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# Immigration Enforcement Within the Nation's Borders

Federal, State, and Local Efforts

## Overview

The enforcement of U.S. immigration laws is commonly thought of as a border activity, yet activities related to immigration enforcement extend across all states and territories. The federal government has the primary responsibility for enforcing immigration laws, and such efforts have historically been concentrated along the U.S. borders and in states with the largest numbers of unauthorized immigrants. In recent years, however, these federal activities have spread widely into the nation's interior, and are felt in many states and localities. This brief explores immigration enforcement in the nation's interior, as distinct from border management, which will be addressed separately.

At the same time as these enforcement efforts have become so widely dispersed, collaboration between different levels of government has increased as the federal government has partnered with state and local law enforcement more routinely over the past decade. Currently there are joint efforts in all 50 states and the District of Columbia. This cooperation occurs both through formal channels, such as task forces and partnerships, and informal mechanisms, such as local police informing federal immigration authorities when they suspect a person is in the country illegally.

These relationships in immigration enforcement are constantly evolving, and during the first half of 2014, the level of discussion and policy activity on this topic increased. For example, in March, President Barack Obama

directed the Department of Homeland Security to review current deportation policies and practices.<sup>1</sup> This process will include an evaluation of the Secure Communities program, which links federal immigration enforcement with state and local law enforcement agencies. In addition, in 2014 several courts found that states and localities are not required to honor federal requests to detain immigrants.<sup>2</sup> Some jurisdictions have enacted new policies that limit their participation in or cooperation with federal immigration enforcement efforts.

Because these activities and partnerships have become more common and are under greater scrutiny, the nation is at a critical juncture regarding the enforcement of immigration laws. This brief offers context for federal, state, and local policymakers who make decisions on such activities by providing an overview of key federal immigration agencies, offices, and enforcement efforts within the United States as well as certain state activities. Understanding these enforcement efforts will help policymakers at all levels of government develop a broader and more complete picture of how their choices could affect the states, including potential impacts on state and local budgets and economies.

This is not meant to be an exhaustive accounting of all federal and joint activities or state laws regarding immigration enforcement; instead, it focuses on important examples. The Pew Charitable Trusts takes no position on federal, state, or local immigration-related laws or policies.

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As the immigrant population has increased and dispersed across the United States in recent decades, immigration enforcement activities have similarly spread to all 50 states and the District of Columbia. Although typically thought of as a border-related activity, immigration enforcement takes place in workplaces and jails nationwide, not just in the states with the largest immigrant populations.

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## Key federal agencies and offices

Although many federal agencies play a part in interior immigration enforcement—from the Department of Homeland Security to the Departments of Agriculture, Interior, and Defense—a few play more central roles. (See Figure 1.) These agencies and their activities are spread widely across the states and include the following:

