

Crime Begets Crime, ICE Edition

On May 10, Georgetown Law's Center on Privacy & Technology released a report — "American Dragnet: Data-Driven Deportation in the 21st Century" — which you should find disturbing but shouldn't find surprising.

The part you should find disturbing: "ICE [Immigration and Customs Enforcement] has created a surveillance infrastructure that enables it to pull detailed dossiers on nearly anyone, seemingly at any time. In its efforts to arrest and deport, ICE has — without any judicial, legislative or public oversight — reached into datasets containing personal information about the vast majority of people living in the U.S."

The part you shouldn't find surprising: "ICE has created a surveillance infrastructure that enables it to pull detailed dossiers on nearly anyone, seemingly at any time. In its efforts to arrest and deport, ICE has — without any judicial, legislative or public oversight — reached into datasets containing personal information about the vast majority of people living in the U.S."

In responding to the report, a number of commentators pronounce themselves shocked — shocked! — that a federal agency which the US Constitution says can't be allowed to exist would do things the US Constitution says it can't be allowed to do.

According to the US Constitution (see Article I, Section 9; Article V; and Amendment 10), the federal government has no legitimate power to regulate immigration. Zero. Zip. Zilch. Nada. ICE has no lawful function whatsoever. It's just a bunch of guys with guns, running around harassing, abducting, and sometimes murdering, travelers.

Also according to the US Constitution (see Amendment 4), the government isn't allowed to conduct unreasonable searches and seizures of our "persons, houses, papers, and effects." The ICE "data dragnet" is the very definition of such unreasonable searches and seizures.

Your data and information are yours, not theirs, and absent very specific ("particularly describing the place to be searched, and the persons or things to be seized") warrants issued on the basis of probable cause to believe you've committed a crime, ICE (even if it could legally exist) would have no business rummaging through that information even if doing so entailed the off chance it might catch a criminal, which it doesn't (immigration is not a crime — see above).

But why on earth would anyone be surprised that a criminal organization like ICE would commit, you know, crimes like searching your stuff without a warrant?

In 1982, James Q. Wilson and George L. Kelling set forth what's commonly known as the

“broken windows” theory. According to that theory, visible signs of petty crime, such as broken windows, encourage more — and more egregious — crimes.

While that theory has often been used to justify depredations like the ICE “data dragnet,” it also explains them: Tolerating the very existence of a criminal organization like ICE naturally encourages it to constantly pursue, and frequently escalate, its criminal activities.

The solution to such problems is not “judicial, legislative or public oversight.”

The solution to such problems is disbanding criminal organizations like ICE and obeying the Supreme Law of the Land, under which there’s no such thing as an “illegal immigrant.”