

# **From Criminal Justice System to Deportation Background Information—Key Terms and Programs**

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## **ICE Holds**

An immigration detainer (ICE Hold) is a non-mandatory request to a local jail to hold a person suspected of being a deportable non citizen for ICE to pick up and to notify ICE when the jail intends to release the person. Federal regulations stipulate that a jail can hold someone for only 48 additional hours (excluding holidays or weekends) after his/her release. In New Mexico, this 48 hour rule is often violated, and ICE Holds have been placed on non-deportable individuals, including US Citizens. In some communities like Roswell, police have misused ICE Holds as arrest warrants.

## **SCAAP**

Through the State Criminal Alien Assistance Program (SCAAP), the federal government provides payments to states and localities that incur correctional officer salary costs for incarcerating undocumented “criminal aliens” who have at least one felony or two misdemeanor convictions for violations of state or local law, who are incarcerated for at least 4 consecutive days, and who are identified and reported as undocumented using due diligence. Reimbursement occurs only if the individual is in fact deportable and meets those criteria. Several counties have complained that SCAAP reimbursements compensate for only a small percentage of costs associated with the honoring of ICE Holds.

## **Criminal Alien Program (CAP)**

Through CAP, ICE’s primary enforcement program, ICE agents identify and screen inmates in jails to initiate removal proceedings while people are still in criminal custody. CAP relies on informal relationships with jails to gain access to booking records and to conduct interviews with inmates in person or over the phone. CAP requires no formal agreement or MOU. Many jail administrators and local governmental bodies that oversee the local jails do not even know that they are participating in CAP. In 2009, 48% of all immigrants in ICE custody were apprehended through CAP. According to an ICE spokesperson, all New Mexico jails participate in CAP with the exception of Santa Fe’s Adult Detention Facility.

## **Secure Communities Program**

Secure Communities is an ICE ACCESS program that checks a person’s fingerprints against both immigration and criminal databases at the time of arrest or booking. If a person is matched to a record indicating some immigration history, ICE and the jail are notified. ICE issues an ICE Hold. There are five jurisdictions in New Mexico’s in New Mexico have instituted this program. New Mexico’s Department of Public Safety signed an MOU with ICE in December, 2009 agreeing to forward fingerprints sent by local jails through the State Identification Bureau (SIB) to ICE.

## **287 (g) jail program**

Through the the 287 (g) jail program, ICE trains and deputizes jail officials to interview and place ICE Holds on inmates. No local jail has entered into a 287 (g) agreement in New Mexico. New Mexico’s Department of Corrections has applied to be a part of the program.

