



Frequently Asked Questions on “Gang-Related” Immigration Enforcement

Written By:

Julie Mao

Paromita Shah

October 25, 2017

1. How Does ICE Store Gang-Related Information?

ICE uses existing case management systems to store gang-related information about individuals. The three major case management tools are:

- *Investigative Case Management (ICM) system*: ICM is a database system primarily used by ICE Homeland Security Investigations (HSI), though other ICE officials may have access.¹ ICM has a field to note an individual’s gang affiliation.
- *Enforcement Integrated Database (EID)*: EID is a database system that contains information related to the investigation, arrest, booking, detention, and removal of persons encountered during immigration and criminal law enforcement investigations and operations primarily used by ICE and U.S. CBP, though other federal and local law enforcement agencies may have access.² This database can be accessed through several software applications such as the EID Arrest Guide for Law Enforcement (EAGLE). EAGLE contains specific information fields to notate gang membership and role.
- *FALCON Search & Analysis System (FALCON-SA or FALCON)*: FALCON is an investigatory database system primarily used by ICE HSI. It supports the investigative work of ICE HSI agents and “criminal research specialists” by allowing them to develop information about persons, organizations, events, locations, and analyze their relationships by ingesting and creating an index of the data from other law enforcement data systems and commercial vendors.³

In 2006, ICE established its own gang database called “ICEGangs”, which interacts with software created by vendor GangNet.⁴ However, the database appears to be inactive as agents have relied on existing case management systems for information. ICEGangs is interoperable with CalGang, the State of California’s gang database, meaning that ICE agents have access to

¹ Dep’t of Homeland Sec., Privacy Impact Assessment for ICE Investigative Case Management, June 16, 2016, p. 2.

² Dep’t of Homeland Sec., Privacy Impact Assessment Update for EID, April 8, 2014, p. 2.

³ Dep’t of Homeland Sec., Privacy Impact Assessment Update for the FALCON Search & Analysis System, October 11, 2016; *Id* at Appendix (list of DHS databases, commercial vendors, other data accessible through FALCON).

⁴ Dep’t of Homeland Sec., DHS/ICE/PIA-016 ICEGangs Database, January 2010.

CalGang. You can view a list of local police gang databases within CalGang here.⁵

** Please note that DHS practice on data-collection and surveillance is a fast-developing area of enforcement and information is subject to change. **

2. Which Federal Agencies Conduct Gang-Related Enforcement?

Department of Homeland Security (DHS): Within DHS, ICE has the largest role in investigating gang-related crimes and activities. CBP investigates transnational activities. ICE Homeland Security Investigations (HSI) has the primary task of conducting gang related enforcement through its National Gang Unit (NGU). The NGU identifies and develops intelligence on gang membership, associations, activities, and international networks.”⁶ HSI is responsible for “Operation Community Shield.”⁷ It investigates both citizens and noncitizens and has international offices through which it conducts gang enforcement with foreign law enforcement. Other division of ICE, such as ICE ERO, may also conduct gang related enforcement. USCIS, along with the Department of State (DOS), may gather information about gang affiliation through its vetting process and share it with ICE.

Federal Bureau of Investigation (FBI): The FBI, an agency within the Department of Justice (DOJ), is tasked with investigating gangs. Since the 1990s, the FBI has administered Violent Gang Safe Streets Task Forces across the country. These taskforces are composed of federal, state, and local law enforcement, including ICE, that investigate and prosecute gang related offenses. Such information is conveyed to the FBI’s National Gang Intelligence Center (NGIC), the office tasked with gang labeling and classification. It also produces the annual National Gang Threat Assessment, a survey of police departments and their perception of gang violence in their localities. Information from the NGTA is used to develop federal gang programs.

Department of Justice (DOJ): The DOJ, particularly its U.S. Attorney offices, is responsible for criminal prosecution of gang activity and bringing gang injunctions at the federal level. In the past few years, gang injunctions have come under closer scrutiny.⁸ Additionally, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) runs a number of gang-prevention and gang intervention programs targeting young people, but has merged with the National Gang Center (NGC).

3. How Does ICE Obtain Information that an Individual Is Gang Affiliated?

ICE obtains allegations of gang affiliation through: (1) information gathering by the federal government itself, (2) information sharing by local law enforcement, and (3) information sharing and data mining by third party contractors.

Information Gathered by Federal Agencies: ICE, USCIS or other federal law enforcement agencies may accuse an individual of gang affiliation based on the federal agency’s own

⁵ Office of the Attorney General, “CalGang,” available at: <https://oag.ca.gov/calgang>.

⁶ ICE, National Gang Unit, available at: <https://www.ice.gov/national-gang-unit>.

⁷ ICE Operation Community Shield is a large-scale raid and detention operation launched in 2005 during the Bush Administration and continues today. Recent raids under the Trump Administration resulted in thousands of ICE arrests and deportations, including of U.S. citizens. See ICE, National Gang Unit: Operation Community Shield Overview, available at: <https://www.ice.gov/national-gang-unit>.

