

ICE held an American man in custody for 1,273 days. He's not the only one who had to prove his citizenship

By PAIGE ST. JOHN and JOEL RUBIN APR 27, 2018 | 5:00 AM

[Twitter](#) [Facebook](#) [Email](#)



Davino Watson, a U.S. citizen, was wrongfully held in immigration detention centers for more than three years while he sought to prove his citizenship. (Carolyn Cole / Los Angeles Times)

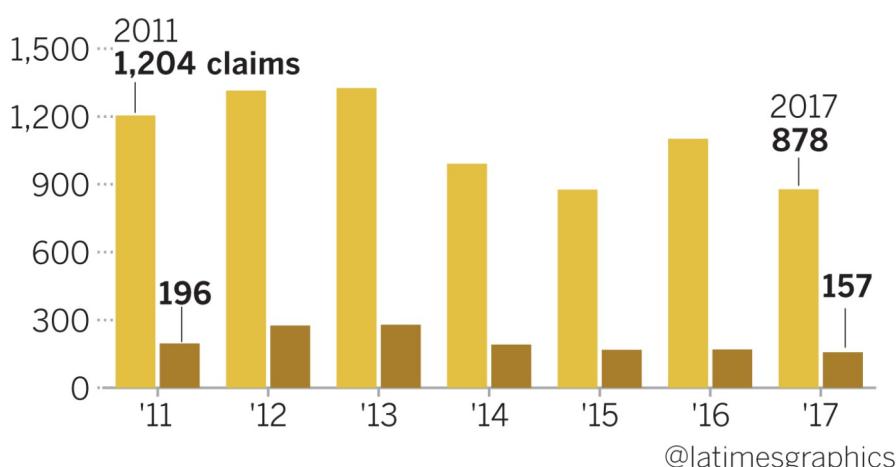
[Twitter](#) [Facebook](#)

Immigration officers in the United States operate under a cardinal rule: Keep your hands off Americans.

Americans in ICE custody

If someone arrested by ICE claims to be a U.S. citizen, the agency requires a legal review within 48 hours.

■ Reviewed claim ■ Indication of citizenship found

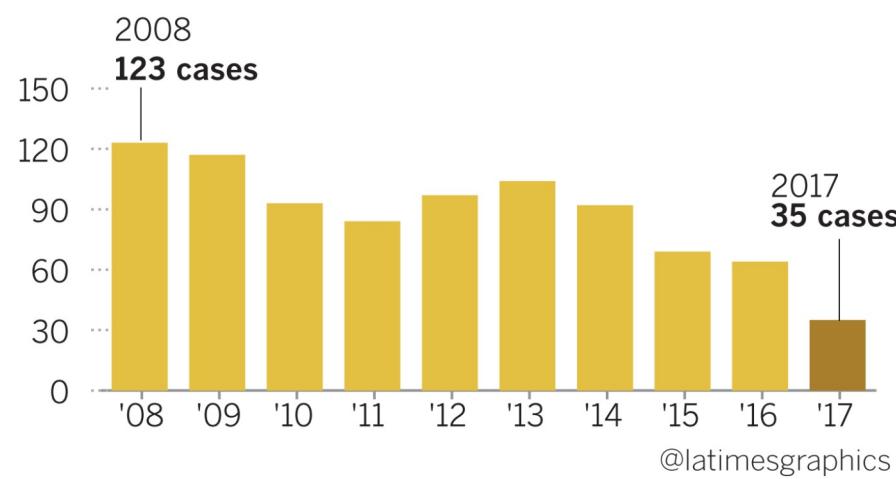


But Immigration and Customs Enforcement agents repeatedly target U.S. citizens for deportation by mistake, making wrongful arrests based on incomplete government records, bad data and lax investigations, according to a Times review of federal lawsuits, internal ICE documents and interviews.

Since 2012, ICE has released from its custody more than 1,480 people after investigating their citizenship claims, according to agency figures. And a

Citizenship claims in court

Cases in which immigration judges adjourned deportation proceedings to consider a person's citizenship claims and then ruled in their favor.



Source: U.S. Department of Homeland Security (L.A. Times Graphics)

Times review of Department of Justice records and interviews with immigration attorneys uncovered hundreds of additional cases in the country's immigration courts in which people were forced to prove they are Americans and sometimes spent months or even years in detention.

