

# MISPLACED PRIORITIES: SB90 & THE COSTS TO LOCAL COMMUNITIES



12/1/12

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# Misplaced Priorities: SB90 & the Costs to Local Communities

## KEY FINDINGS

Colorado's local communities pay a high price for SB90 and federal immigration enforcement. In an era of budget deficits, reduced services, hiring freezes and cuts across the board, local governments must allocate precious resources to arresting, reporting and detaining suspected undocumented immigrants charged with low-level crimes – disturbing the peace, failure to use a turn signal, giving false information. It's time to re-evaluate SB90 and ask again if SB90 and immigration enforcement is the right priority for Colorado.

- The state of Colorado spends upwards of **\$13 million per year** to enforce federal immigration laws – more than it would cost to put an additional 200 additional police officers or sheriff's deputies on the street.
- The City and County of Denver alone pays up to **\$1.5 million per year to arrest and detain suspected undocumented immigrants** – roughly the same amount of general fund money allocated to the Denver District Attorney's Office for the Family Violence Unit, which screens and prosecutes cases of family violence ranging from spousal or intimate partner abuse to elder abuse and child sexual assault – a public safety service that provides an on-call staff that responds to child fatalities 24-hours a day, seven days a week.<sup>1</sup>

SB90 and ICE detainers result in more immigrants being jailed for low-level offenses in the first place and held for longer periods of time in the second - all at an increased cost to local taxpayers.

- 63 percent of people in Denver County over a two-year period with an immigration detainer were charged with misdemeanor and lower level offenses. Only **37 percent were charged with a felony** of any level.
- Federal immigration officials have **removed only 65 people from Denver County** who were convicted of a serious felony offense since Denver began participating in ICE's new deportation program, Secure Communities.
- People with a suspected immigration violation stayed in county jail an average of **22 days longer** than people without an ICE hold.

## BACKGROUND

In 2006, the Colorado State General Assembly passed Senate Bill 06-090<sup>2</sup> (SB90) which requires local law enforcement officers and agencies to report anyone arrested for a criminal offense, who they reasonably believe to be an undocumented immigrant, to United States Immigration and Customs Enforcement (ICE). Widely viewed as a precursor to other state immigration enforcement measures, such as Arizona's SB1070, Colorado's SB90 also:

- prohibits local governments from adopting ordinances or policies that limit law enforcement agents from cooperating with federal immigration officials, e.g. adopting immigration "sanctuary" policies;
- requires that all local governments annually report to the Colorado General Assembly that they are in compliance with SB90; and
- holds that any local law enforcement agency in violation of SB90 shall not be eligible to receive local government financial assistance grants administered by the state department of local affairs.

Like Arizona's SB1070, SB90 incites controversy and debate. In 2006, proponents contended that SB90 would force federal immigration officials to remove undocumented immigrants who commit crimes in Colorado, and would also provide statewide guidance for how local law enforcement should handle their limited immigration enforcement role. Opponents argued that SB90 would lead to racial profiling by police, invite abuses of civil liberties, erode trust between immigrant communities and law enforcement and place an unnecessary burden on local peace officers untrained as immigration enforcers.

An argument was also made that SB90 would create an unnecessary cost burden on counties and cities that would now be mandated to report suspected immigration violators and detain those immigrants for ICE for up to 48 hours. At the time of its passage, Colorado's legislative council staff (LCS), which estimates the fiscal impacts to the state of all proposed legislation, noted in their fiscal note for SB90 that local governments would bear some costs to implement the law but at the time LCS did not quantify that cost.<sup>3</sup> This report attempts to do just that. Now that more than half a decade has passed since the implementation of SB90, Colorado's experience tells a compelling story of the detrimental fiscal impacts of state-mandated local immigration enforcement.

## HOW SB90 WORKS

SB90 requirements are supposed to kick in when an officer arrests someone for a criminal offense. Minor traffic infractions are not criminal offenses and should not trigger an SB90 notification to ICE. There are two types of "arrests" – custodial and non-custodial. With a non-custodial arrest, the police officer detains the person for a low-level crime and issues a citation or summons to appear in court at a later date. In this case, an offender is never taken into jail for booking. A custodial arrest means that the officer arrests the offender and transports him or her to a detention center or jail to be booked and held until they post bond or are adjudicated. Arrests can be for any crime ranging from petty offenses, like possession of less than 1 ounce of marijuana in Denver, where the person would typically be issued a summons and released at the scene, to felony murder.

SB90 states that law enforcement must have probable cause or reasonable belief that a person who commits a crime is in the country unlawfully in order to report the person to ICE. If an arresting officer has probable cause to think the arrestee is undocumented, he or she must under SB90 report the person to ICE. Similarly, if a local sheriff's deputy has reasonable belief that an offender is undocumented, he or she must report them.