⁸ Kate Mather and James Queally, “Judge halts L.A. gang injunction against an Echo Park man who denies being in a gang,” LA TIMES, September 7, 2017.

encounter or investigation of the subject. Such DHS determinations of gang affiliation involve loose classifications and specious evidence, and subject to little due process.⁹ Examples include:

- Self-admissions: during an interrogation or interview with ICE, USCIS, or DOS consular office, federal official asserts that the individual admits to gang affiliation.
- Tattoos or Clothing: federal agent alleges gang affiliation after viewing an individual's tattoo or clothing. ICE processing and DOS consular processing are common places for such allegations to arise.

Local Law Enforcement Sharing Information with ICE: One of the most common ways that ICE designates individuals as gang affiliated is through information obtained from local law enforcement. The manner of information sharing between ICE and local police depends on the jurisdiction. For example, local police can provide ICE with access to its gang databases, access to its gang units, or conduct joint operations through gang taskforces. Please see question 4 for more information on how local law enforcement conducts gang affiliation classifications.

Third Party Contractor Data Mining for ICE: ICE contracts with private technology companies to gather open source and commercial data (e.g. credit reports, twitter) regarding enforcement targets.¹⁰ Such data mining involves significant surveillance and data collection. For example, ICE may use a commercial vendor to screen social media data on Facebook referencing gangs.

4. How Does Local Law Enforcement Determine Gang Affiliation?

Gang labeling practices by local law enforcement commonly operate with little training, quality control, or uniform standards, and suffer from an overall lack of due process protections.

Below are common reasons used by local police to designate someone as gang affiliated:

- Suspected gang tattoos or scars
- Suspected gang clothing, commonly clothing color
- Resides in neighborhood with high crime or gang activity
- Suspected affiliation or “self-admission” to gang membership

Below are ways in which local police encounters result in gang affiliated classification:

- Investigatory stop, contact card, or field information card¹¹
- Street surveillance by local police¹²
- Interviews or interrogations
- In custody classification during jail processing or pre-hearing detention¹³
- Social media surveillance and other big data analysis¹⁴
- Informant

⁹ Ali Winston, “Vague Rules Let ICE Deport Undocumented Immigrants as Gang Members,” THE INTERCEPT, Feb. 17, 2017.

¹⁰ Dep’t of Homeland Sec., DHS/ICE DAS/PIA-048, Privacy Impact Assessment for the Data Analysis System (DAS), September 29, 2017, at 7-9.

¹¹ For example, a local police officer conducts an investigatory stop, such as a traffic stop, and files a field information card afterwards labeling a person as a gang member because he was stopped in a high gang activity neighborhood.

¹² For example, local police witnesses someone greeting a suspected gang member on the street and labels that individual as a gang member as well based on this interaction.

¹³ For example, a jail officer suspects that someone’s tattoo is gang affiliated and makes a note in the jail database.

¹⁴ Justin Jouvenal, “The new way police are surveilling you: Calculating your threat ‘score,’” THE WASH. POST, Jan. 10, 2016.

** Please note that how local law enforcement engages in gang affiliation determinations and if/how it stores and shares such information with ICE or other federal agencies depends significantly on local practice. To date, there is no uniform practice. **

Additional Resources:

- Youth Justice Coalition, “Tracked and Trapped: Youth of Color, Gang Databases, Gang Injunctions,” Dec. 2012, available at <http://www.youth4justice.org/wp-content/uploads/2012/12/TrackedandTrapped.pdf>.
- Sonja Wolf, “Mano Dura: Gang Suppression in El Salvador,” Sustainable Security, Mar. 1, 2011, available at: <https://sustainablesecurity.org/2011/03/01/mano-dura-gang-suppression-in-el-salvador/>.
- U.S. Dep’t of Justice, Office of the Inspector General Evaluation and Inspections Division, “A Review of the Department’s Anti-Gang Intelligence and Coordination Centers,” Nov. 2009, available at <https://oig.justice.gov/reports/FBI/i2010001.pdf> (background information regarding the government’s policies on gang enforcement and information collection systems).
- *Catalan-Ramirez v. ICE et al.*, Case No. 17-cv-03258 (N.D. Ill. May 5, 2017) (lawsuit filed by NIPNLG and the MacArthur Justice Center challenging the Chicago Police Department’s gang database and ICE’s excessive use of force in its raid of a gunshot victim erroneously placed into the database). More information available with OCAD here: <http://organizedcommunities.org/wilmerpolice/>.
- ILRC Practice Advisory, “Understanding Allegations of Gang Membership /Affiliation in Immigration Cases,” Apr. 2017, available at: https://www.ilrc.org/sites/default/files/resources/ilrc_gang_advisory-20170509.pdf
- NIPNLG Community Advisory: Social Media, Criminalization, and Immigration, Apr. 2017, available at: https://nipnlg.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.

Questions? Please contact: NIPNLG Staff Attorney Julie Mao at jmao@nipnlg.org