Victims include a landscaper snatched in a Home Depot parking lot in Rialto and held

for days despite his son's attempts to show agents the man's U.S. passport; a New York resident locked up for more than three years fighting deportation efforts after a federal agent mistook his father for someone who wasn't a U.S. citizen; and a Rhode Island housekeeper mistakenly targeted twice, resulting in her spending a night in prison the second time even though her husband had brought her U.S. passport to a court hearing.

They and others described the panic and feeling of powerlessness that set in as agents took them into custody without explanation and ignored their claims of citizenship.

The wrongful arrests account for a small fraction of the more than 100,000 arrests ICE makes each year, and it's unclear whether the Trump administration's aggressive push to increase deportations will lead to more mistakes. But the detentions of U.S. citizens amount to an unsettling type of collateral damage in the government's effort to remove undocumented or unwanted immigrants.

The errors reveal flaws in the way ICE identifies people for deportation, including its reliance on databases that are incomplete and plagued by mistakes. The wrongful arrests also highlight a presumption that pervades U.S. immigration agencies and courts that those born outside the United States are not here legally unless electronic records show otherwise. And when mistakes are not quickly remedied, citizens are forced into an immigration court system where they must fight to prove they should not be removed from the country, often without the help of an attorney.

The Times found that the two groups most vulnerable to becoming mistaken ICE targets are the children of immigrants and citizens born outside the country.

Matthew Albence, the head of ICE's Enforcement and Removal Operations, declined to be interviewed but said in a written statement that investigating citizen claims can be a complex task involving searches of electronic and paper records as well as personal interviews. He said ICE updates records when errors are found and agents arrest only those they have probable cause to suspect are eligible for deportation.

"U.S. Immigration and Customs Enforcement takes very seriously any and all assertions that an individual detained in its custody

may be a U.S. citizen,” he said.

But The Times’ review of federal documents and lawsuits turned up cases in which Americans were arrested based on mistakes or cursory ICE investigations and some who were repeatedly targeted because the government failed to update its records. Immigration lawyers said federal agents rarely conduct interviews before making arrests and getting ICE to correct its records is difficult.

A big mistake

Sergio Carrillo had already been handcuffed in the Home Depot parking lot in Rialto on a July morning in 2016 when an officer in Homeland Security uniform appeared.

“Homeland Security?” Carrillo asked. “What do you want with me?”

Ignoring Carrillo’s demands for an explanation, the officer ordered the 39-year-old landscaper taken to a federal detention facility in downtown Los Angeles.

“You’re making a big mistake,” Carrillo recalled saying from the back seat to the officers driving him. “I am a U.S. citizen.”

Born in Mexico, Carrillo has lived nearly his entire life in the United States and automatically gained citizenship as a teen in 1994 when his mother became a citizen. He received a certificate of citizenship from the U.S. government and a passport to document his status.

Federal policies require ICE agents to “carefully and expeditiously” investigate any claim of U.S. citizenship. But throughout his detention, Carrillo said, ICE officers either ignored or scoffed at his repeated claims. When his son rushed to the downtown booking facility with his father’s passport and citizenship certificate, ICE officers refused to consider the documents, he said.