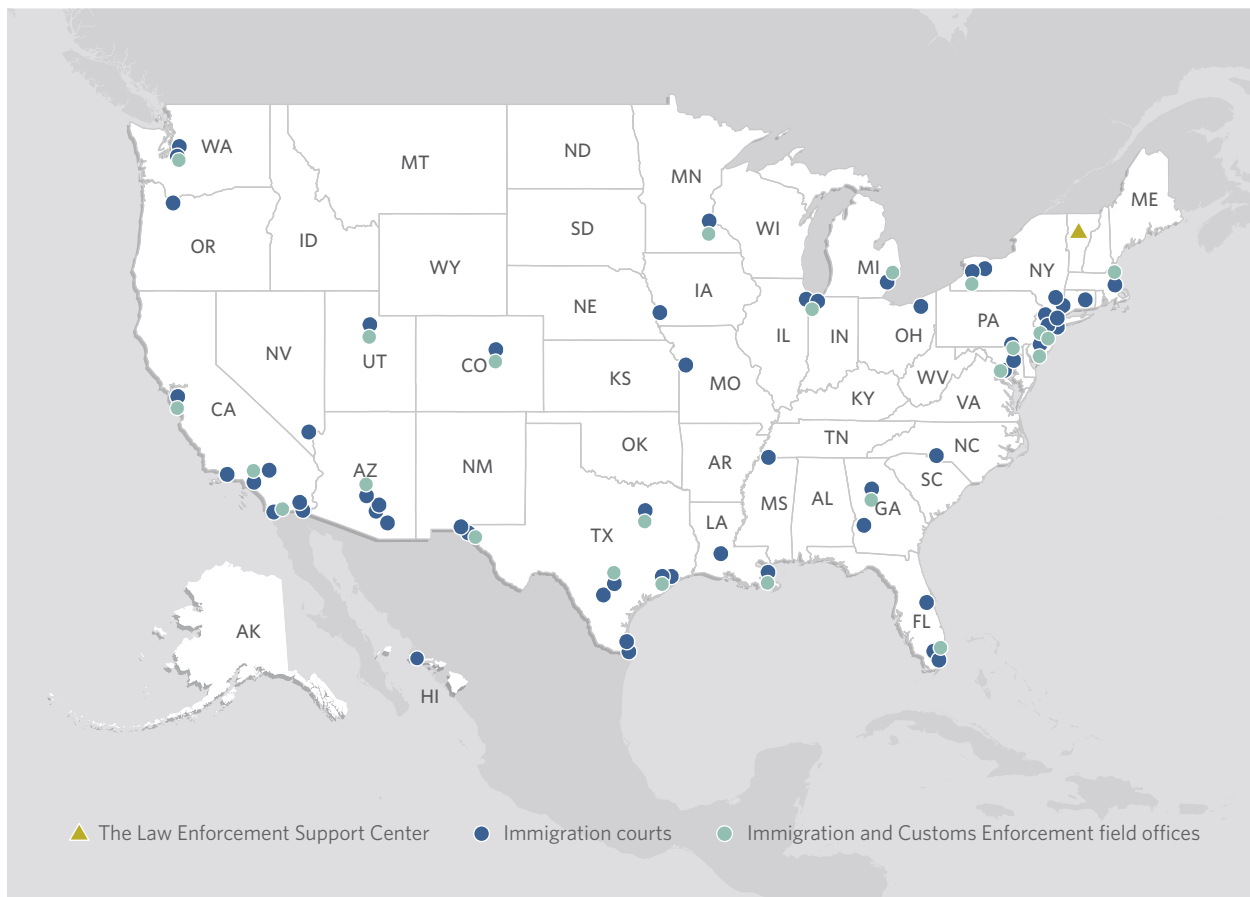
### U.S. Department of Homeland Security

- **U.S. Immigration and Customs Enforcement**, or ICE, is the primary agency responsible for enforcing immigration laws within the interior of the United States. ICE has 24 field offices in 18 states and more than 20,000 employees.<sup>3</sup>
  - **The Office of State, Local, and Tribal Coordination** is responsible for building and maintaining relationships, facilitating partnerships, and coordinating activities with state and local governments and law enforcement agencies.<sup>4</sup>
  - **The Law Enforcement Support Center** serves as a single national point of contact for local, state, and federal law enforcement agencies. It provides immigration-related information on noncitizens suspected, arrested, or convicted of a crime. The center, located in Williston, Vermont, operates 24 hours a day, 365 days a year.<sup>5</sup>

- **U.S. Citizenship and Immigration Services** is responsible for adjudicating applications for green cards, naturalization, and other benefits, but the agency also administers the E-Verify employment authorization verification program, an element of immigration enforcement in work sites. The agency has about 18,000 employees and contractors working in 250 offices around the world.<sup>6</sup>
- **U.S. Customs and Border Protection** is responsible for regulating immigration and trade at the borders and operates at and between legal ports of entry. Because many airports are ports of entry, the agency, with more than 60,000 employees, operates well into the nation's interior.<sup>7</sup>

Collaboration between different levels of government has increased as the federal government has partnered with state and local law enforcement more routinely over the past decade.

Figure 1  
**Federal Immigration Enforcement Spans the U.S.**  
 Select agencies and offices



Sources: U.S. Department of Homeland Security, Immigration and Customs Enforcement, 2014; U.S. Department of Justice, Executive Office for Immigration Review, 2014

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## U.S. Department of Justice

- **The Executive Office for Immigration Review** administers the nation's immigration court system. It interprets U.S. immigration laws, adjudicates immigration cases, and conducts immigration court proceedings, appeals, and administrative hearings.<sup>8</sup> There are 60 courts in 27 states and two in U.S. territories. The headquarters is in Virginia.<sup>9</sup>
- **The U.S. Marshals Service** assists in locating, apprehending, and deporting foreign fugitives within the United States. In 1995, the service merged air fleets with ICE, creating the Justice Prisoner and Alien Transportation System to transport prisoners and noncitizens in detention.<sup>10</sup>
- **The Bureau of Prisons** operates detention centers where immigration detainees are sometimes housed.

