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Investigative Report:

Immigration and Customs Enforcement's (ICE) media division has, by and large, stopped identifying the alien criminals and other deportees referenced in the agency's press releases.

Key Takeaway: An IRLI investigation found that U.S. Immigration and Customs Enforcement (ICE) has generally stopped publishing the names of aliens it has arrested for crimes and/or violations of the Immigration and Nationality Act (INA). Traditionally, when ICE has arrested a dangerous criminal, a threat to national security, or a prodigious violator of U.S. immigration laws, it has published a press release. Generally speaking, as a matter of government transparency, those press releases furnished the name, nationality and other relevant details about the individual who was taken into custody.

However, the Biden Administration appears to have abandoned this practice. Only 67 percent of its press releases provide the arrestee's name. And, in that 67 percent of cases where the alien was referred to by name, he/she had typically already been named either by state or local law enforcement, or the media. By way of comparison, during the Trump Administration ICE listed names in 97 percent of the press releases it published. The refusal to provide names and other details about arrested aliens has grave implications for government transparency. It makes it virtually impossible to determine whether the individual identified in a press release was later convicted of a crime and/or deported from the United States. This, in turn, makes it easier for the Biden Administration to allow aliens arrested by ICE to remain in the United States, despite significant violations of U.S. immigration law.

Background

It is a fundamental principle of American governance that transparency promotes accountability. A government that is accountable to the citizenry has no need to perform its functions in the dark, except when secrecy is necessary to protect national security, public safety or individual freedoms.

ICE's assigned mission means that, in addition to garden-variety immigration violators, it also arrests aliens who are: terrorists, foreign intelligence agents, alien smugglers, human traffickers, international human rights violators, illicit arms dealers, child pornographers and drug cartel members. The public has a vested interest in identifying such individuals and determining whether they have been held to account for their crimes and then ejected from the United States. The public also has a strong interest in ensuring that foreign nationals who have repeatedly violated American laws of any kind are not permitted to return.

In an effort to shed light on its operations, U.S. Immigration and Customs maintains a [newsroom/media page](#) on its website. Nearly every weekday, ICE publishes several news releases, which announce that the agency has apprehended an immigration violator who is of interest to the public because he/she presents a serious threat to public safety or national security. These press releases typically name the alien and provide other relevant biographical details that would enable the media and the public to track the alien's case and determine if he/she is ultimately convicted of a crime; subjected to other legal sanctions; and/or removed from the United States.

However, the format of ICE's press releases changed noticeably after the Biden Administration assumed office. Suddenly, documents intended to provide the media with essential data seemed to become an exercise in providing minimal amounts of information. In the majority of cases, ICE began omitting the names – and, in many instances, other relevant biographical details, like age, or place of residence in the United States – and began identifying aliens only by country of citizenship. Rather than attempting to be transparent and provide the public with as much information as possible, ICE now seemed to be attempting to hide arrested alien's names from the public.

Most federal law enforcement agencies wish to trumpet their successes. As a result, their press releases tend to be heavy on relevant details, in order to demonstrate to the public that a true villain has been taken off the streets. Something seemed off about ICE's new approach to arrest announcements. So, the Immigration Reform Law Institute (IRLI) investigated and here is what we found:

How IRLI Conducted This Study

To produce this report, IRLI compared ICE press releases issued during President Trump's last year in office with those issued under President Biden during the one-year period between August 16, 2022—August 16, 2023.

Rather than comparing press releases from the first complete year of the Biden Administration to those issued during the final year of the Trump Administration, we chose to examine a period of time further into the Biden presidency. We did this because, after a change in presidents, it generally takes time for new immigration policies to be implemented and begin producing results.