Law enforcement officials state that they use a number of criteria to determine whether or not a suspect is an undocumented immigrant, including how well the individual speaks English, the type of identification they possess and whether or not the individual self-reports being born in a foreign country.<sup>4</sup> A question arising around any one of these conditions can satisfy the standard of reasonable belief or probable cause and result in an ICE notification.<sup>5</sup>

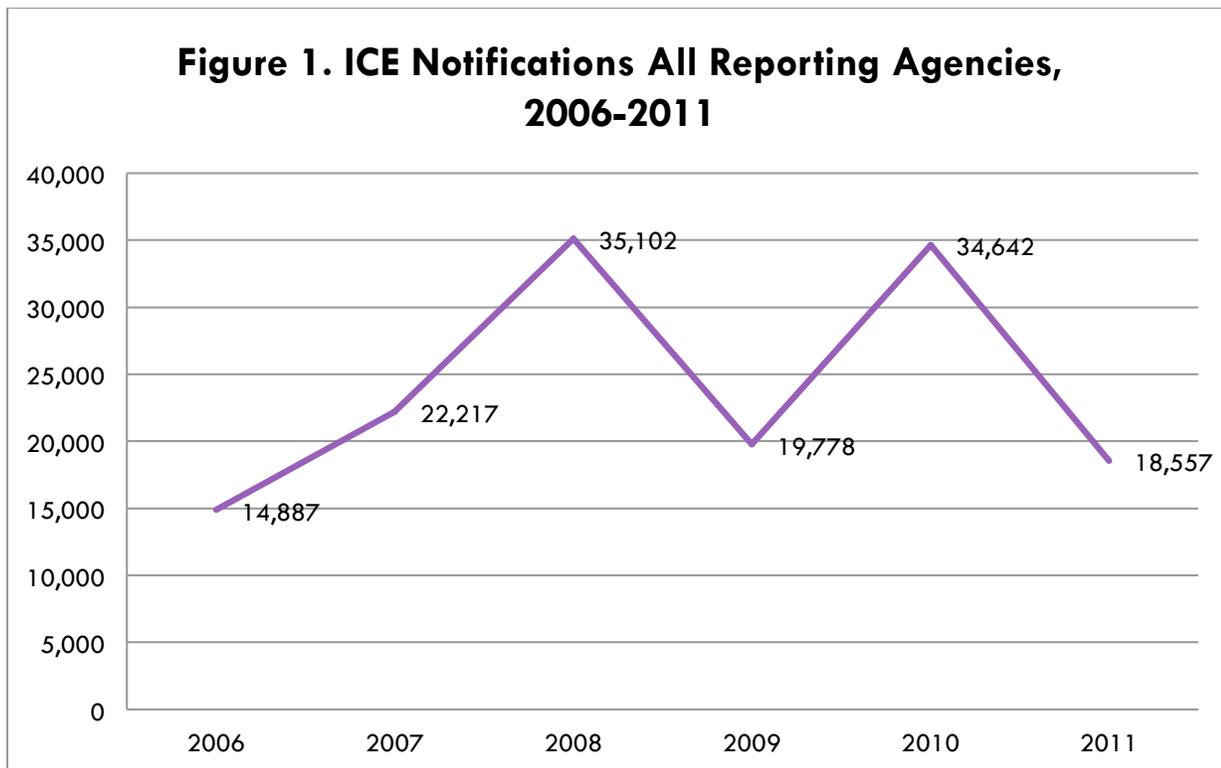
Colorado police and sheriff departments have historically notified ICE through a variety of methods, including a phone call about a specific individual or a daily fax with a list of names or now, as a result of ICE's new deportation program, Secure Communities, fingerprints run through several immigration databases.<sup>6</sup> Prior to the passage of SB90, most jurisdictions submitted an Immigrant Alien Query (IAQ) to the Colorado Bureau of Investigation to be passed on to ICE only in certain cases. Some jurisdictions, like Denver, had long-standing internal policies that required cooperation with federal immigration officials and reported all foreign-born people booked into the county jail to ICE on a daily basis.<sup>7</sup> SB90 is silent when an officer or agency must report the individual to ICE and the notification can occur at any time after the initial stop when a summons is issued and the person is released or when after they are arrested and booked. Most notifications to ICE are made by county sheriff's personnel at the time of booking.<sup>8</sup>

Once the suspect is reported, ICE can submit a detainer or hold request on the person. In these situations, a detainer is not a judicial warrant, but rather a non-binding request, issued by an administrative officer of ICE.<sup>9</sup> The local jail may then elect to hold the individual named in the detainer for up to 48 hours to allow ICE to take the person into custody. The stated policy is that ICE can take custody of the person only after satisfying all other local charges. For instance, if someone were arrested and detained for shoplifting, an ICE detainer was placed at the time of booking and the person did not post bond, ICE could take custody of that individual after he or she had gone to court, been sentenced and served that sentence for the shoplifting charge. The 48 hour ICE detainer clock should run only after all local holds are settled and does not include weekends or holidays. For example, if a person is booked into the county jail and would typically be released through standard procedure on a Friday, an ICE detainer would mean that ICE has through the weekend, Monday and into Tuesday to take the person into custody. Persons released to ICE are generally held at a local holding facility to await federal immigration proceedings.

