals not taken into custody, how many were U.S. citizens or noncitizens, and if they were noncitizens, what was their immigration status?

- Of those individuals falling into the above noncitizen group, how many were re-arrested on a separate occasion(s) after being identified initially through Secure Communities?

- For those individuals who were re-arrested on a separate occasion(s), what was their immigration status?

- For those individuals who were re-arrested on a separate occasion(s), what types of offenses led to their being be re-arrested?

The first section of this memorandum describes the dataset and the steps taken by CRS to analyze the data. The second section summarizes several limitations in the dataset; these limitations mean that CRS's findings should be interpreted with caution. The final section of the memorandum describes CRS's findings, including answers to each of the above questions.

Immigration Terminology

Table 1 presents the definitions of the immigration and citizenship terms that are used in this memorandum.

Table 1. Terminology Related to Immigration or Citizenship Status used in the Memorandum

Term	Definition
Noncitizens	Anyone who is not a citizen or national of the United States; this is synonymous with alien. The noncitizen may be in the United States temporarily or permanently.
Alien	Anyone who is not a citizen or national of the United States; this is synonymous with noncitizen.
Immigrant	A noncitizen who is legally admitted to the United States, as defined in the Immigration and Nationality Act (INA), and comes to live permanently in the United States.
Legal Permanent Resident (LPR)	A noncitizen who is legally admitted to the United States, as defined in the INA, and comes to live permanently in the United States. In the INA it is synonymous with the term immigrant.
Nonimmigrant	A noncitizen who is present in the United States for a temporary period of time and a specific purpose. This term is defined in INA §101(a)(15).
Unauthorized (illegal) alien	A noncitizen who lacks legal authorization to be present in the United States.
U.S. Citizen	Anyone who is a native-born U.S. citizen or who acquired U.S. citizenship through the naturalization process under INA §§310-319.

Data and Methodology

According to the documentation provided by the Committee, one dataset includes the results of fingerprint-based criminal history record information (CHRI) checks for aliens (noncitizens)[2] that were submitted by state, local, and tribal law enforcement agencies throughout the United States to the FBI's Integrated Automated Fingerprint Identification System (IAFIS).[3] Under the Secure Communities Program, such checks are also run against DHS's Automated Biometric Identification System (IDENT).[4] Just as IAFIS is indexed to federal and state CHRI systems, the IDENT system is indexed to several databases maintained by DHS in which immigration-related information is stored. It is notable, however, that this dataset includes records on both individuals who had been arrested for crimes, and individuals for whom CHRI checks were submitted for non-criminal justice purposes (e.g., employment- and security-related screening purposes).

ICE matched their data from the Secure Communities with the data received from the FBI on the reason and date the subject was fingerprinted, to produce the file that was sent to the Committee and, subsequently, used in this analysis. Each entry in the dataset references an individual who was identified through Secure Communities between October 27, 2008 and July 31, 2011, and had his or her fingerprints submitted to IAFIS.[5] Identification through Secure Communities means that there was a match in the IDENT database.

The other dataset provided by ICE to the Committee contains information on whether the individuals in the first dataset are U.S. citizens or noncitizens, and if the person is a noncitizen, information on their immigration status.[6] The majority of matches in IDENT are noncitizens (aliens); however, some IDENT matches are U.S. citizens.[7] CRS merged these two datasets to perform an analysis that would ascertain the citizenship or immigration status of individuals in the data.

As stated in the documentation accompanying the original dataset provided by the Committee, the data contain two unique identifiers, one from ICE and one from DOJ. The original data also contain information on the date that the person's fingerprints produced a match against the IDENT database, a fingerprint/arrest date, and the reason the person was fingerprinted/arrested.[8] The second dataset contains two unique identifiers, an arrest date, and information on the citizenship and/or immigration status of the individual.

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[2] An alien is anyone who is not a citizen or national of the United States. It is synonymous with noncitizen and foreign national.

[3] IAFIS is a national fingerprint and criminal history system. It provides automated fingerprint search capabilities, latent search capability, electronic image storage, and electronic exchange of fingerprints and responses. For more information on IAFIS, see Federal Bureau of Investigation, "Integrated Automated Fingerprint Identification System," http://www.fbi.gov/about-us/cjis/fingerprints_biometrics/iafis/iafis.