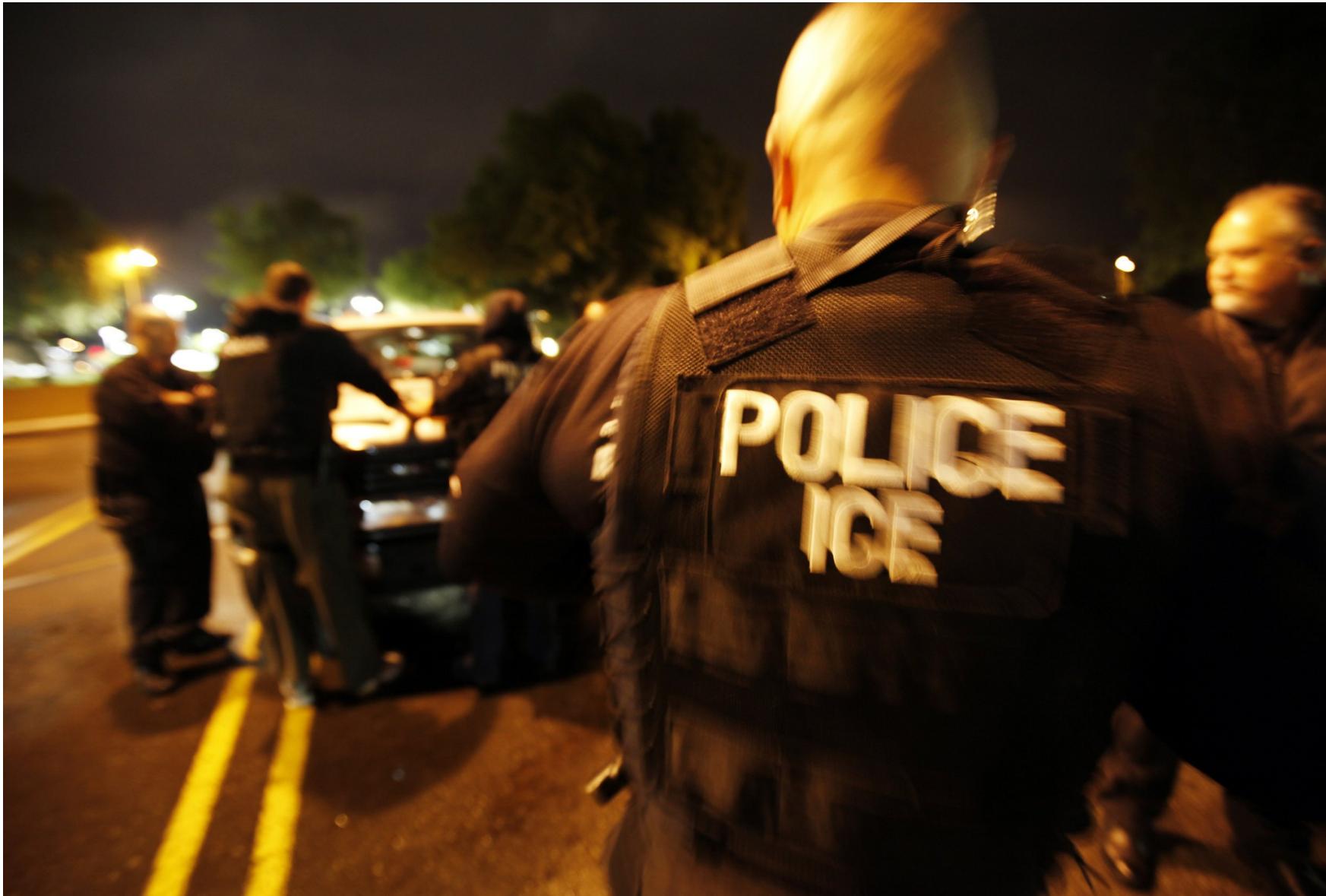
After he was moved to a privately run immigration detention center 85 miles outside Los Angeles in the Mojave Desert, Carrillo’s hope that ICE would quickly remedy its mistake gave way to a sense of despair.

“Inmates were telling me, ‘You’re not going to see a judge for weeks. In here, you don’t have any rights,’” he said. “I started getting real scared: How long was I going to be in here? How could this be happening?”

It was not until Carrillo’s fourth day in detention, when an attorney intervened and presented agents with Carrillo’s passport, that ICE corrected its error. Carrillo emerged from custody to find his phone filled with messages from angry clients. Several fired him.

“For ICE, it’s like, ‘Oops, we made a mistake,’” Carrillo said. “But for me on the other end, it tears up your life.”

Carrillo sued for false imprisonment and was awarded a \$20,000 settlement, but ICE made no admission of wrongdoing. An agency spokeswoman declined to comment, citing Carrillo's right to privacy.



U.S. Immigration and Customs Enforcement agents in Valencia prepare to make an early morning arrest in 2012. (Al Seib / Los Angeles Times)

Carrillo's arrest highlights pitfalls in ICE's digitally driven search for the deportable. At the core of the hunt are massive federal databases containing records on citizenship, crime, foreign travel, education and work.

Deportation officers and contract analysts ply these databases from cubicles on the second floor of a pyramid-shaped building in Laguna Niguel, one of the nerve centers ICE relies on to determine whom to target for deportation.

When a person is arrested in the U.S., their fingerprints are sent electronically to the FBI and automatically checked against those of millions of immigrants in Homeland Security databases. Where there is a match, deportation officers in Laguna Niguel and elsewhere scour other databases for indications a person is in the country illegally. Last year, they identified some 70,000 people they concluded should be deported.