## SB90 SINCE 2006

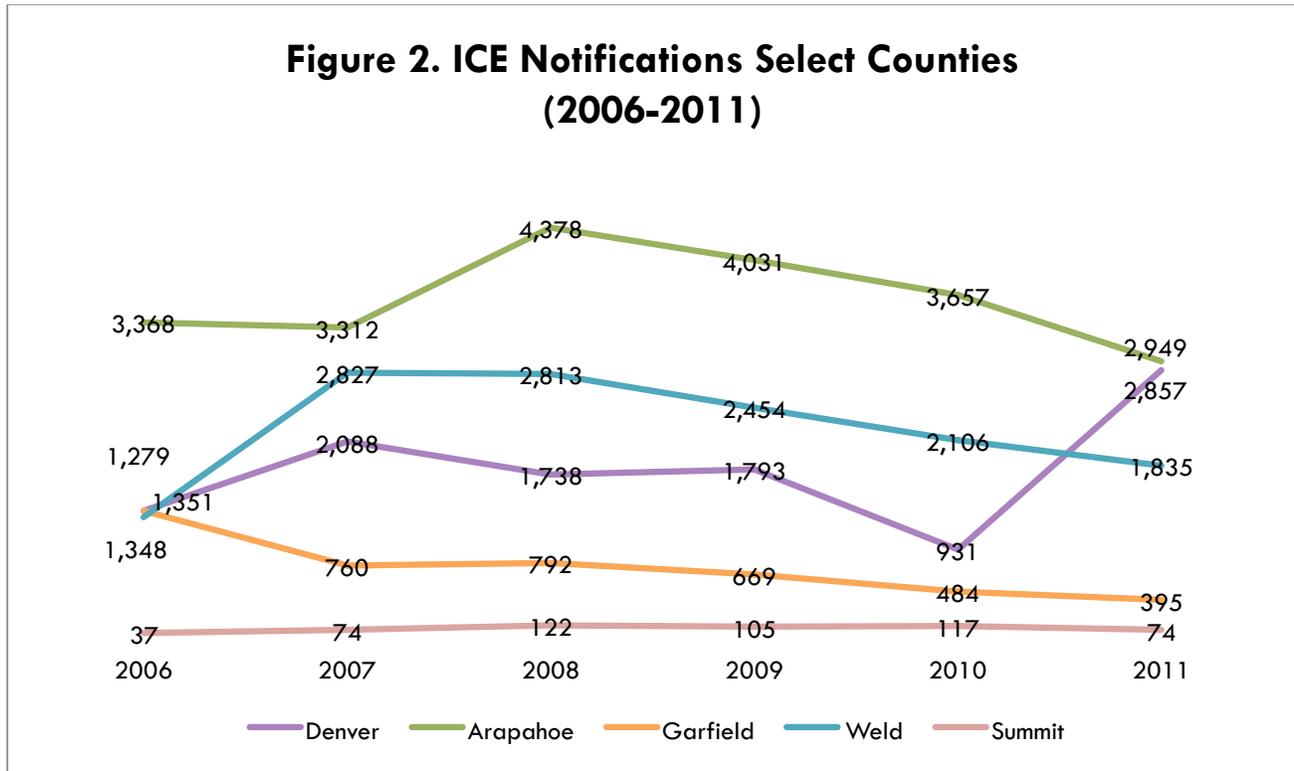
Prior to the passage of SB90, Colorado’s more than 250 local law enforcement agencies reported a varying degree of contact with ICE and a wide array of procedures related to immigration enforcement. A performance audit performed by the State Auditor’s office in 2009 found that all jurisdictions had implemented the law and were in major compliance with SB90. And while there is incomplete data concerning processes prior to implementation of SB90, data compiled after SB90’s implementation shows an increase in the number of ICE notifications that were made and are attributable to SB90.<sup>10</sup>

Colorado local law enforcement agencies (police departments, county sheriff’s departments) reported a total of 145,183 people to ICE over a six year period, 2006-2011, according to reports filed annually with LCS. (Figure 1)



Source: Colorado Fiscal Institute (CFI) analysis of Legislative Council Staff (LCS) data SB90 reports.

The number of arrestees reported varied greatly between jurisdictions and from year to year. Some smaller, rural counties reported no SB90 notifications to ICE, while larger urban and suburban counties reported thousands of people each year. (Figure 2)



Source: CFI analysis of LCS data SB90 annual reports.

There is little data regarding the number of ICE detainers that are placed on those who are reported. The state auditor’s office surveyed all SB90 reporting jurisdictions for the 2009 audit and asked how often a detainer was issued, but due to the variation in response, was unable to aggregate the data for a clear answer.<sup>11</sup> For its 2008 report, the Governor’s Working Group on Law Enforcement and Illegal Immigration found that ICE requested detainers for 24 percent of the people reported by the Aurora Police Department in 2007 and for roughly 30 percent of those reported in 2008.<sup>12</sup> That same report stated that in 2008, ICE detainers were requested 30 percent of the time in Arapahoe County.<sup>13</sup> A Colorado Fiscal Institute review of two metropolitan area counties that account for roughly eight percent of all arrestees reported over 2010-11, found that an ICE hold was issued in under half of all cases, 41 percent of the time. This more recent number is used to calculate the lower boundary of SB90’s cost to local communities.