We looked specifically at press releases announcing two different categories of arrests: 1) ICE arrests of foreign nationals subject to deportation for having

committed a crime; and 2) ICE arrests of foreign nationals subject to criminal prosecution pursuant to the terms of the INA. (If a conviction is secured, this generally leads to deportation but only after the imposed prison sentence is completed.) We did not examine press releases relating to the arrest and prosecution of individuals for child pornography, prohibited technology transfer, etc. Individuals suspected of these crimes are frequently U.S. citizens and we saw no evidence indicating that the Biden Administration is attempting to conceal the identities of U.S. citizens who have been arrested for the violation of any laws enforced by ICE. Similarly, we did not examine press releases about the mass arrest of multiple foreign nationals by ICE, as these have not always included a complete list of the arrestees. (In such cases, ICE has sometimes provided press releases that indicate, for example, the arrest of “X” illegal aliens from “X” different countries.)

What IRLI’s Investigation Uncovered?

Although the Biden Administration has not announced any formal change to the policies relating to ICE press releases, we can conclusively say that the number of aliens named when making media announcements has dropped precipitously since the Biden Administration took office.

During the one-year period that we examined there were a total of **208** press releases relating to arrests and deportations of foreign nationals. Of those, **140** press releases included names of their subjects. That means ICE named only **67%** of the subjects of its press releases during the relevant time interval.

On the other hand, in the course of President Trump’s last year in office, there were a total of **110** press releases relating to arrests and deportations of foreign nationals. Of those, **107** press releases included names of their subjects. That’s a **97%** identification rate. And, in the three cases where names were not furnished ICE appeared unable to confirm the identity of the alien suspect prior to issuing a news release.

These numbers confirm a trend that IRLI began noticing in early 2023. We regularly track ICE, CBP and USCIS press releases. Nearly every ICE arrest or deportation announcement issued in 2022 provided the name of the alien being discussed.

In addition, ICE seems to have virtually abandoned the Trump-era practice of noting in press releases whether an arrested alien was taken into custody in a so-

called “sanctuary city.” During the Trump presidency, ICE [regularly detailed](#) in its press releases whether a foreign bad actor had interacted with state criminal courts; whether local law enforcement had refused to comply with an ICE detainer; and whether an alien had been released from state criminal custody only to commit more crimes.

IRLI identified **42** ICE press releases calling out sanctuary cities that were released during Trump’s last year in office. Specifically, these were press releases where the headline of the announcement noted a jurisdiction’s refusal to work with federal immigration authorities and the main body of the text listed pertinent details (refusal to notify ICE, refusal to honor an ICE detainer request, etc.) In the relevant time interval during the Biden Administration, a grand total of **0** press releases could be identified with such headlines.

What Inferences Can Be Drawn from These Numbers?

For some inexplicable reason, public officials feel at liberty to ignore immigration laws in a way that they would never feel free to ignore other laws.

The Deferred Action for Childhood Arrivals (DACA) program was nothing other than the Obama Administration intentionally deciding to ignore the Immigration and Nationality Act. President Obama and the anti-borders advocates who supported him wanted a mass amnesty but could not convince Congress to pass a bill giving immigration violators a free pass. So, Obama and his Department of Homeland Security acted completely outside the law and declared an amnesty by executive fiat, applicable to illegal aliens who were allegedly brought here as children. Recently, a Texas federal district court struck down the DACA program, declaring that the Administration’s replication and continuation of DACA after Congress had refused to enact a similar program was the “epitome of the Executive seizing the power of the Legislature.”

The so-called “[Morton Memorandum](#),” issued by former ICE Director John Morton is another example of the federal government blatantly ignoring the INA. That document allegedly established ICE’s “enforcement priorities.” However, what it really did was announce to illegal aliens and other immigration violators what transgressions ICE would give law-breaking migrants a pass on, and what offenses would actually trigger an arrest. That’s a massive problem because Executive Branch officials are charged – pursuant to the “[Take Care Clause](#)” of the United States Constitution – with acting diligently to enforce the laws Congress has passed, as Congress wrote them. The Executive Branch is not free to usurp

Congress' authority to set the laws of the United States by simply ignoring any rules that do not comport with a particular administration's preferred political ideology.

