

THE UNNECESSARY DETENTION OF UNDOCUMENTED YOUTH



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Fact Sheet

An estimated 1.4 million undocumented youth reside in the United States; approximately one in four live in California (DHS, 2012). Many of these youth may be eligible for immigration status through a number of legal options or even eligible for temporary relief from deportation through President Obama's Deferred Action for Childhood Arrivals (DACA). However, despite this reality, some are unnecessarily detained in local youth detention facilities in response to ICE hold requests issued by ICE to local law enforcement. This fact sheet analyzes data on California's ICE¹ hold requests for individuals detained in youth detention facilities, from October 1, 2009 to February 10, 2013 obtained courtesy of the Immigration Justice Clinic of the Benjamin N. Cardozo School of Law as a result of litigation filed in 2010.²

- **Orange County detained approximately 43 percent of California's youth subject to ICE holds.**

The data include records for 697 ICE hold requests against youth in California during the 41-month period. Only 13 counties were listed as responsible for detaining these youth (percent): Orange (43), San Francisco (13), Santa Barbara (12), San Mateo (12), Monterey (2), Los Angeles (2), San Luis Obispo (1), San Diego (1), Santa Cruz, Marin, Contra Costa, Alameda, Tehama counties (<1).³

- **82.5 percent of the youth ICE holds were for Mexican citizens.**

According to recent studies, just over half of the United States' undocumented immigrants are citizens of Mexico (Hill, 2013). Yet, almost all California youth ICE holds are enforced against Mexican youth, 9 percent were Honduran, 3.6 percent were Guatemalan, 3.6 percent were El Salvadorian, and the remaining 1.6 percent were from Vietnam, Ukraine, Nicaragua, Colombia, China, and Australia.

- **45.6 percent of youth with an ICE hold had no documented criminal history.⁴ Of those that did, approximately 50 percent were for non-violent, non-serious crimes.**

In fact, of the youth with documented criminal records 15 percent were for immigration related charges, including possession of false immigration documents and illegal entry. Detaining youth for low-level crimes is detrimental to their development as it exposes them to a more sophisticated criminal element and isolates them from pro-social supports in the community (Mendel, 2011).

¹ Under federal detainer programs, Immigration and Customs Enforcement (ICE) make non-binding requests to local law enforcement to detain an immigrant of interest for up to 48 hours, excluding weekends and federal holidays, allowing ICE to assume federal custody (ICE, 2008). These detainees are commonly known as "ICE holds."

² The data used in this analysis is subject to limitations. See CJCJ's *Data Clarification* for more details at http://www.cjcj.org/uploads/cjcj/documents/data_clarification_for_ice_holds_reports.pdf.

³ Anecdotal evidence suggests that other counties may have been responding to ICE hold requests that were not included in the data set. This is an area requiring further study.

⁴ The data set included 369 ICE hold requests (53.4 percent) involving a youth with a documented criminal record.

- **Most youth are detained in local juvenile halls, subjecting youth to unnecessarily prolonged detention and costing taxpayers an estimated \$127,978 per year.⁵**

Eighty-nine percent of all youth ICE holds were detained in local facilities. At an average \$352.06 per day for confinement in local juvenile halls, holding a youth for an extra 48 hours increases costs and uses bed space that should be reserved for youth who present a danger to public safety (BSCC, 2012).

- **ICE holds are NOT mandatory. Law enforcement officials could refuse to acknowledge them.**

In December 2012, Attorney General Kamala Harris issued a memo clarifying that local law enforcement does not have to respond to ICE hold requests because they are voluntary (Harris, 2012). Some counties, such as Santa Clara, do not respond to ICE hold requests for youth, recognizing the need to prioritize use of their public safety resources (Santa Clara County Board of Supervisors, 2011).

Sources:

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⁵ This estimated cost assumes the youth were held for the full 48-hour period and uses a weighted statewide average cost. These figures do not account for additional costs associated with all ICE holds, which may include longer rates of pretrial detention. For example, see Colorado Fiscal Institute (2013).