## THE MINIMUM COST OF SB90 AND ICE DETAINERS

If an ICE detainer was issued in 41 percent of the total 145,183 reported cases since SB90 went into effect, and those people were held in a local jail for just 48 hours, at a statewide average daily rate of \$55<sup>14</sup> per day, the cost to local communities for immigration enforcement under SB90 is just over **\$1 million** per year.

By this estimate, Colorado communities have spent nearly **\$7 million** since the passage of SB90 reporting and detaining people suspected of being in the country unlawfully. This is very likely the low-end cost estimate. To get a more complete picture of the costs requires a more complete picture of who is being detained, why and for how long.

## ADDITIONAL COSTS OF ICE DETAINERS

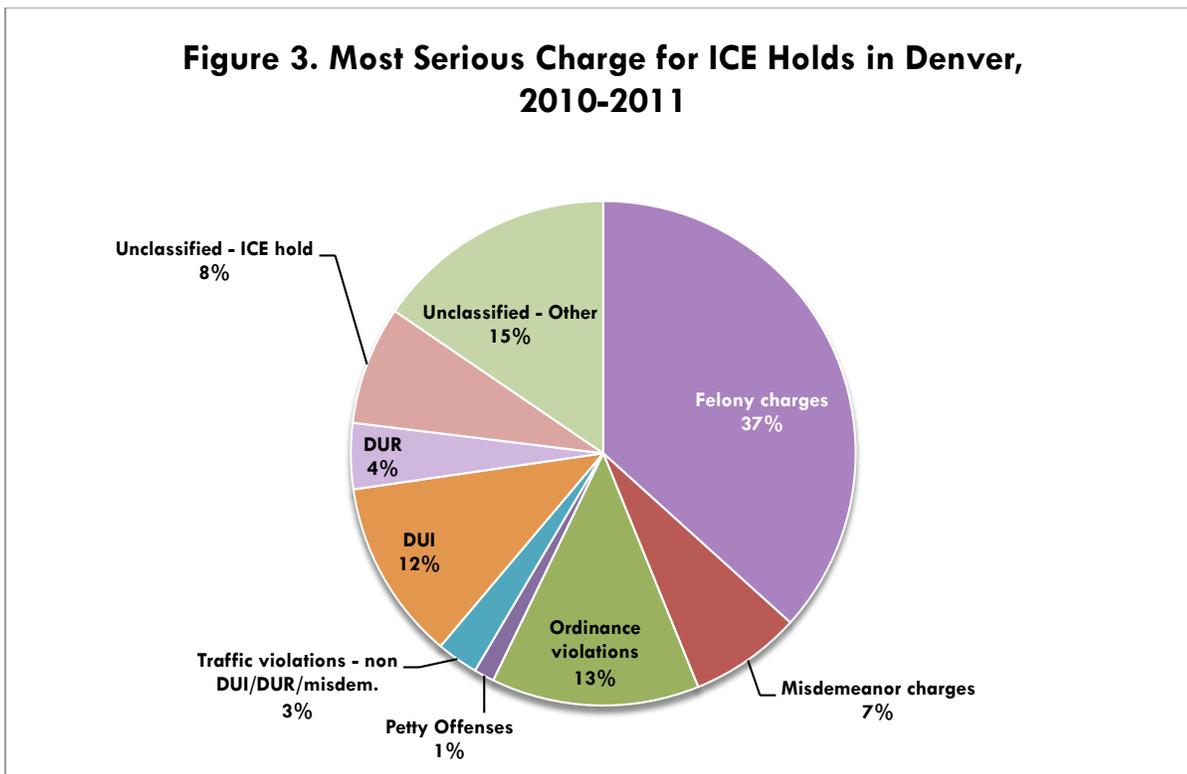
SB90's requirements and the ICE detainers that result can increase costs in a two significant ways. First, remember that the requirement under SB90 to report suspected immigration violators is only supposed to trigger with an arrest for a criminal offense. The state auditor's report reveals that if an arresting officer has probable cause to believe that the arrestee is an undocumented immigrant, they rarely release them with a summons, no matter the seriousness of the crime.<sup>15</sup> In other words, but for suspicion of being an undocumented immigrant, people who would otherwise be cited and released at the scene are being booked into county jail. Once booked and a detainer is lodged, evidence suggests that those offenders are held longer than similarly situated offenders without an ICE detainer.<sup>16</sup> A study of ICE detainers in Los Angeles County, California, for example, found that "court and jail officials incorrectly considered a person with an ICE detainer ineligible for pretrial release even if they were charged with a low-level offense and had strong ties to their community."<sup>17</sup> There is also evidence that individuals with an ICE detainer are often prevented or even when permitted, reluctant to post bail.<sup>18</sup> In essence, SB90 and ICE detainers can result in more immigrants being jailed for low-level offenses in the first place and held for longer periods of time in the second - all at an increased cost to local taxpayers.