Finally, the "sanctuary city" movement is probably the most well-known instance of politicians simply refusing to recognize duly enacted immigration laws when they dislike them. Generally speaking, under the "[Supremacy Clause](#)" of the Constitution, federal laws trump state and local legislation, in all but a few limited circumstances. This is particularly true in the case of immigration. The federal government is solely responsible for regulating immigration and the removal of immigration law breakers. Accordingly, when a city, county or state government declares itself a "sanctuary" from federal immigration law, it's just saying, "We're a place that interferes with federal immigration enforcement efforts so that foreigners can continue breaking America's immigration laws."

Once the government starts ignoring the laws it is charged with enforcing, where does it stop? Today it is the Obama Administration's DACA, but if this kind of lawlessness is permitted to continue, tomorrow it will be something else.

Now, stop and think about similar behavior in other contexts:

- While DACA received its fair share of misguided praise, how would most American's feel if the federal government unilaterally ignored certain laws pertaining to free speech or religious expression?
- District attorneys in New York, Chicago, San Francisco, Los Angeles and Philadelphia announced lists of prosecutorial priorities, in essence saying that crimes like shoplifting, burglary of automobiles and drug use would no longer be prosecuted. The criminals got the message, and the incidence of all of those crimes [exploded](#). Don't public announcements of immigration enforcement priorities send the same message to would-be border jumpers and to foreigners contemplating overstaying their visas?
- When political sub-divisions like cities, counties and states feel free to declare themselves exempt from certain federal laws our whole system falls apart and federal lawmaking becomes meaningless. Massachusetts could declare itself a whaling sanctuary. West Virginia could declare itself a coal sanctuary. And Florida could declare itself a cocaine sanctuary. Would the American public tolerate those kinds of unilateral "sanctuary" declarations?

The DACA program, lists of enforcement priorities and “sanctuary cities” all show very clearly that there are people in positions of authority who are playing fast and loose with America’s immigration laws – simply because they don’t like them. The end results of these actions have all been public but as IRLI has shown in the past, the groundwork underlying these actions typically takes place behind closed doors. This is especially true when parties are pursuing an ideological agenda that they know will not stand up to public scrutiny.

If the public doesn’t know what their elected and appointed leaders are doing, citizens are prohibited from protesting either misfeasance or malfeasance. But when the government is required to produce its business records on request and to keep the press updated on its actions, citizens are able to determine when, as the old saying goes, “something is rotten in Denmark.” In short, government transparency holds public officials accountable and prohibits them from engaging in inappropriate back room deals that undermine the public’s interests.

In the end, it does not matter that people in positions of power do not like our current immigration framework. The INA was put into place by the elected representatives of the American people and citizens who don’t like it should petition their Senators and Congressional Representatives to legislatively enact any changes that are ostensibly necessary. That’s how things work in a democratic republic. But no one in the federal government should feel empowered to simply ignore border controls solely because the INA doesn’t comport with their preferred world view.

So, why has ICE under the Biden Administration stopped naming the bulk of alien immigration violators in its press releases? Logic would dictate that there is funny business afoot and something is, indeed, rotten in Denmark.

Despite having clear and unequivocal legal authority to eject most of the five to eight million illegal aliens who have entered the U.S. during the Biden presidency, the vast majority of those illegal aliens have been allowed into the United States. They are allegedly awaiting hearings so that U.S. Citizenship and Immigration Services or the Immigration Courts can adjudicate asylum claims – despite the fact that most of these individuals have frankly admitted that they are fleeing crime and poverty, not political, religious or ethnic persecution.

None of these so-called “asylum seekers” are ever likely to leave the U.S. unless ICE finds them and deports them. And the Biden Administration has bent over backwards to keep ICE from doing its job. In fact, it even enacted a more extreme

version of the aforementioned “Morton Memorandum.” This time it came directly from Secretary of Homeland Security [Alejandro Mayorkas](#) and, in essence, told ICE to stop deporting anyone who hadn’t committed a violent felony, espionage or terrorist acts.