## U.S. Department of Labor

- Several agencies within the Department of Labor, including the **Wage and Hour Division** and the **Office of Foreign Labor Certification**, enforce some labor and employment laws affecting immigrant workers.<sup>11</sup>

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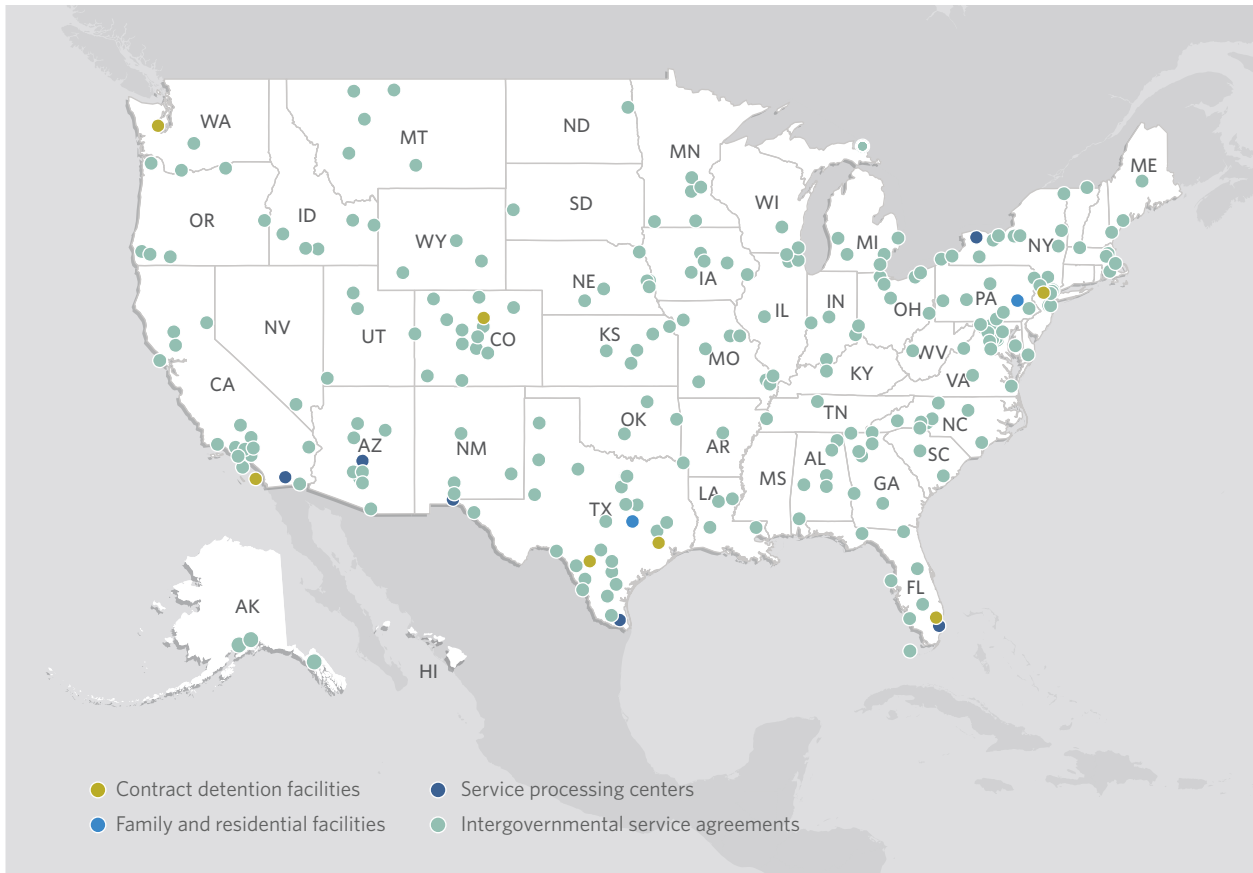
## Immigration detention

ICE's Detention Management Division operates a large system of facilities across the United States. (See Figure 2.) The agency detains noncitizens awaiting deportation proceedings. ICE does not detain noncitizens for punitive reasons or to serve criminal sentences, but to ensure that they appear for court proceedings and do not abscond before they can be deported.<sup>12</sup> Many, but not all, of those detained by ICE committed a crime while in the United States. Persons seeking asylum may also be detained while their applications are pending.<sup>13</sup> The average number of noncitizens held each day by ICE has increased steadily in recent years, from 7,475 in fiscal year 1995<sup>14</sup> to 34,000 today.<sup>15</sup> In fiscal 1995, nearly 86,000 people passed through ICE detention;<sup>16</sup> in fiscal 2012, that number had increased more than five times to about 475,000.<sup>17</sup> To accommodate the large number of detainees, ICE manages a system of facilities but also relies heavily on partnerships with state and local governments for space in their jails. These facilities are spread widely across the entire United States. They include:

- **Service processing centers**, which house approximately 11 percent of the detained population.<sup>18</sup> ICE owns and operates six facilities.
- **Contract detention facilities**, which house approximately 17 percent of the detained population.<sup>19</sup> ICE contracts with seven facilities that are owned and operated privately.
- **Intergovernmental service agreements**, which are partnerships with state and local jail facilities where ICE houses approximately 70 percent of the detained population.<sup>20</sup> ICE had more than 200 of these agreements in more than 40 states as of October 2013.<sup>21</sup> Two of the agreements are with **family and residential facilities**, which house children and families.

