



An ICE-y reception

FORWARD THINKING

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Last month, a U.S. District court ruling in Portland started a chain reaction that's slowly stripping U.S. Immigration and Customs Enforcement (ICE) of a controversial policing tool. However, from a data-sharing program to a new mobile fingerprinting initiative, many immigrant rights' advocates suspect ICE has a few technological tricks up its sleeve — tricks, they say, that violate individual rights.

The ruling that so shook up ICE involves the case of *Maria Miranda-Olivares v. Clackamas County*. The enforcement tool the Miranda-Olivares ruling is robbing ICE of is called an I-247 Detainer, commonly called an ICE hold.

ICE holds work like this: if you're arrested and you're an immigrant, ICE can request your local jail hold you for 48 hours, or long enough for ICE to come pick you up, send you to an ICE detention center, and possibly deport you. This, in effect, is what happened to Portland-area resident Maria Miranda-Olivares.

In March 2012, Miranda-Olivares was arrested for violating a domestic violence restraining order. She was taken to the Clackamas County Jail where her fingerprints were scanned and shared with an ICE database, which showed she was in the U.S. illegally. ICE then requested the jail hold her.

Jail officers informed Miranda-Olivares that even if she made bail, the jail would still be obligated to detain her for ICE. But in her April court ruling, U.S. Magistrate Judge Janice Stewart wrote the jail was under no such obligation.

Stewart ruled ICE holds are just requests and county jails are not legally required to honor them, but the judge went a step further in her ruling. Stewart ruled these holds were a form of prolonged detention that violated Miranda-Olivares' rights. The ruling's effects spread quickly across Oregon as jail after jail stopped honoring ICE holds.

Today, at least 30 Oregon counties — including Multnomah, Washington, and Clackamas — have stopped honoring ICE holds. And roughly 11 Washington state, 16 Colorado, and several California counties have followed suit.

But as county jails alter their policies, activists nervously await ICE's next move, one that many suspect will include the increased use of devices that can read

fingerprints, faces and eyeballs. These devices, they say, collect data on individuals before they're arrested and officially charged with crimes and therefore represent — among others — a clear violation of the right to privacy.

"We have a history in the United States of testing out new technologies on communities that can't push back... that's why we see the use of these technologies in immigrant and impoverished communities," says Jennifer Lynch of the technology watchdog group the Electronic Frontier Foundation (EFF).

Lynch's group has been tracking law enforcement's — including ICE's — use of devices that read biometrics — unique biological markers from fingerprints and facial recognition to iris scans — as a way to track individuals.

Lynch says her group has uncovered a laundry list of examples where biometric devices are being used on immigrants in ways the American public would never tolerate if they were used that same way on U.S. citizens.

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Data Before the Crime

In its 2012 study, the EFF reported the Los Angeles Police Department was using mobile fingerprint scanners to track day laborers in the city. The workers had not been charged or arrested for crimes prior to having their data collected, raising the question of the legality of the search, according to the EFF.

The EFF's source was the LAPD's own website. The URL cited in the EFF report has since been removed.

The EFF has also been tracking use of the Mobile Offender Recognition and Information System, MORIS, a device that along with reading faces can also read human irises. The legality of using facial recognition is still in question and hasn't been tested in the courts.

Biometric cataloging of immigrants also happens at U.S. borders and airports through a Department of Homeland Security (DHS) program called US-VISIT.

The program collects fingerprint data on all international travelers to the United States.

Equally troubling, say immigrant rights advocates, is a new ICE effort that employs mobile fingerprint readers to verify immigrants' status before they're arrested. The program is called the Criminal Alien Removal Initiative (CARI).

"When [ICE] launched CARI, the thing was very hush, hush. It all happened behind closed doors," says Jacinta Gonzalez, an organizer with the New Orleans Workers' Center for Racial Justice (NOWCRJ).

NOWCRJ is an advocacy group formed to protect the rights of immigrant workers who helped rebuild New Orleans following Hurricane Katrina. In December 2013, NOWCRJ published a comprehensive report detailing CARI's activities in the New Orleans metro area.

ICE's website makes no reference to CARI.

Gonzalez says CARI came to the attention of NOWCRJ when ICE accidentally included a document mentioning the program in a trove of papers following the release of Erlin San Martin Gomez, a NOWCRJ member who, on Sept. 11, 2013, had his fingerprints scanned before he was arrested in front of his apartment in Jefferson Parish outside New Orleans.

Gomez reported that the officers who arrested him had identified him as being in the country illegally after first handcuffing him and then scanning his fingerprints using a portable biometric reader. Soon NOWCRJ started to hear similar reports from others who had been stopped, scanned and arrested using the devices.

If this all sounds sophisticated and high-tech, Gonzalez says it wasn't really. According to the eyewitness reports of

arrestees, ICE officers used racial profiling when first identifying individuals to stop, handcuff, fingerprint and arrest.

"How that worked in New Orleans," says Gonzalez, "is ICE agents would literally be roaming the streets and would stop people [who looked Latino] in parking lots, in grocery stores, at Bible study groups and laundromats, and would stop and fingerprint them."

ICE officers referred to this as "going hunting," according to Gomez's NOWCRJ report. Gonzalez says the scans qualify as warrantless searches conducted without probable cause and represent a clear violation of the arrestees' rights.

"This is a problem. ICE is conducting these arrests based on racial profiling and lack of warrants, and they're still pursuing deportations against the victims of these violations," says Gonzalez.

So is CARI active in Portland? Yes, says ICE.

ICE spokesman for the Seattle field office Andrew Muñoz confirmed CARI was in effect in the Portland-metro area. Muñoz did not elaborate on what this meant in practice.

"ICE does not conduct sweeps or raids to target undocumented immigrants indiscriminately. Characterizing the Criminal Alien Removal Initiative as anything other than a strategy to focus existing enforcement resources on apprehending criminal alien fugitives would not be accurate," Muñoz wrote in an e-mail.

Muñoz turned down Street Roots' request for a phone interview with Nathalie Asher, director of the Seattle field office. He responded to some, but not all, of our questions by email.

Street Roots was unable to locate reports similar to New Orleans in Portland. In fact, many who spoke with Street Roots for this story hadn't heard of CARI. This was true of officials at the Multnomah and Washington County Sheriff's Departments and most local activists.

The Clackamas County Sheriff's Department didn't return our e-mails or phone calls.

Active or not, local immigrant advocates say they've got their eyes on ICE, especially since the Miranda-Olivares decision.

"Since ICE holds are no more, I think they [ICE] might go back to the raids of the past or will come up with a different strategy. But we don't know what that