

Illegal, in jail

Analysis: 12 percent of Chelan-Douglas unauthorized immigrants booked last year

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World photo/Don Seabrook

Interpreter Ralph Ochoa, left, and defense attorney Nicholas Yedinak prepare for Oscar Alvarez del Castillo's hearing as Alvarez enters Chelan County Superior Court Judge Lesley Allan's courtroom Aug. 16. Alvarez, a native of Tijuana, Mexico, who admits entering the country illegally, was later convicted on charges of methamphetamine distribution. He now faces his third deportation from the U.S. Last year 436 people arrested in Chelan and Douglas counties also had immigration detainers placed in their files, meaning federal authorities suspect they may be in the country without authorization. That could account for 12 percent of all unauthorized immigrants in the two counties.

WENATCHEE — Oscar Alvarez del Castillo has lost count of how many times he's slipped across the U.S.-Mexico border. "Many," he says — hiking into this country at night on a remote trail, without entry visas, without getting caught.

He remembers how many times he's been deported, though: twice. Once from Stockton, Calif., where he was caught driving a stolen car and spent three months in juvenile detention; and once from Arizona, where he was captured trying to cross again into the United States.

When he finishes his eight-year sentence for an attempted methamphetamine sale, Alvarez, 24, can expect a third removal to his hometown of Tijuana.

Suspects like Alvarez — arrested on local charges while their immigration status was in question — made up 6.8 percent of admissions last year at the Chelan County Regional Justice Center.

But that's where the solid stats end. That's because, while the issue of suspected illegal immigrants in U.S. jails has taken on great political weight, a person's citizenship is barely relevant to the criminal justice system. Inmates' immigration standings aren't resolved until they go before a federal administrative judge, usually at the end of any jail sentence.

And there is no focused effort by local police or jailers to collect information on inmates' citizenship.

"It's just not our piece of the pie," said Chelan County Regional Justice Center Director Phil Stanley.

Efforts to quantify any relationship between unauthorized immigrants and crime are drawn quickly into the realm of creative statistics. Combining jail records, census data and [Pew](#)

[Hispanic Center estimates](#), a Wenatchee World analysis calculates that roughly 12 percent of unauthorized immigrants in Chelan and Douglas counties (436 people out of 3,540) wound up in jail in 2009. (See [NCW's unauthorized immigrants: How we got the numbers.](#))

In his inmate file at the Chelan County jail — and now at the Washington Department of Corrections — sits a federal form labeled I-247, placed there by U.S. Immigration and Customs Enforcement. It's an immigration detainer, known among local corrections officers as an "[ICE hold](#)," applied to all unauthorized immigrants found in U.S. jails. It means that once Alvarez is released, he'll be turned over to ICE for processing back to Mexico.

ICE agents, as well as officers from other arms of the Department of Homeland Security, routinely visit local jails to sift through inmate populations for immigration violators. Alvarez, for example, was interviewed by ICE agents for about 15 minutes when they found him in jail; he was already in their records as a border-jumper.

Alvarez had been living and working at a Chelan orchard for nearly three years when he was arrested Jan. 15, waiting in the Wenatchee Walmart parking lot to meet a buyer. Police said he was carrying two ounces of meth, \$1,155 in cash and a cocked and loaded .45 pistol in his truck.

Oscar Alvarez Del Castillo, 24, crossed from Mexico multiple times until his January arrest in Wenatchee.

"After all this, I have to see the immigration officers again," said Alvarez, interviewed at the Wenatchee jail in August. "That's what they told me. They told me to sign some papers if I don't want to see the judge, so I can go to Mexico faster."

"Prove you're a U.S. citizen."

On a Wednesday morning at the Okanogan County Jail, two broad-shouldered men stood before a bulletin board festooned with inmate identity slips. Each slip had a photo, the inmate's name and number, and other vital stats, helping corrections officers in the control room keep track of those in their custody.

The two men, one in a T-shirt that read "BORDER PATROL" on the back, one in a shirt that read "DEA," compared the inmate slips with information on a clipboard, and went to an upper-floor cell block to question a prisoner of interest. They declined to be interviewed, referring questions instead to a U.S. Customs and Border Protection supervisor.

The Border Patrol — like ICE, an arm of the Department of Homeland Security — issues most detainers for Okanogan inmates. It lodged 226 detainers there last year, according to jail records. That's about 10 percent of the jail's total admissions. If The Wenatchee World's estimates are correct, it also reflects about 27 percent of the county's estimated population of 820 unauthorized immigrants.

All the inmates tagged with detainers were already in jail on local charges, ranging from traffic misdemeanors to felonies, said Chief Corrections Deputy Noah Stewart. While in custody they're kept among the general 183-bed population, treated no differently from other prisoners.