Homeland Security computers also flag people with past criminal convictions. Carrillo had been convicted years earlier of carrying a concealed weapon and sending sexually explicit material to a minor — crimes that would have made him a priority for deportation had he been in the country illegally.

Digital copies of Carrillo's fingerprints and certificate of citizenship had never been entered into federal databases, and his name was misspelled "Cabrillo" in a central database used heavily by ICE officers. There also was no evidence ICE agents checked if Carrillo held a passport.

Agents simply assumed he was in the country illegally because

they could not find any evidence to the contrary, Carrillo alleged in his lawsuit.

Similarly, in three dozen false arrest lawsuits, Americans caught in the ICE dragnet alleged that officers took them into custody on the basis of cursory computer searches. The agents, according to the lawsuits, often overlooked evidence of citizenship, such as passports, and failed to examine paper files or conduct interviews to confirm the accuracy of their database searches.

“We could, but we don't interview because we have all of the information, all of the facts,” an ICE agent said in a federal court deposition, explaining how he used database searches to mark a Chicago man for deportation.

The 2011 mistake led to the man, a Belarusian native convicted of burglary, being booted from an early release program and into prison, though his paper files noted he was the son of a U.S. citizen and himself an American.

Assuming they are lying

For a decade, ICE administrators have sought to end such mistakes. In 2009, after repeated warnings to agents from top ICE officials and a series of embarrassing deportations of U.S. citizens, then-ICE Director John Morton mandated that citizenship claims be investigated and reviewed by agency lawyers within 48 hours. A hotline was later set up to receive the claims.

In 2015, ICE officials again instructed agents to conduct deeper investigations into a person's possible citizenship, requiring them to check if a person met any of a number of indicators of citizenship, such as whether they had served in the military or were adopted by a U.S. citizen. Last April, ICE abandoned a policy that allowed agents to ask local police to detain people born abroad if there was no evidence in the databases showing they were citizens.

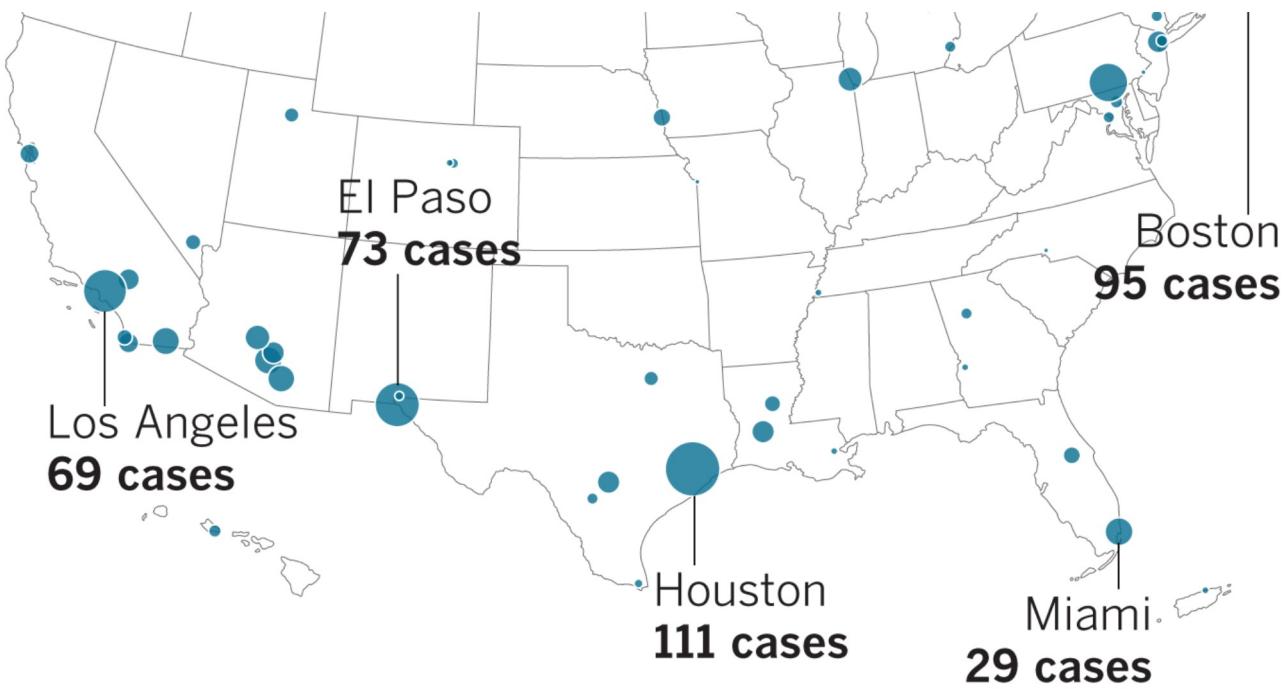
That standard, however, persists in immigration court, where those born outside the country must prove why they belong in the U.S.