[4] IDENT is the primary DHS-wide system for the biometric identification and verification of individuals encountered in DHS mission-related processes.

[5] Although by the end of FY2012, Secure Communities will reportedly be deployed in approximately 89% of jurisdictions nation-wide, during the time period that the data analyzed in this memorandum were collected, Secure Communities was being expanded and would have encompassed varying numbers of jurisdictions in the country.

[6] Secure Communities cannot identify unauthorized aliens who have never had contact with DHS.

[7] According to ICE documentation, between October 27, 2008 and October 31, 2009, 5% of all IDENT matches resulted in the identification of U.S. citizens. U.S. Immigration and Customs Enforcement, *Secure Communities: IDENT/IAFIS Interoperability, Monthly Statistics through October 31, 2009*, Washington, DC, December 4, 2009, http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2009.pdf.

[8] This category is called "arrest offense literal" (AOL) in the data.

Of note, the data are not comprehensive of arrest activity for each subject in the dataset, nor are the data limited to arrests. According to materials provided by the Committee, there are cases in the dataset where the arrest date does not represent an arrest, but the date that the person's fingerprints were submitted for non-criminal justice, or historic purposes. To the extent that these cases were identifiable, these data were removed from the analysis.[9] CRS excluded 33,844 cases (9.4%) from the analysis because, according to the data documentation provided by ICE to the Committee, the cases represented fingerprint submissions for non-criminal justice purposes. In other words, these 33,844 cases did not contain arrest information.[10] CRS excluded an additional 48,660 cases (13.6%) because, according to the data provided to the Committee from ICE, the individual identified by IDENT is a U.S. citizen.[11] In the majority of the cases (approximately 276,412), the individuals in the data appear to be noncitizens who were fingerprinted because they were arrested.

The data used for analysis contain a total of 358,916 entries. As mentioned above, CRS excluded 82,504 cases, leaving 276,412 for analysis. However this number does not represent the number of unique cases as each fingerprint reason/arrest charge was coded as a separate entry. Thus, if an individual was arrested and charged with five different counts, that individual would have five different records in the dataset. The data used in the analysis contains information on 159,286 unique individuals,[12] and 205,101 unique arrest events.

Coding of Charge Offense

Using the free text descriptions of the offense charged on an arrest that are contained in the data and provided by a myriad of law enforcement agencies to the FBI, CRS created categories to allow for analysis of the data.[13] The text descriptions were coded into the following 20 categories:

1. **No/Incomplete information.** Cases in this category either did not contain information on the reason for the arrest, or they contained incomprehensible information in the data field.

2. **INA violations.** This category includes references to civil violations of the Immigration and Nationality Act[14] (e.g., references to inadmissibility or deportability) but does not include the criminal violations under the Act (e.g., smuggling aliens, felony reentry after deportation). In these cases, there was no criminal violation listed.[15]

3. **License Violations.** Violations in this category include driving without a license or with a suspended license, violations regarding car titles and registrations, and operating a business without a license.

4. **Traffic Violations.** This category includes all traffic violations with the exception of Driving Under the Influence (DUI), and license/title/registration violations. This category

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[9] Unclear cases were included in the analysis, and were coded by CRS as "more information needed."

[10] The cases that were excluded were coded, "civil prints;" "institutional data received," and "return civil prints."

[11] There was a small amount of overlap between cases that did not contain arrest information and identified U.S. citizens.

[12] The *entire* dataset (i.e., with the U.S. citizens and non-criminal justice related prints) included information on 174,777 unique individuals.

[13] Details on all the activities contained in these categories are available directly from the authors.

[14] 8 U.S.C. §1101 *et seq.*

[15] According to ICE, these violations may or may not be related to a criminal charge. The Record of Arrest and Prosecution (RAP sheet) would need to be consulted to determine whether the alien was also charged with a criminal offense. Due to time constraints, CRS was unable to conduct more in depth analysis of these cases.

also includes traffic violations (e.g. failing to stop and render aid) that resulted in death or injury.