Figure 2

## More Than 200 Immigration Detention Facilities Are Spread Across the U.S.



Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement, 2013

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### Immigration 'Detainer': An Important Tool

One of the tools the federal government uses to identify noncitizens for deportation is the immigration "detainer."

When Immigration and Customs Enforcement becomes aware of a noncitizen in the custody of a state or local jail or prison, the agency can issue a detainer, also known as an "immigration hold."<sup>22</sup> This is an official request to a state or local jail asking it to notify ICE before releasing a person from custody so that federal authorities can arrange to take custody. After the noncitizen has been found guilty or innocent, the charges have been dropped, bail has been secured, or a convicted person has served a sentence, the federal government asks that the jail hold the person for up to 48 additional hours—excluding weekends and holidays—so ICE can take custody for immigration enforcement action.

## Federal activities with state and local law enforcement agencies

State and local police officers may inquire about an individual's immigration status in the course of their regular duties, and they can contact ICE's Law Enforcement Support Center when a question about immigration status arises.<sup>23</sup> In addition to this option, the federal government in recent decades has created several programs and partnerships with state and local authorities to institutionalize information sharing, enforce federal immigration laws, and identify noncitizens who may be deportable.<sup>24</sup> (See Figure 3.)

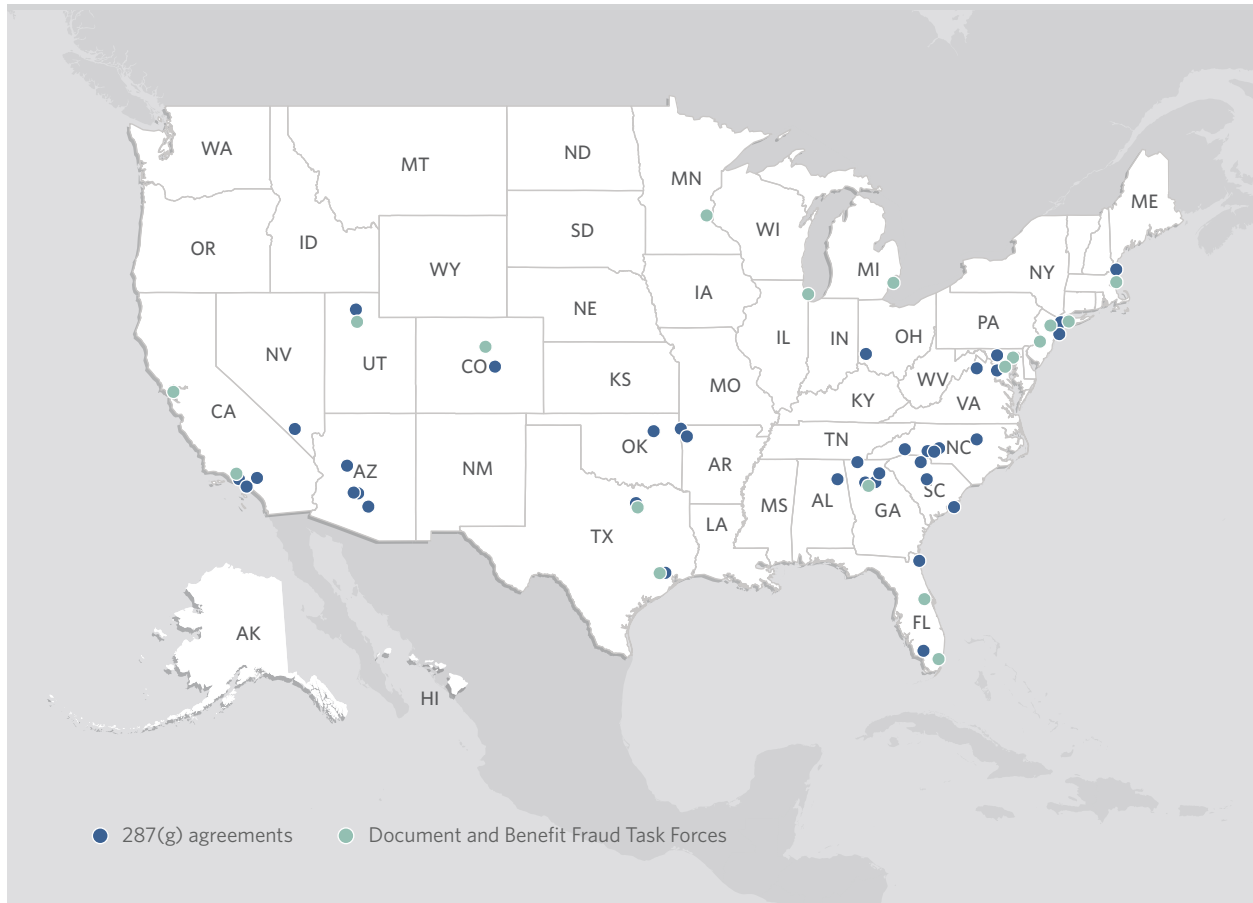
Among the partnerships and joint operations:

- **The 287(g) program**, created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, allows ICE to enter into joint Memoranda of Agreements with state and local law enforcement agencies. The agreements permit designated local officers to perform certain immigration law enforcement functions, provided that they have received appropriate training and that they function under the supervision of ICE officers.<sup>25</sup> As of August 2013, the agency had 37 of these agreements in 18 states, allowing trained law enforcement officials to question detainees in jails and prisons about their immigration status.<sup>26</sup> Since the program began, ICE has trained more than 1,300 state and local police officials through these agreements.<sup>27</sup> While any locality may participate in the program, most 287(g) agreements are clustered in the Southeast and Southwest, with a few located in more central states.
- **Secure Communities**, created in 2008, allows ICE and the Federal Bureau of Investigation to share information in order to identify noncitizens within prisons and jails who may be deportable.<sup>28</sup> When a person is arrested and booked at a state or local police station or jail, the state or locality sends the individual's fingerprints to the FBI to be checked against criminal databases. The FBI then sends those fingerprints to ICE to be compared against immigration databases. If the person is matched to a record in immigration databases, ICE decides whether to take enforcement action. In most cases where action will be taken, ICE issues a detainer (see Immigration 'Detainer' sidebar) requesting that the arresting agency notify ICE before it releases the noncitizen so that ICE can take the individual into custody.<sup>29</sup> Secure Communities was fully implemented across the U.S. in January of 2013.<sup>30</sup>
- **The Criminal Alien Program**, or CAP, created in 1988,<sup>31</sup> allows federal immigration officers to screen inmates in federal, state, and local prisons and jails across the country to identify noncitizens who may be deportable. After the screening process and interviews, federal immigration officers may issue a detainer and initiate proceedings to deport an inmate from the United States.<sup>32</sup> The program provides screening of all sentenced inmates in the Justice Department's Bureau of Prisons facilities and all state correctional institutions.<sup>33</sup>
  - **The Rapid Repatriation of Eligible Parolees Accepted for Transfer, or Rapid REPAT**, also part of CAP, is a partnership with state correctional and parole agencies that allows certain nonviolent noncitizens to serve shorter sentences in exchange for being released into ICE custody for immediate deportation.<sup>34</sup> Six states and Puerto Rico take part in this program.
  - **The Law Enforcement Agency Response Unit** is also part of CAP. Established in 2006 in Phoenix to provide round-the-clock federal response to calls for assistance from state and local law enforcement agencies in Arizona, the unit's staff of fewer than 20 conducts interviews to determine immigration status, lodges detainees, makes arrests, and transports and processes individuals for removal.<sup>35</sup>

Figure 3

## States and Localities Assist Federal Immigration Enforcement Efforts

### Locations of some ICE partnerships



Source: Department of Homeland Security, Immigration and Customs Enforcement, 2014

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### Federal Help for the States

The **State Criminal Alien Assistance Program** provides payments to states and localities for certain costs incurred during the incarceration of unauthorized immigrants. Individuals must have at least one felony or two misdemeanor convictions for violations of state or local law and have been incarcerated for at least four days to be covered under the program.<sup>36</sup> The Justice Department's Bureau of Justice Assistance and the Department of Homeland Security administer the program.

States are reimbursed for the costs of correctional officer staff. The assistance program does not reimburse costs for housing, meals, or providing medical care to detainees or for the incarceration, detention, or transportation of lawful immigrants or unauthorized immigrants who do not meet the criteria for the program.