## DENVER: A CASE STUDY

An analysis of data supplied by the Denver Sheriff’s Department<sup>19</sup> of people who were booked into the county jail over a two-year time period, 2010-2011, with an ICE hold, shows that the overwhelming majority of offenders were being held on misdemeanor or lower charges, almost all were released to immigration and their length of stay was remarkably higher than the length of stay for offenders without an ICE detainer.

Our analysis revealed that the 1,539 offenders in Denver county jail with an ICE hold were from over 30 countries ranging from the United Kingdom and China to Honduras and Mali, with the overwhelming majority from Mexico (73 percent).

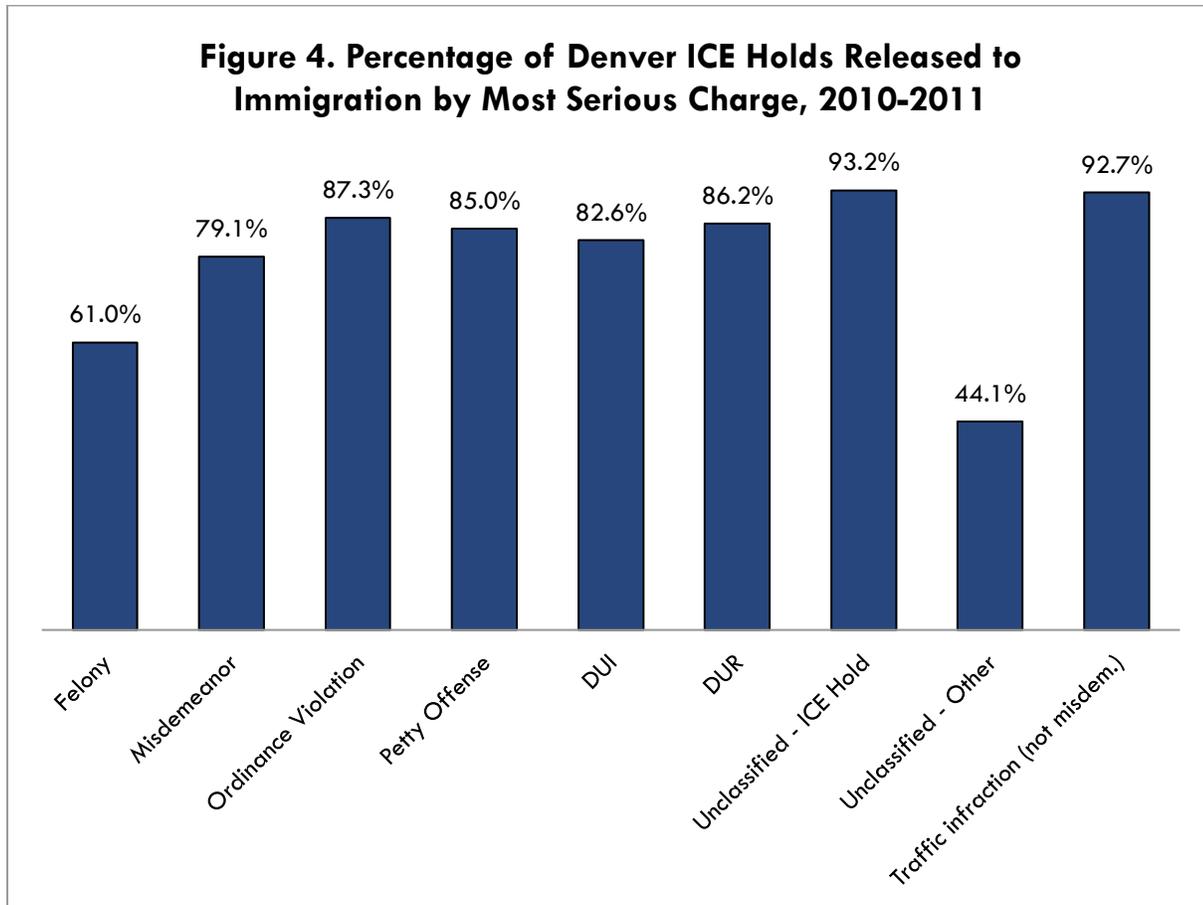
While many were being held on more than one charge, including fugitive warrants from other jurisdictions, the highest charge for the majority were misdemeanor or lower-level offenses such as giving false information, disturbing the peace, solicitation of prostitution, minor assault, driving without a license or insurance and public consumption of alcohol. Only 37 percent were charged with a felony offense. Note that in Denver County, ordinance violations can be misdemeanor criminal offenses and below. (Figure 3)



Source: CFI analysis of Denver Sheriff Department, *Immigration Report – Secure Communities Report 2012*.