A former senior attorney for ICE's regional office in Los Angeles said the 2009 directive to conduct legal reviews of all citizenship claims brought dozens of cases to her desk every week. The people were all in custody, and agents, she said, generally assumed they were lying.

Claims investigations delayed

Location of cases since 2008 where immigration judges adjourned deportation proceedings to consider a person's citizenship claims and then ruled in their favor.





Source: U.S. Department of Homeland Security @latimesgraphics

Note: Data is from 2008 to January 2018.

"The automatic response was, 'Yeah, you're just doing that to get out of our custody,'" said Patty Corrales, who left the federal agency in 2012 and now works in private practice. Most citizenship claims were false, she said, but "there were real citizens out there."

In the seven and a half years ending in February, ICE reviewed 8,043 citizenship claims of people in custody, according to figures provided by the Department of Homeland Security. In 1,488 — nearly a fifth of those cases — ICE lawyers concluded the evidence "tended to show that the individual may, in fact, be a U.S. citizen," a DHS spokeswoman said.

The largest number of those arrests occurred in 2012 and 2013 — at the height of an aggressive push by the Obama administration to deport unauthorized immigrants. When Obama reversed course and took a more selective approach, the number of citizenship cases dropped significantly.

Department of Justice records show that hundreds more people fighting deportation in immigration court have argued they are citizens. From 2008 to the start of 2018, judges terminated or suspended removal proceedings against 880 people whose citizenship claims warranted investigation. Immigration court files are confidential, and the DOJ does not track whether the defendants prevailed on citizenship claims or other points of law.

U.S. citizens mistakenly arrested by ICE



Sergey Mayorov

Detained in 2011 in Vienna, Ill.

Guadalupe Plascencia

ICE mistakenly identified him as deportable after an agent noted he was a citizen but never updated his digital records. The error led to him spending an extra year in prison.

Detained in 2017 in San Bernardino, CA

Plascencia, a hairdresser, was arrested and detained for a day by ICE despite claiming repeatedly that she was a citizen.

(Passports provided by Sergey Mayorov and Guadalupe Plascencia)

Justice Department records show at least two-thirds of the people had spent some time in custody. Among them was a 10-year-old boy from the San Francisco area whose attorney said he was held in a Texas detention center for two months.

In addition, The Times found more than two dozen federal lawsuits in which U.S. citizens sued for unlawful arrest after ICE changed its policies in 2008 to prevent such detentions. Their time in custody ranged from a day to more than three years. Twelve of the men and women held U.S. passports proving their citizenship. ICE had mistakenly arrested several of the people more than once.

In an internal email prompted by the seven-day jailing of a Chicago man, an ICE official wrote that it was agency practice to tell citizens that the burden was on them to obtain written proof of their legal status to ensure they would not be wrongly targeted again.

Corrales, the former ICE general counsel, said it took her a year and the testimony of fingerprint and handwriting experts to persuade ICE to fix an error made when an agent halfway across the country linked the file of one of her Los Angeles clients, a legal permanent resident with no criminal history, with that of a deported criminal. The men, she said, looked nothing alike — the other man had tattoos across his face. Only their names were similar.

Wrongly targeted again

Ada Morales, a Guatemalan native who became a naturalized U.S. citizen in 1995, was first held overnight in a county jail in 2004 when authorities mistakenly identified her as living in the country illegally. Five years later, she came under ICE scrutiny again when police in Rhode Island arrested her on a welfare fraud warrant.

An immigration agent checking federal databases failed to run her Social Security number or her maiden name, which would have confirmed her citizenship, according to court records. When the state court judge handling Morales' case issued an order that would have allowed her to go home, ICE detained her.