- **Other joint operations.** ICE works with federal, state, and local authorities in a variety of other ways, often tailoring partnerships to meet the specific needs of communities. These include:
  - **Operation Predator.** A joint effort to identify, investigate, and arrest noncitizens who engage in child pornography, exploitation, or trafficking when there is an immigration or customs component to the cases.<sup>37</sup>
  - **Operation Community Shield.** A joint operation to investigate and dismantle transnational street gangs, including the arrest, prosecution, and removal of noncitizen gang members.<sup>38</sup>
  - **Document and Benefit Fraud Task Force.** A partnership to investigate the manufacture, sale, and use of counterfeit identity documents such as driver's licenses, passports, or Social Security cards. Task forces investigate fraudulent applications for immigration benefits, including visas, political asylum, and naturalization.<sup>39</sup> As of 2014, there are 19 task force locations in the United States.
  - **Fugitive Operations Teams.** A collaboration of federal, state, and local law enforcement agencies that identifies, locates, and arrests noncitizens who have failed to leave the U.S. after receiving a final order of deportation or who fail to report to ICE after receiving a notice to do so.<sup>40</sup> The teams are active across the country and often coordinate with state, local, and tribal law enforcement agencies.<sup>41</sup> The program was launched in 2003 with eight units; as of 2014, there are 129.<sup>42</sup>

## State and local laws and policies that limit federal immigration detainers

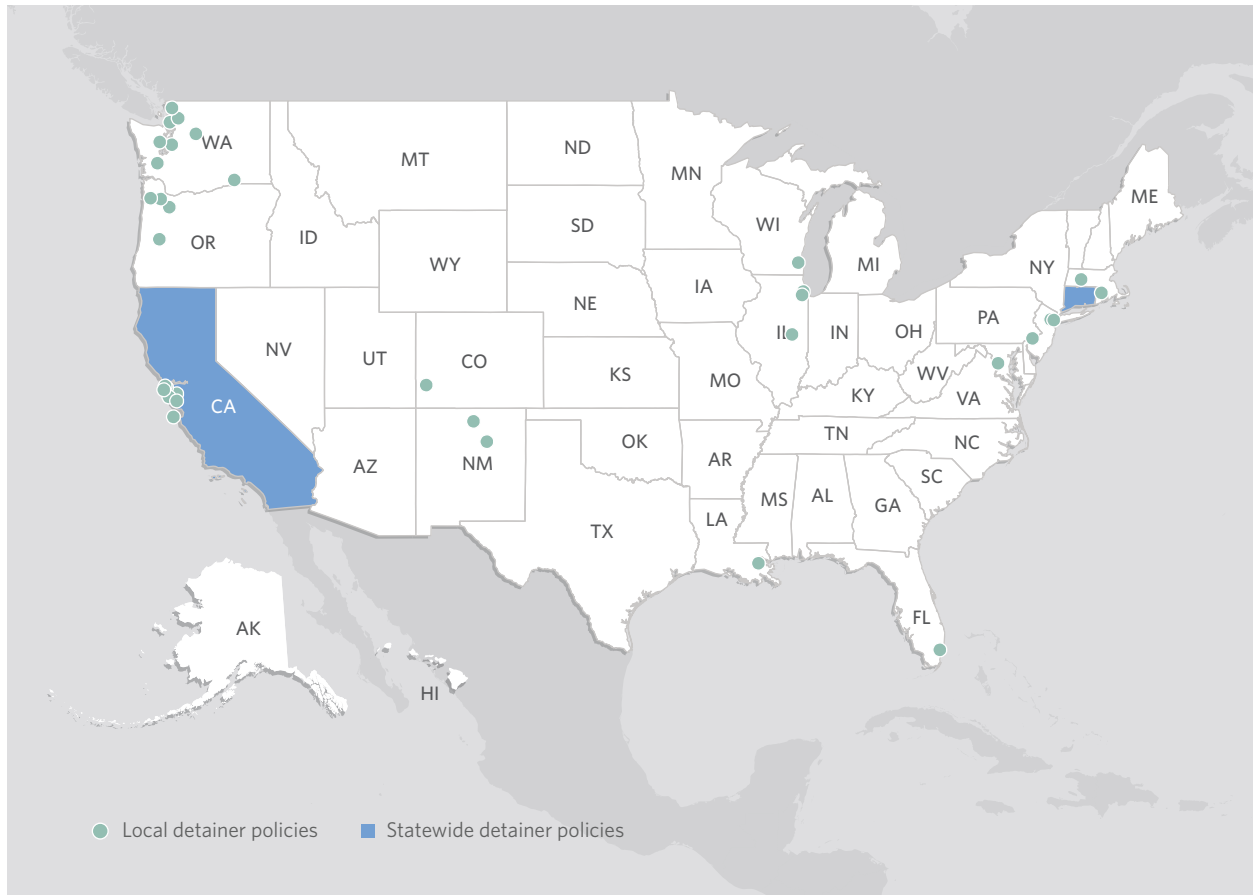
In March 2014, the U.S. Court of Appeals for the 3rd Circuit found that states and localities have no obligation to comply with federal detainer requests.<sup>43</sup> Some states and localities have adopted policies restricting their law enforcement agencies from honoring all or some immigration detainers (See Figure 4.) and have cited the costs of detention and a concern that those detained have not been convicted of serious crimes.<sup>44</sup> These policies include:

- **State detainer restrictions.** In 2013, two states (California<sup>45</sup> and Connecticut<sup>46</sup>) passed laws that restrict or place conditions on law enforcement agencies' ability to honor federal immigration detainers. In both, federal immigration detainers are not honored unless the person has been convicted of a serious crime, as defined by the statute, or meets one of the other conditions listed in the law.
- **Local detainer restrictions.** A growing number of localities have passed laws or resolutions, issued executive orders, or have police department policies that restrict or place conditions on when law enforcement agencies may honor federal immigration detainers.<sup>47</sup> The number of localities adopting detainer restrictions has been growing and, as of June 2014, more than 30 counties have written policies or announced their intention not to honor federal detainers.



Figure 4

## States and Localities Limit Federal Immigration Enforcement Detainer laws and policies as of May 2014



Note: The map depicts those states and localities that have written policies stating the conditions under which federal immigration detainers will be honored as of May 21, 2014. Additional localities have announced they will no longer honor federal immigration detainers, but are not included on this map.

Source: Immigrant Legal Resource Center, 2014

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## E-Verify

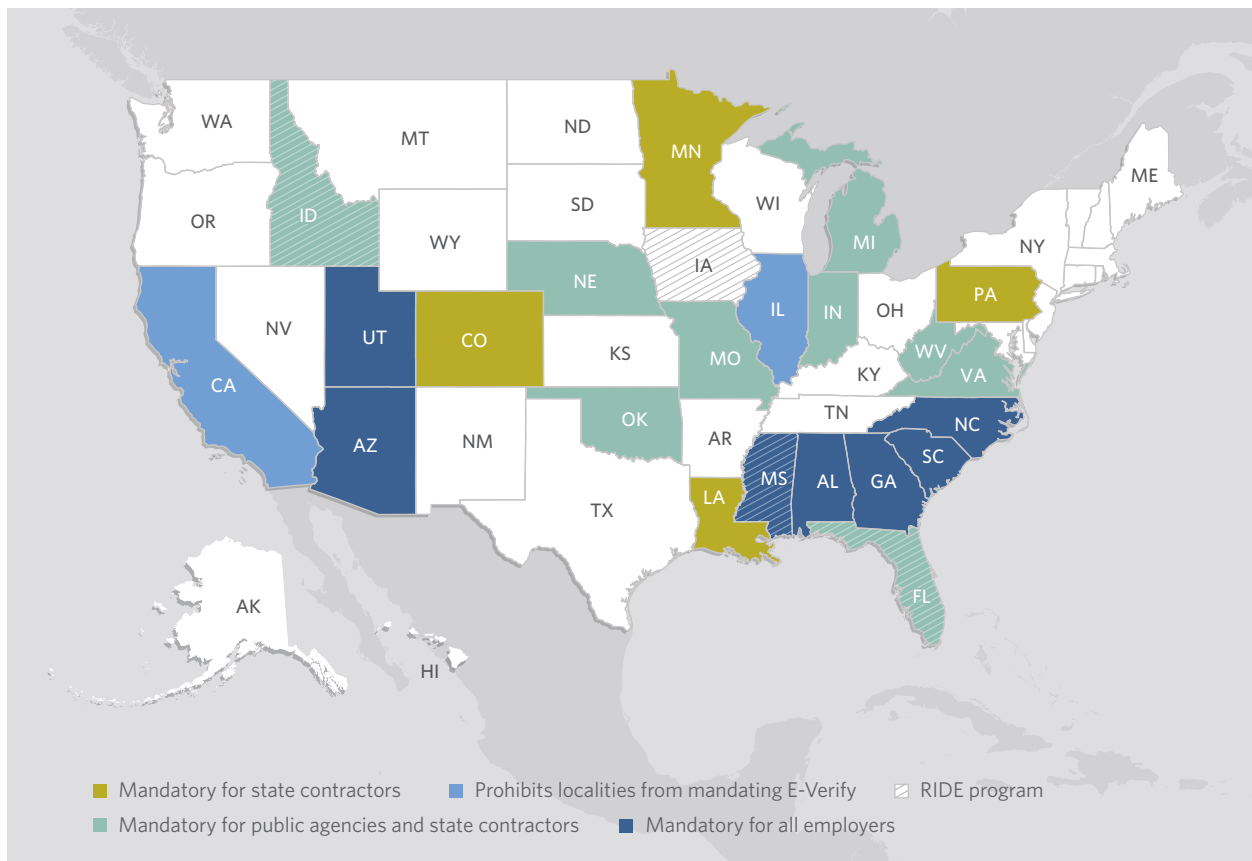
The federal government is responsible for enforcing laws involving the employment of noncitizens who do not have authorization to work in the United States. One key tool for this purpose is E-Verify, an Internet-based system that allows public and private employers to verify employees' identification and work authorization documents using federal databases. U.S. Citizenship and Immigration Services administers the system, which is mandatory for certain employers (See Figure 5.):

