

Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens, which is found here: <http://www.ice.gov/doclib/news/releases/2011/110302washingtondc.pdf>.

- At any given time, ICE has information regarding approximately 1,000,000 targets who are in the U.S. unlawfully and present a national security or public safety risk, or who otherwise meet enforcement priorities as fugitives, recent border entrants, fugitives, or repeat immigration violators.
- ICE does not use DMV data to generate immigration targets nor to ascertain alienage. Rather, ICE uses DMV data primarily to assist in locating its priority targets (e.g., by obtaining the address of record).
- In addition to the above, ICE/ERO's targeting entity (the FOSC) receives no recurrent or direct lists of foreign-born DMV applicants from any state entity. However, as summarized above, the FOSC does and has received lists for enforcement targeting purposes from field offices. These lists contain information on foreign-born nationals and are run through the FOSC database to help identify individuals who may fall within ICE's enforcement priorities.
- The information provided by the FOSC is not used as the sole basis of any enforcement action, but is an additional piece of data to be utilized in the officer's investigation.
- It is possible and likely that other lists not known to be DMV-generated lists have been submitted through local field office law enforcement officers for targeting purposes. Source information is not a predicate for investigation of an alien by ICE/ERO; rather, it is their status as a priority target that informs field enforcement efforts.
- For purposes of enforcing criminal laws, DMV data is used to support ongoing investigations and can be used in a variety of ways, including locating suspects or potential witnesses, obtaining photographs for purposes of identification, or supporting charges of DMV employee corruption, identity theft or creation of fraudulent documents. It is important to note that ICE's criminal enforcement efforts may implicate information about foreign nationals as well as U.S. citizens.

*Process and Authorities:*

- ICE has automatic access to most DMV data directly through the (b)(7)(E) (on specific targeted individual aliens). Typically, ICE does not have automatic access to photographs.
- If ICE requires information not already found in these systems, ICE makes a request directly to the DMV. It is at the discretion of each state's DMV as to whether to provide the information. The same applies to any entity that holds information needed by law enforcement. For example, ICE may make a request to an email provider about a subscriber or their account. The email provider may voluntarily provide the information, but it may also refuse to do so. These concepts apply equally to all law enforcement agencies.
- ICE's general authority to request DMV information emanates from 19 USC § 1589a (customs law enforcement authority) and 8 USC § 1357 (immigration law enforcement authority). In all cases, any request ICE makes must be reasonably related to a legitimate law enforcement purpose. In ICE's case, such a legitimate law enforcement purpose would be administrative immigration enforcement or enforcement of any of the 400+ criminal immigration and customs statutes it enforces.
- Should an informal request be denied, ICE also has subpoena authority under 21 USC § 856 (Subpoena for Controlled Substances), 8 USC § 287.4 (Immigration Subpoena), and 50 APP USC § 2411 (Export Authority), which can be used depending on the purpose of the request.
- If a DMV refuses to honor a subpoena, the matter can be litigated in a court of competent jurisdiction.
- Finally, ICE can request a judicial subpoena in support of ongoing litigation.