A report from ICE’s Secure Communities program reflects a similar pattern. That report showed that since going online with Secure Communities, Denver County submitted a cumulative total of 32,271 names to ICE. ICE found a match in their IDENT system, the database for criminal offenders and suspected immigration violators, for 1,669 of those names. Of those, only 491 or 29 percent had been charged or convicted of an aggravated felony in Denver. The remainder had been charged or convicted of lower level offenses.<sup>20</sup>

Our analysis of the data supplied by the Denver Sheriff's Department showed that the majority of the 1,539 people with an ICE hold in Denver in 2010-2011 (70 percent) were eventually released to ICE. Very few posted bond or were released by the court. Many, particularly of those with a felony charge or fugitive warrant, were released to other jurisdictions, including the Department of Corrections. See below for the percent released to immigration by highest level of charge. (Figure 4)



Source: CFI analysis of Denver Sheriff Department, Immigration Report – Secure Communities Report 2012.

Because local jurisdictions often do not have details on the immigration violation or track people released into the custody of ICE, it is difficult to ascertain exactly what happens to people once they are turned over to ICE. According to the interoperability statistics report, ICE removed or returned 226 of the 1,669 people reported from Denver that had a match in the IDENT system. Of those removed or returned, including voluntary returns, only 65 or 29 percent had been convicted of a Level 1 felony, 23 percent (53) had been convicted of any level felony or three misdemeanors and 48 percent (108) had been convicted of lower level offenses punishable by less than one year in jail or an immigration violation, such as overstaying a visa.

## ADDITIONAL DAYS, ADDITIONAL COSTS

In reviewing the data from Denver, certain cases suggested that an ICE hold would also lengthen the stay considerably as the arrestee failed to post bond. For instance, in one case, a man arrested for urinating in public and not possessing a valid driver's license was held for 170 days and ultimately released to ICE. In another, no proof of insurance – a traffic violation – resulted in a 6 day stay. And finally, in another, a charge for disturbing the peace resulted in a release to ICE after a 72-day detention in Denver County Jail.

To determine how an ICE detainer affected the length of stay more generally, we again calculated a low and high estimate. We first took the average length of stay for all ICE detainees and compared that to the average length of stay for all offenders over the same time period, 2010-2011. The average length of stay for offenders with an ICE hold was 67 days. In contrast, the average length of stay for all offenders in Denver County Jail was 45 days,<sup>21</sup> a difference of 22 days. At Denver's daily jail cost of \$54 per day,<sup>22</sup> we estimate that it cost Denver taxpayers an **additional \$1.8 million** over 2010-2011 to hold immigration detainees, again most with low-level charges.

To estimate a high or upper bound, we attempted to calculate the difference in length of stay by level of offense. Data on all offenders booked into the Denver jail over the same two-year time period, without an ICE hold, by type of charge was not available. Instead, to compare local data to national pretrial release statistics for felons, we used a measure of median number of days rather than average.<sup>23</sup>

Table 1 shows the median number of days until release for Denver ICE hold by highest charge in 2010 and 2011. Those with ICE holds arrested on felony charges spent 89 days in custody in Denver before release. Of these, 61 percent were eventually released to ICE. (See Figure 4) Those arrested on misdemeanor charges were held more than a month; 79.1 percent of these were eventually released to ICE. Those who were arrested on minor traffic violations spent a median of 6 days, with 93 percent of these eventually released to ICE.

**TABLE 1. MEDIAN DAYS TO RELEASE OR ADJUDICATION BY TYPE OF CHARGE AND ICE HOLD STATUS**

| <b>Denver ICE Holds<sup>24</sup></b>                   | <b>Median # of days to release for Denver ICE holds</b> | <b>Estimated median # of days to release for non-ICE holds<sup>25</sup></b> | <b>Difference between ICE holds and national median</b> | <b>Additional cost of ICE holds @ \$54/day<sup>26</sup></b> |
|--|---|---|---|---|
| <b>Felony charges (N= 565)</b>                         | <b>89</b>   | <b>12</b>   | <b>77</b>   | <b>\$2,349,270</b>  |
| <b>Misdemeanor charges (N=110)</b>                     | <b>34.5</b>   | <b>1</b>  | <b>33.5</b>   | <b>\$198,990</b>  |
| <b>Ordinance violations (N=205)</b>                    | <b>6</b>  | <b>1</b>  | <b>5</b>  | <b>\$55,350</b>   |
| <b>Petty Offenses (N=20)</b>                           | <b>3.5</b>  | <b>1</b>  | <b>2.5</b>  | <b>\$2,700</b>  |
| <b>Traffic violations – not DUI/DUR/Misdem. (N=41)</b> | <b>6</b>  | <b>1</b>  | <b>5</b>  | <b>\$11,070</b>   |
| <b>DUI (N=178)</b>                                     | <b>27</b>   | <b>1</b>  | <b>26</b>   | <b>\$249,912</b>  |
| <b>DUR (N=65)</b>                                      | <b>19</b>   | <b>1</b>  | <b>18</b>   | <b>\$63,180</b>   |
| <b>Unclassified - ICE hold (N=117)</b>                 | <b>5</b>  | <b>1</b>  | <b>4</b>  | <b>\$25,272</b>   |
| <b>Unclassified - Other (N=238)</b>                    | <b>5</b>  | <b>1</b>  | <b>4</b>  | <b>\$51,408</b>   |
| <b>TOTAL<sup>27</sup> (N= 1539)</b>                    | <b>23</b>   | <b>n/a</b>  | <b>n/a</b>  | <b>\$3,007,152</b>  |