- **Federal mandates.** Use of E-Verify is voluntary for most employers, although federal contractors and several other groups are required by the federal government to use the system.<sup>48</sup>

- **Mandatory E-Verify in the states.** As of May 2014, 20 states have laws making E-Verify mandatory for all or some employers, and two additional states encourage, but do not mandate the system.<sup>49</sup> Rhode Island had mandatory E-Verify, but it was repealed by executive order.<sup>50</sup> Illinois<sup>51</sup> and California<sup>52</sup> do not have mandatory E-Verify and have passed laws prohibiting localities in the state from making E-Verify mandatory.
- **Driver's license verification.** In 2011, E-Verify launched a program called Records and Information From Department of Motor Vehicles for E-Verify, known as RIDE. It added the capacity to verify the authenticity of state driver's licenses, and a state must share its license data with the federal government in order to participate. Mississippi, Florida, Idaho, and Iowa are currently the only states participating.<sup>53</sup>

E-Verify is an Internet-based system that allows public and private employers to verify employees' identification and work authorization documents using federal databases.

Figure 5  
States Legislate Use of Federal Employment Verification System  
E-Verify laws in the states



Sources: National Conference of State Legislatures, 2014; American Association of Motor Vehicle Administrators, 2014

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## Conclusion

As the immigrant population has increased and dispersed across the United States in recent decades, immigration enforcement activities have similarly spread to all 50 states and the District of Columbia. Although typically thought of as a border-related activity, immigration enforcement takes place in workplaces and jails nationwide, not just in the states with the largest immigrant populations. States and localities have become key players in the enforcement of immigration laws, working with the federal government to identify and detain noncitizens who violate U.S. immigration laws and to ensure that employers verify that their workers have proper authorization documents. Recently, some states have pushed back, limiting their cooperation with the federal government. Debates about these issues are likely to continue across the country. Policymakers at each level of government need to be aware of such relationships and take other entities into consideration when making decisions about enforcing immigration laws.

## Acknowledgment

The immigration and the states project team would like to thank Marc Rosenblum of the Migration Policy Institute for his assistance with this brief. Although he has reviewed it, neither he nor his organization necessarily endorse its content.

## Endnotes

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- 50 Rhode Island governor Lincoln Chafee repealed Executive Order 08-01 on Jan. 5, 2011 (enacted March 27, 2008, to make E-Verify use mandatory).
- 51 Under Illinois Public Act 95-0138, no local government may require an employer to use any electronic employment eligibility verification system as a condition of receiving a government contract or business license or as a penalty for violating licensing or similar laws. See Ill. COMP. STAT. § 12 : Illinois Statutes - Section 12, <http://codes.lp.findlaw.com/ilstatutes/820/55/12>.
- 52 California Assembly Bill 1236, [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1201-1250/ab\\_1236\\_bill\\_20110909\\_enrolled.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1201-1250/ab_1236_bill_20110909_enrolled.pdf).
- 53 U.S. Department of Homeland Security, "Privacy Impact Assessment Update for the E-Verify RIDE," DHS/USCIS/PIA-030(b), May 6, 2011, [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_uscis\\_evrideupdate.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_uscis_evrideupdate.pdf); American Association of Motor Vehicle Administrators, "Records and Information From DMVs for E-Verify (RIDE)," <http://www.aamva.org/RIDE/>.

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**For further information, please visit:**

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