5. **Nuisance Crimes.** This category includes such offenses as public drunkenness, drinking alcohol in public, minor in possession of alcohol, unreasonable noise, sleeping in public, and disorderly conduct without violence.

6. **Trespassing.** Violations in this category include trespassing, criminal trespassing, and loitering on private property.

7. **Prostitution.** This category contains any references to prostitution, such as sex for a fee, promoting prostitution, loitering for prostitution, and patronizing a prostitute. It does not include offenses related to compelling prostitution, sex trafficking, or prostitution of a minor.[16]

8. **Burglary.** This category contains any references to burglary, burglary tools, attempted burglary, or breaking and entering. It does not include stealing or theft.

9. **Theft.** Violations in this category include larceny, theft, id theft, shoplifting, credit card theft, credit card abuse and fraud. This category also includes unauthorized use of motor vehicle, offenses related to passing bad checks, embezzlement, and purse snatching. Not included in this category are possession of stolen property, access device theft, and obtaining others' credit card or id.

10. **Receiving Stolen Goods.** Violations in this category include trafficking in stolen property and receiving or possessing stolen goods.

11. **Firearm Offenses.** This category includes any references to firearms such as possession of firearm by felon or drug addict or unauthorized alien, carrying a concealed firearm, unregistered firearm, and illegal firearm discharge. It does not include weapons offenses that did not specify that the weapons were firearms, or possession of ammo.[17]

12. **False Identity Documents.** This category includes offenses related to possessing a false identification document(s) (e.g., Social Security card, drivers licenses, passport).

13. **DUI.** This category contains all references to driving under the influence (DUI) of alcohol or drugs. Cases of DUI resulting in homicide or manslaughter are not in this category but rather are included in the "major criminal offenses" category.

14. **Drug Violations.** This includes cases with any reference to drugs generally, specific drugs (marijuana, cocaine, toluene, etc.), or controlled substances. It also includes offenses related to unlawful drug-related paraphernalia, and drug trafficking.

15. **Major Criminal Offenses.** This category contains offenses (including attempted) that include any of the following words or their equivalents: "murder," "robbery," "homicide," "assault," "battery," "kidnapping," or "rape."[18]

16. **Other Violent Crimes.** This category includes crimes that involve violence against a person's physical being, but that are not included in the Major Criminal Offenses

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[16] These offenses were included in the other violent crimes category.

[17] Note that violent offenses that used a firearm (e.g., domestic violence with firearm) were coded as other violent crimes and do not appear in this category.

[18] This category uses DHS' Customs and Border Protection's definition of major criminal offenses.

category. Examples in this category include carjacking, child cruelty, sexual abuse of a child, domestic abuse, compelling prostitution, lynching, stalking, and torture.

17. **Other Non-Violent Criminal Offenses.** This category is the most diverse in the offenses it encompasses. It contains any criminal offense that did not fit into the other categories. The criminal activity in this category ranges from misdemeanor offenses (e.g., soliciting for a ride or employment, selling a vehicle without a seatbelt) to felonies (e.g., forgery). This section also includes offenses related to unspecified violations of municipal or county ordnances.

18. **Failure to Obey Law Enforcement.** This group includes violations relating to resisting arrest, failing to obey a police/peace/law enforcement officer; providing false identification to a police officer; and fleeing, eluding, or obstructing law enforcement.

19. **Parole/Probation Violations.** This grouping includes violations of parole or probation, and failures to comply with community service or court orders. If the person violated his or her parole/probation by committing another crime and that crime is specified (e.g., "probation violation: DUI") then the case is coded for the other reason cited. Violations of protection/restraining orders are not included in this category, but rather in the other criminal offenses category.

20. **Warrants/FTA.** This category includes those who were arrested based on an existing warrant or those who failed to appear (FTA).[19] It also includes cases where the individual was being held to be extradited to another jurisdiction (with the exception of those being transferred to ICE custody).

Coding of the Citizenship/Immigration Status

ICE provided data to the committee on the citizenship status of the individuals in the original dataset which contains the results of fingerprint-based CHRI checks for aliens. **Table 2** presents the citizenship or immigration status for each individual in the full dataset. Note that the 358,916 entries in the *total* dataset (i.e., with the U.S. citizens and non-criminal justice related prints) represent 174,777 unique individuals.