Column 2 of Table 1 provides an estimate of the median days until release for non-ICE holds. For felony charges, we estimate this median to be 12 days based on a report from the Bureau of Justice Statistics Special Report on pretrial release statistics in state courts. That report notes that a little more than 48 percent of those charged with a felony were released within one week and 57 percent were released within one month. Extrapolating this information results in a median time to release of 12 days (that is, it is estimated that half of those charged with felonies were released by this point in time nationally). For non-felony charges, we assume that most arrestees will be released within a day of arrest absent an ICE hold. Column 3 takes the difference between the ICE hold time until release and our estimate of time to release for non-ICE holds in order to estimate the additional time incurred by ICE detainees, as shown in Column 4. We estimate this by taking the number of ICE detainees for each category (felony arrest, misdemeanor, etc.) multiplied by this additional time, multiplied by the per diem cost of incarceration in Denver, \$54.

Using this methodology, we estimate that **ICE detainees increased costs of detention by more than \$3 million in Denver** in 2010 and 2011.

Our analysis shows that in Denver County alone, over the two-year time period studied, the cost of immigration enforcement was between **\$1.8 and \$3 million, or nearly \$1 to \$1.5 million each year.**<sup>28</sup>

## A STATEWIDE ESTIMATE

If a similar pattern to that found in Denver exists for all SB90 arrestees, meaning an ICE hold is placed 41 percent of the time and those detained spend an additional 22 days in jail on average, at a statewide average per diem cost of \$55 per day, **Colorado is spending an additional \$13 million per year detaining and housing suspected immigration violators** who commit crimes of all levels. (Table 2)

**TABLE 2. STATEWIDE ESTIMATE**

| Number of SB90 Arrestees All Jurisdictions, 2010-2011 | ICE Holds 41 percent of cases | Difference in Average Length of Stay | Additional Cost @\$55 per diem |
|---|-------------------------------|--------------------------------------|--------------------------------|
| 53,199  | 21,812                        | 22 days                              | \$26,392,024                   |
| <b>Annual Total</b>                                   |                               |                                      | <b>\$13,196,012</b>            |

## CONCLUSION

Colorado’s local communities shoulder a large expense as a result of SB90 and the expanded enforcement of federal immigration laws that has followed in its wake. The purpose of SB90 was to increase public safety and enforce statewide standards. Six years’ experience calls into question whether these policy goals have been achieved. Yet in its pursuit of SB90 compliance, Colorado spends as much as \$13 million per arresting, reporting and detaining possible undocumented immigrants charged with low-level crimes – disturbing the peace, failure to use a turn signal, jaywalking. In many of these cases, not only do we remove a low-level offender from the streets, but also an employee from an employer, a parent from a child, a taxpayer from the community. The economic and social costs of immigration enforcement go far beyond these simple budgetary impacts. But that is another study. This report raises serious concerns about whether or not Colorado’s local police officers and agencies should be in the business of enforcing federal immigration laws at all. In times of tough budgets, can we really afford SB90 and other aggressive immigration enforcement programs? Colorado should re-evaluate SB90 and ask again if immigration enforcement is the right priority for local communities.