(Ada Morales)

Ada Morales

Detained in 2004 and 2009 in Cranston, Rhode Island.

ICE mistakenly targeted her twice. The second time she spent a night in prison despite her husband bringing her U.S. passport to a court hearing.

The mother of five, who cleaned houses and offices for a living, was strip-searched and her anxiety medications were confiscated. The following day, an ICE agent drove Morales to the federal agency's offices for questioning. Met there by her husband with her passport, the agent realized the error and freed Morales.

Nearly nine years later, Morales, 54, still sobs recalling her night in prison, where she said she suffered panic attacks and guards accused her of lying about her citizenship.

"Nobody wanted to listen to anything," she said.

That year, the ICE agent who conducted the flawed investigation into Morales issued 77 official requests to detain people he identified as eligible for deportation. Of those, 31 had to be canceled when it turned out the subjects were Americans or lawful residents, according to records in a lawsuit Morales later filed against the agency.

"Where an individual's liberty is at stake, a 50/50 success rate is not acceptable," U.S. District Judge John J. McConnell [wrote in his 2017 order](#) finding ICE negligent for holding Morales in prison. Mistakes like those, the judge wrote, "should concern all Americans."

The government's near complete reliance on data to find deportable immigrants began in 2007 with a project called IDENT, which aimed to match jail booking records against the FBI's fingerprint database in near real time.

In the years since, the government has expanded its reach with computer programs bearing names such as CLAIMS, EAGLE, ENFORCE and FALCON that contain troves of state and federal information on hundreds of millions of people.

The architecture of those programs is so sensitive that federal attorneys have sought to keep details under seal and to prevent former federal employees from testifying in open court.



A deportation officer at an ICE facility in Laguna Niguel reviews federal databases to determine if someone arrested by police is eligible for deportation. (Allen J. Schaben / Los Angeles Times)

However, ICE administrators and agents have testified that the databases they use are known to contain flaws and holes. Digital fingerprint records, for example, were not consistently uploaded until 2010 and the files that Homeland Security kept on people before 1992 are spotty.

Because the extent of the problems is unknown, agents are advised to check multiple databases when determining a person's status in the country to guard against being misled by errors or missing information, court records show.

A 2011 UC Berkeley study of ICE's early use of IDENT found [six U.S. citizens](#), including one who had previously been deported, in a sample of 375 arrests — an error rate that would affect thousands of Americans on a national scale. And government audits showed that last year 52,000 people were wrongly tagged in the Central Index System, a key database used by immigration agents, as being ineligible to work in the U.S.

A training document for users of the Central Index System, which is maintained by the U.S. Citizenship and Immigration Services, warns of incorrect or multiple identification numbers, scrambled names, inconsistent procedures for recording multi-part names common in Latin and Chinese cultures, aliases, misspellings and typographical errors, incorrect birth dates and lost records.

"Garbage in, garbage out," the document cautions, a reminder that what computer systems deliver is only as good as what goes in.

The reliability of the government's databases is at the center of a class-action lawsuit headed to jury trial in Los Angeles. The American Civil Liberties Union contends flaws in data ICE uses are so common agents should not be allowed to rely on the records to hold people in jail.

You feel like your rights are stripped from you. You feel hopeless. . . . I spent many nights crying.

— Davino Watson, wrongfully held in detention centers for more than three years



Davino Watson, a U.S. citizen, was wrongfully held in immigration detention centers for more than three years while he sought to prove his citizenship. (Carolyn Cole / Los Angeles Times)

ICE agents found Davino Watson when the Jamaican native was serving time in a New York state prison on a drug charge.

Under questioning about his immigration status, Watson said he was a U.S. citizen through his father, who had naturalized. An agent looked for Watson's father in immigration databases, but he pulled up the wrong person, court records show. Instead of Hopeton Ulando Watson, who lived in New York, the agent landed on Hopeton Livingston Watson, a man living a state away in Connecticut who wasn't a U.S. citizen.

Once he had served his sentence for selling cocaine, Watson was transferred to ICE custody, where he remained for 3½ years. Even after ICE realized the error in identifying his parents, federal lawyers refused to free Watson. They seized on a new U.S. reading of Jamaican law to argue Watson should be deported because his father was not his legal guardian when they left the island nation.

Watson discovered that rights inherent in the U.S. justice system don't apply in immigration court, where there is no guarantee to a legal defense.