The same memorandum also stated that, even where the INA dictated mandatory detention and removal of an alien criminal, ICE would now assess “the individuality and the totality of the facts and circumstances” surrounding the alien’s criminal conviction. In short, rather than complying with the law of the land, as set by Congress, ICE would now refrain from deporting any alien criminals whenever the Biden Administration arbitrarily determined that there were “mitigating factors that militate in favor of declining enforcement action.”

Those factors were defined as follows:

- advanced or tender age
- lengthy presence in the United States
- a mental condition that may have contributed to the criminal conduct, or a physical or mental condition requiring care or treatment
- status as a victim of crime, or victim witness, or party in legal proceedings
- the impact of removal on family in the United States, such as loss of provider or caregiver
- whether the noncitizen may be eligible for humanitarian protection or other immigration relief
- military or other public service of the noncitizen or their immediate family
- time since an offense and evidence of rehabilitation
- conviction was vacated or expunged

But here’s the problem: None of those factors are set forth in the INA as reasons for the Executive Branch to unilaterally refuse to deport someone. They’re all considerations for courts, when trying, sentencing and determining deportability. They aren’t things that an appointed official like Secretary Mayorkas can legitimately put in place to avoid enforcing laws he doesn’t like. For example:

- Age and mental condition are issues for *criminal sentencing* by a Judiciary Branch court.
- Time since an offense and evidence of rehabilitation are also factors that should be considered by a *criminal court judge* in *sentencing proceedings*.

- Lengthy presence in the United States; status as a victim of crime, etc.; military service; eligibility for humanitarian protection; and effect of removal on a U.S. citizen are all factors that may be considered, *by an Immigration Judge*, once immigration proceedings have been commenced and an alien has been deemed eligible for certain types of relief from removal.
- A criminal conviction that has been vacated or expunged might still serve as *the basis for removing an alien*, depending on why the court's records were amended. And, if an alien is *unlawfully present* in the U.S., he/she can be deported on that basis alone, even in the absence of any criminal conviction.

In short, the “Mayorkas Memorandum” represents a flagrant attempt by the Biden Administration to unilaterally appoint itself the combined prosecutor, judge, jury and executioner in all matters relating to deportation. And for reasons that are a complete mystery to most rational Americans, President Biden and Secretary Mayorkas seem to want to keep foreign criminals on America's streets, where they can continue to prey upon U.S. citizens.

However, as has been repeatedly demonstrated in surveys and polls, regular Americans don't like that plan. And if you are an administration that has committed itself to government action, of which the American populace deeply disapproves, you'd prefer to do your dirty work in the dark. Hence, ICE's current refusal to provide the names, and other pertinent details, of aliens it has arrested for criminal prosecution and/or deportation.

If ICE furnishes the names of subjects it has arrested, it becomes much easier for curious citizens, dedicated non-governmental watchdog organizations and intrepid journalists to determine whether an alien has been deported per the terms of the INA – or more importantly when an alien has not been removed from the U.S. in compliance with the law, and permitted to stay here in violation of the INA.

Finally, while some within the anti-borders contingent would claim that withholding the names of the aliens it arrests permits ICE to preserve privacy rights and protect civil liberties, this is a spurious argument. With the exception of hearings where an alien requests asylum, deportation proceedings are open to the public. And an alien has no protected privacy interest in either the legal arguments

he/she makes in Immigration Court or the outcome of any hearings – all of which are a matter of public record.

Conclusion

Ultimately, IRLI can only conclude that this, new, unannounced policy of withholding the names of aliens arrested by ICE is deliberate.

The Biden Administration is attempting to obfuscate the paper trail associated with the deportation process. And it is doing this for one reason and one reason only: By generating press releases that contain insufficient identifying information ICE can create the impression that it is actively enforcing the INA while simultaneously escaping accountability. Without the name of the individuals referenced in ICE press releases it is virtually impossible for the public, watchdog groups and the media to determine what action, if any, ICE has taken to remove a violator from the United States.

In a well-functioning republic, transparency serves as a safeguard against official misfeasance and malfeasance. And, at present, ICE appears to be conducting many of its operations in the dark.