## NOTES

- <sup>1</sup> City and County of Denver, *Mayor's 2012 Budget: Michael B. Hancock, Mayor* (City and County of Denver, January 1, 2012) 486. <<http://www.denvergov.org/Portals/9/documents/2012%20Adopted%20Budget/2012%20BOOK-Final%20pdf%20online%20copy.pdf>>
- <sup>2</sup> Codified as C.R.S. §29-29-101 et. seq.
- <sup>3</sup> Colorado Legislative Council Staff, "Fiscal Note SB06-090: Local Fiscal Impact" (February 2, 2006). <[http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/D44C4D655410B398872570CB005DB438?Open&file=SB090\\_00.pdf](http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/D44C4D655410B398872570CB005DB438?Open&file=SB090_00.pdf)>
- <sup>4</sup> Office of the State Auditor, *Implementation of Senate Bill 06-090 Department of Public Safety and Department of Local Affairs: Performance Audit* (CO Office of the State Auditor, 2009) 8-10. <[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/62C3C8B38418A2FC872575CF0054A864/\\$FILE/1985%20SB06090%20Perf%20Immigration%206%2009.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/62C3C8B38418A2FC872575CF0054A864/$FILE/1985%20SB06090%20Perf%20Immigration%206%2009.pdf)>
- <sup>5</sup> *Performance Audit 8*. See also Colorado Department of Public Safety, *Report of the Governor's Working Group on Law Enforcement and Illegal Immigration*, December 31, 2008 (CO Department of Public Safety, 2008) 19-21. <<http://cdpsweb.state.co.us/immigration/documents/FINAL%20Report%202%20for%20Eservice.pdf>>
- <sup>6</sup> *Law Enforcement and Illegal Immigration 22*.
- <sup>7</sup> David Broadwell, City and County of Denver, City Attorney's Office, telephone interview, July 2012.
- <sup>8</sup> *Law Enforcement and Illegal Immigration 9*. <<http://cdpsweb.state.co.us/immigration/documents/FINAL%20Report%202%20for%20Eservice.pdf>>
- <sup>9</sup> Aarti Shahani, "New York City Enforcement of Immigration Detainers: Preliminary Findings" (Justice Strategies, October 2010). <<http://www.justicestrategies.org/sites/default/files/publications/JusticeStrategies-DrugDeportations-PrelimFindings.pdf>>
- <sup>10</sup> *Performance Audit 11*.
- <sup>11</sup> *Performance Audit B-10*.
- <sup>12</sup> *Law Enforcement and Illegal Immigration 25*.
- <sup>13</sup> *Law Enforcement and Illegal Immigration 16*.
- <sup>14</sup> County Sheriffs of Colorado, *Survey of Jail Costs*, 2011. The daily jail rate ranged from a low of \$25 in Lake County to a high of \$89 in La Plata County. Most metro counties reported rates between \$52 and \$88 per day. The survey did not have a standard formula for reporting costs so some jurisdictions included capital expenses and others did not. The average daily reimbursement rate the state uses to reimburse counties for holding state prisoners is \$50.44 per day.
- <sup>15</sup> *Performance Audit 8*.
- <sup>16</sup> *Law Enforcement and Illegal Immigration 28-29*.
- <sup>17</sup> Judith A. Greene, "The Cost of Responding to Immigration Detainers in California. Preliminary Findings" (Justice Strategies, August 22, 2012) 3. <<http://www.justicestrategies.org/publications/2012/cost-responding-immigration-detainers-california>>
- <sup>18</sup> *Law Enforcement and Illegal Immigration 28-29*. See also National Immigration Forum, "Immigrants Behind Bars: How, Why, and How Much" (March 2011). <[http://immigrationforum.org/images/uploads/2011/Immigrants\\_in\\_Local\\_Jails.pdf](http://immigrationforum.org/images/uploads/2011/Immigrants_in_Local_Jails.pdf)>
- <sup>19</sup> Denver Sheriff Department, *U.S. Immigration Report – Secure Communities Report 1/1/2010-12/31/2011*. City and County of Denver, October 8, 2012.
- <sup>20</sup> U.S. Immigration and Customs Enforcement. "Secure Communities, IDENT/IAFIS Interoperability Monthly Statistics Through September 30, 2011" (ICE, October 14, 2011)15.
- <sup>21</sup> City and County of Denver, *Mayor's 2012 Budget: Michael B. Hancock, Mayor* (City and County of Denver, January 1, 2012) 477. <<http://www.denvergov.org/Portals/9/documents/2012%20Adopted%20Budget/2012%20BOOK-Final%20pdf%20online%20copy.pdf>>
- <sup>22</sup> County Sheriffs of Colorado, *Survey of Jail Costs*, 2011.
- <sup>23</sup> Thomas H. Cohen and Brian A. Reaves, "Pretrial Release of Felony Defendants in State Courts" (Bureau of Justice Statistics Special Report, 2007).
- <sup>24</sup> All figures are taken from Denver Sheriff's Department, *U.S. Immigration Report, Secure Communities Report*.
- <sup>25</sup> For felony charges, this estimate is calculated based on figures from Cohen and Reaves 2007. For all non-felonies, we assume that most arrestees will be released within one day if no ICE hold is placed.

<sup>26</sup> This is calculated as the difference between the median for Denver's ICE holds and the national median X the number of ICE detainees X \$54/day, Denver's reported per diem incarceration cost.

<sup>27</sup> One case was dropped because the arrestee was still serving when the report was produced and we were not able to calculate the time spent.

<sup>28</sup> Some costs borne by state and local governments to hold undocumented criminal offenders are reimbursed by the U.S. Department of Justice, Bureau of Justice Assistance, State Criminal Alien Assistance Program (SCAAP). SCAAP is an annually appropriated federal formula grant program that will reimburse for some costs for undocumented immigrants who are *convicted of* at least two misdemeanors or one felony crime in the state and are incarcerated for at least 4 consecutive days. Only a small percent of the total cost is recovered. The State Attorney General's Office and Colorado Department of Corrections claimed that SCAAP reimbursed less than 6 percent of total incarceration costs in 2008. <[http://www.coloradoattorneygeneral.gov/sites/default/files/press\\_releases/2010/01/12/123009\\_ltr\\_ari\\_zavaras.pdf](http://www.coloradoattorneygeneral.gov/sites/default/files/press_releases/2010/01/12/123009_ltr_ari_zavaras.pdf)>