"You feel like your rights are stripped from you. You feel hopeless," Watson said. "It was very hard to understand. I spent many nights crying."

He had never finished high school, but from a prison law library, Watson mounted his citizenship case. An immigration judge ordered him deported. The Board of Immigration Appeals agreed.

It was only when Watson's appeal reached U.S. District Court and a court-appointed attorney pressed ICE that immigration authorities conducted the internal legal review they should have done when Watson first claimed to be a citizen. The review found the government had misinterpreted an arcane aspect of immigration law. ICE abruptly freed Watson.

Surprised by his unexplained freedom, Watson walked out of a federal detention center in rural Alabama. He recalled how he was penniless, in prison garb and thousands of miles from home when he approached strangers at a gas station to borrow a phone.

Colossal government failure

Immigration lawyers said deportation proceedings can turn on obscure and evolving U.S. citizenship laws. A child born outside the U.S. after Nov. 11, 1986, for example, is a citizen if a parent was a citizen and that parent had lived in the United States or its territories for at least five years, at least two of which were when the parent was at least 14 years old. But if a child was born before the cutoff date, the parent would have had to have lived in the U.S. for at least 10 years.

It is common for people facing deportation to be unaware they have a rightful claim to citizenship, both ICE officials and immigration attorneys said.

The task of proving citizenship can mean digging up the birth certificates of dead parents and finding work records from decades ago to show they lived in the country long enough to confer citizenship on their children.

Such legal fights "can be really, really difficult," especially if the person is locked in a detention facility, said Ashley Tabbador, a federal immigration judge in Los Angeles who spoke in her capacity as president of the National Assn. of Immigration Judges. "Unless the person is able to come forth with enough facts," Tabbador said, judges are likely to side with ICE.

Immigration lawyers said they make it a habit to ask clients about their parents' immigration status and other indications of citizenship that ICE agents often overlook. Los Angeles immigration lawyer Danielle Rosché said she has seen so many U.S. citizens arrested that she tells clients to arm themselves and their children with U.S. passports and certificates of citizenship as a "defense against government mistakes" and skimpy ICE investigations.



Detainees work out in the yard at the Adelanto Detention Center in Adelanto, Calif., where Sergio Carrillo was detained. (Gina Ferazzi / Los Angeles Times)

A decade of Justice Department records analyzed by the Times show the success of defendants making U.S. citizenship claims more than doubled if they had an attorney.

After Watson was freed, he sued the government for false imprisonment and won an \$82,500 judgment. Then a federal appeals court took it away, ruling that while Watson was in detention he missed the two-year deadline to file his claim.

Despite its decision, [the panel of judges found](#) that the legal safeguards created to protect citizens had been undone as one ICE superior after another approved Watson's detention without reviewing his case records.

One of the court's judges went a step further, saying Watson should have been allowed to keep the money in light of the extraordinary struggles he was put through.

The 1,273-day imprisonment was a "striking illustration of the consequences that stem from the government's broad discretion to initiate detention and removal proceedings" and the "sometimes limited ability" of citizens to fight back, wrote Robert Katzmann, chief judge of the U.S. Court of Appeals for the Second Circuit.

It was, Katzmann said, a "colossal government failure."

For Watson, the failure did not end when ICE let him go.

A court expert diagnosed him with depression and anxiety brought on by his time in ICE custody. Government lawyers said his difficulties were of his own doing, hammering on his history of addiction and earlier drug conviction.

"To see how the government attorneys treated me opened up old wounds," he said. "They never said, 'Mr. Watson, we're sorry.'"

paige.stjohn@latimes.com

Twitter: [@paigestjohn](#)

joel.rubin@latimes.com

Twitter: [@joelrubin](#)



Paige St. John



Paige St. John covers criminal justice and investigative stories for the Los Angeles Times from Sacramento. She won the Pulitzer Prize for investigative reporting in 2011. She hails most recently from Florida, where she covered state politics, disasters and property insurance.



Joel Rubin



Joel Rubin covers federal courts and agencies. A native of Maine, he moved to Los Angeles in 2003 to join the Los Angeles Times. Prior to his current assignment, Rubin spent several years writing about the Los Angeles Police Department. He also covered the region's public schools and spent a memorable few months in 2003 following wildfires as they burned Southern California.

ADVERTISEMENT