Table 2. U.S. Citizenship or Immigration Status of Unique Individuals in the Data

U.S. Citizenship or Immigration Status	Description of Category[a]	Number of Unique Individuals	Percent
U.S. Citizen	DHS records indicate that the subject is a U.S. citizen or immigration records indicate U.S. citizenship.	10,867	6.2%
Noncitizens			
Border Crossing Card Nonimmigrant	ICE records indicate that the subject is in possession of a Border Crossing Card.[b]	868	0.5%
Illegal	ICE records indicate that subject is not legally in the United States.	37,135	21.4%

[19] Many of the entries were coded as "FTA," and did not specify whether the offense was related to a court appearance or something else.

U.S. Citizenship or Immigration Status	Description of Category[a]	Number of Unique Individuals	Percent
Illegal Under Proceedings	ICE records indicate that subject is not legally in the United States and is currently under removal proceedings.	2,997	1.7%
Lawful Permanent Resident (LPR)	ICE records indicate that subject is legally residing in the United States as a permanent resident.	88,693	50.7%
Legal	ICE records indicate that subject is legally in the United States.	10,158	5.8%
Legal Under Proceedings	ICE records indicate that subject is legally in the United States and undergoing removal proceedings.	1,122	0.6%
Nonimmigrant	ICE records indicate that subject is/was legally admitted to the United States as a nonimmigrant.	15,714	9.0%
Removed	ICE records indicate that subject was removed from the United States and no record of a legal re-entry has been found.	4,561	2.6%
Warrant for Removal	ICE records indicate that the subject appears to have an outstanding warrant of removal pending with ICE.	2,103	1.2%
Total Noncitizens		163,351	93.5%
Undetermined	The immigration status of the subject cannot be determined from ICE dataset records.	519	0.3%
Missing	These are cases for individuals in the original dataset who were not included in the citizenship dataset.	40	0.02%
Total		174,777	100.02%

Source: CRS analysis of data provided by ICE to the House Judiciary Committee.

Note: This analysis includes cases where the person's fingerprints were submitted for non-criminal justice, or historic purposes since in some of these cases, the submission led to the IDENT match. Percentages do not add to 100% due to rounding. For more information on the terminology related to immigration status used in this table see **Table 1**.

a.   The category descriptions are from the documentation that accompanied the data provided by ICE to the House Judiciary Committee with the exception of the missing category.

b.   Border Crossing Cards (BCC) are issued to Mexican citizens to allow them to enter the United States for up to 72 hours at a time and travel within 25 miles of the Southern border, unless DHS immigration officers grant authorization to stay longer or travel further.

As **Table 2** shows, between October 27, 2008 and July 31, 2011, the overwhelming majority of individuals whose CHRI checks produced a match in the IDENT system (i.e., through the Secure Communities Program) were noncitizens (93.5%), and approximately half (50.7%) of the individuals identified were LPRs. Of the people that were identified through Secure Communities, 6.2% were U.S. citizens.

Data Limitations

The largest limitation with the data derives from the fact that it was collected by a large number of federal, state, local, and tribal law enforcement agencies throughout the country. These law enforcement agencies, and, in some cases, officers within the same agency, do not have a standardized procedure for collecting and reporting the data. Since the data were intended to be used by law enforcement, officers often used abbreviations, code citations, and short-hand that may be easily understood by law enforcement but not as easily understood by outside analysts. CRS attempted to decipher the information as accurately as possible, but errors in the CRS coding of the arrest offenses may have resulted. CRS may not have coded the particular offense in the same manner that a law enforcement officer with intimate knowledge of the particular case would have.

CRS attempted to classify the different crimes in a manner that would allow for uniform analysis, but due to the nature of the data, these results should be interpreted cautiously. In addition, as alluded to, the same criminal activity may be classified differently across different jurisdictions. For example, the crime of carelessly discarding refuse may be called "littering" in one jurisdiction but "rubbish disposal" in another. As a result, the CRS analysis of reason for arrest should be interpreted with caution.

Notably, CRS was unable to independently verify the information contained in the data. For example, there are several cases in the data where the arrest date appears not to be an arrest date, but the date that a person began their sentence for criminal activity.[20] In addition, there is one case where the same individual was arrested more than 50 times.[21]

Findings[22]

As detailed in the July 10, 2012 memorandum, between October 27, 2008 and July 31, 2011, there were 159,286 aliens identified to ICE through the Secure Communities Program though an IDENT match that ICE did not administratively arrest,[23] book into custody, or log a detainer[24] against. **Table 3** presents the immigration status for those against whom no action was taken.

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[20] For example, in one of these cases the reason for arrest was entered as, "FORGERY SD FIVE YRS ASP BEGS 07 07 2009 ENDS 07 07 2014," and the arrest date was listed as 07/07/2009. These cases were included in the analysis but classified in the "no/incomplete information" category.

[21] The DHS identification number for this case is 0008. This case was treated in the same manner as other cases, and each arrest reason was coded separately.

[22] The following analysis does not include cases where the reason for arrest was coded as "civil prints," "return civil prints," or "institutional data received," or where the suspect was identified as a U.S. citizen. As mentioned above, of the 358,916 entries in the data, 82,504 "arrests" were excluded.

[23] Since removal proceedings are civil not criminal, arrests for the purpose of instituting removal proceedings are "administrative" arrests rather than "criminal" arrests.

[24] An immigration detainer is a notice that DHS issues to federal, state and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody. Department of Homeland Security, Immigration and Customs Enforcement, "ICE Detainers: Frequently Asked Questions," accessed July 2, 2012, (continued...)

Table 3. Immigration Status of Individuals Identified through the Secure Communities Program Against Whom No Action Was Taken after the IDENT Match

Immigration Status	Individuals Identified By IDENT	Percent of Total
BCC	860	0.5%
Illegal	36,446	22.9%
Illegal under Proceedings	2,750	1.7%
LPR	86,535	54.3%
Legal	9,201	5.8%
Legal Under Proceeding	995	0.6%
Nonimmigrant	15,427	9.7%
Removed	4,538	2.8%
Undetermined	490	0.3%
Warrant for Removal	2,005	1.3%
Missing	39	0.02%
TOTAL	**159,286**	**99.92%**

Source: CRS analysis of data provided by ICE to the House Committee on the Judiciary.

Note: See **Table 2** for an explanation of the immigration status categories.

According to the correspondence between the Committee and ICE, there are several reasons why ICE may not have taken action against these individuals, the most common being that an IDENT match can occur for a person for whom there is no legal basis to remove from the country such as a U.S. citizen. In addition, lawful permanent residents (LPRs)[25] must be *convicted* of an offense that makes them removable before ICE can institute removal proceedings.[26] In addition, ICE may not have taken action because the alien was released by law enforcement before ICE could take custody or because the subject had a minor criminal history that was not within ICE's enforcement priorities.[27]

As **Table 3** shows, the majority of those against whom no action was taken were LPRs or legal aliens (60.1%) who would not be removable until they were convicted of a crime that would make them removable under INA §237.[28] In addition, it is unclear from the category descriptions provided by ICE whether those in the BCC or nonimmigrant categories (10.2%) would be removable if they were not convicted.

(...continued)

http://www.ice.gov/news/library/factsheets/detainer-faqs.htm.

[25] An LPR is any person not a U.S. citizen who is residing in the United States under legally recognized and lawfully recorded permanent residence as an immigrant.

[26] INA §237.

[27] Letter from Nelson Peacock, Department of Homeland Security, Assistant Secretary for Legislative Affairs, to Honorable Lamar Smith, Chairman, Committee on the Judiciary, U.S. House of Representatives, May 22, 2012.

[28] Not all criminal offenses make an alien eligible for deportation/removal. In general, convictions for drug offenses, crimes of moral turpitude, or any crime with a sentence of a year or longer will make a legally present noncitizen subject to removal. INA §237(a)(2).

Table 5. Analysis of Alleged Violations Recorded Against All Aliens Identified Through IDENT Who Were Re-Arrested After Identification

Reason for Arrest	Number of Charges	Percent of All Charges
No/Incomplete Information	8,975	15.5%
INA Civil Violations	5,246	9.1%
License Violations	4,709	8.2%
Traffic Violations	1,941	3.4%
Nuisance Crimes	1,710	3.0%
Trespassing	644	1.1%
Prostitution	254	0.4%
Burglary	1,158	2.0%
Theft	2,844[a]	4.9%
Firearms Offenses	292	0.5%
False Identity Documents	230	0.4%
DUI	8,449	14.6%
Drug Violations	6,270	10.9%
Major Criminal Offenses	4,118[bc]	7.1%
Other Violent Crimes	1,224[d]	2.1%
Failure to Obey Law Enforcement	1,545	2.7%
Other Non-violent Criminal Offenses	4,968	8.6%
Parole/Probation Violations	848	1.5%
Warrants and Failures to Appear	2,338	4.0%
Total	**57,763**	**100%**

Source: CRS analysis of data provided by ICE to the Judiciary Committee.

a. Of these offenses, 345 were grand theft or grand larceny.

b. Of these offenses, 59 were murder or homicide, 21 were attempted murder, and 10 were assaults that possibly resulted in murder.

c. Of these offenses, 214 could be characterized as sex crimes (e.g., rape, sexual assault).

d. Of these offenses, 328 could be characterized as sex crimes (e.g., child molestation, lewd acts, sexual penetration).

As noted above, ICE does not have the authority to remove legally present aliens because the alien was arrested. In these cases the alien must be convicted of a crime. For the aliens who were re-arrested after they were identified through IDENT, CRS analyzed the alleged violations against the aliens who ICE likely had the authority to take into custody at the time of identification through the Secure Committees Program. Thus, the following analysis (**Table 6**) includes only aliens whose immigration status in the provided data was recorded as illegal, illegal under proceedings, legal under proceedings, removed, or warrant for removal.

There were 7,283 individuals in the data that ICE likely had the authority to take action when they were identified through Secure Communities, but did not and who were then re-arrested. These individuals accounted for 10,815 arrest events, and 16,226 alleged violations.

Table 6. Analysis of Alleged Violations Recorded Against Removable Aliens Identified Through IDENT Who Were Re-Arrested After Identification

Reason for Arrest	Number of Charges	Percent of All Charges
No/Incomplete Information	2,212	13.6%
INA Civil Violations	3,980	24.5%
License Violations	1,707	10.5%
Traffic Violations	551	3.4%
Nuisance Crimes	330	2.0%
Trespassing	100	6.2%
Prostitution	61	0.4%
Burglary	193	1.2%
Theft	489[a]	3.0%
Firearms Offenses	48	0.3%
False Identity Documents	102	0.6 %
DUI	1,929	11.9%
Drug Violations	1,420	8.8%
Major Criminal Offenses	852[bc]	5.3%
Other Violent Crimes	253[d]	1.6%
Failure to Obey Law Enforcement	425	2.6%
Other Non-violent Criminal Offenses	906	5.6%
Parole/Probation Violations	156	1.0%
Warrants and Failures to Appear	512	3.2%
Total	**16,226**	**100.1%**

Source: CRS analysis of data provided by ICE to the Judiciary Committee.

Note: Percentages may not add to 100% due to rounding.

a.   Of these offenses, 46 were grand theft or grand larceny.

b.   Of these offenses, 19 were murder or homicide, 3 were attempted murder, and 2 were assaults that possibly resulted in murder.

c.   Of these offenses, 58 could be characterized as sex crimes (e.g., rape, sexual assault).

d.   Of these offenses, 84 could be characterized as sex crimes (e.g., child molestation, lewd acts, sexual penetration).

Table 6 shows that most of the arrests fall into the "civil violations of the INA" category (24.5%). The next two categories with the highest number of charges were DUI (11.9%) and license violations (10.5%). Major criminal offenses accounted for approximately 5.3% of all the arrest charges, while 1.6% of the charges were for other violent crimes.

We hope that you find this information useful. If you need more assistance, please contact ████████ ████ or ████████ ████████.