Perhaps because the Canadian border lies just 50 miles north on Highway 97, Stewart sees a mix of citizenships in his jail — or at least claims of citizenship, since inmates are asked their country of residence upon intake, but don't have to answer.

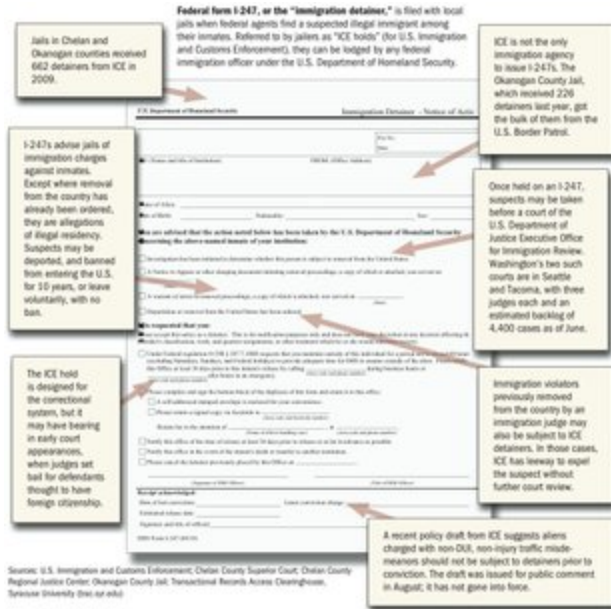
"We hope they're being honest," Stewart says. "We leave that up to the experts."

Of the 2009 bookings with immigration detainers, 153 claimed Mexico as their home country. Two said El Salvador, two said Honduras. One inmate claimed to be Dutch. Eleven of them said they were Americans.

Okanogan County is on track to beat last year's number of immigration detainees: The Border Patrol had lodged 188 holds as of mid-August.

A detainer form, as ICE regional spokeswoman Lorie Dankers points out, isn't proof of a violation.

"That is not necessarily a one-to-one correlation to say they're illegal," Dankers said. "... What it means is they need to come into our custody to resolve their immigration case."



World graphic/Jared Johnson

Document

The "ICE hold"



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The ICE hold can be applied not just to people who've entered the country without papers, but to legal immigrants whose visas have expired, or who are convicted of crimes that might cause an immigration judge to revoke their status.

Local charges take precedence over federal immigration cases, so ICE always waits for a local jail term to expire before taking custody of an immigration suspect. In the meantime, while a suspect waits in jail and his or her case works its way through the courts, the ICE hold becomes all but invisible.

Chelan County Presiding Judge T.W. "Chip" Small, who manages the county's court system, said there's no way to track how many local cases involve unauthorized immigrants.

When it comes to a defendant's citizenship, Small said, "We don't care. The [14th Amendment](#) protects all persons, so their status with us is really irrelevant."

Local police may learn a suspect's immigration status through ICE, and possibly enter it into their arrest reports, meaning the status is noted in court papers as the case moves to trial. Also, judges are likely to be informed of an ICE hold at the bail hearing.

Immigration status may lead to a higher bail amount, as prosecutors and judges work to keep the defendant in their jurisdiction. An inmate on an ICE hold who posts bail before trial, or gets released on personal recognizance, goes directly to federal custody.

"He could be deported, and we'll never resolve the pending case, because he's gone," Small said.

Chelan County Prosecutor Gary Riesen said in his 25 years in office, that's only happened once. Drug suspect Ricardo Bazan Rodriguez was scheduled to have his day in court on May 3. When that date came, according to court papers, Rodriguez could only appear by phone.

"He said, 'Here's the deal — I'm in Mexico. I can't appear for court,'" Riesen said.

The 31-year-old defendant had been shipped back to his native country by ICE, apparently acting on a removal order issued in 1998 — when Rodriguez was 19 — after his family overstayed their visas. He would not be able to stand trial on his charge of complicity to deliver methamphetamine, stemming from an alleged sale interrupted by Wenatchee police Jan. 5.

Rodriguez, then 30, was one of four men arrested in the bust, which police carried out on an informant's tip. His alleged partners in the deal faced more severe charges of intent to deliver. Police said Rodriguez claimed no knowledge of the drug transaction during initial interviews, and he pleaded not guilty at his arraignment in Chelan County Superior Court.

Through a bond agency, he met his \$25,000 bail amount and left the Chelan County jail Jan. 27. He did so with advice from Seattle immigration attorney Kaaren L. Barr, who believed he would be allowed to remain in the U.S. pending trial.

Rodriguez was turned over to ICE and transported to the agency's [Northwest Detention Center](#) in Tacoma. From there he was taken back to Mexico by U.S. marshals, despite Barr's pleadings with ICE Detention and Removal agents. His \$25,000 bond was forfeited, and Chelan County Superior Court Judge John Bridges issued a warrant for his arrest.

Barr did not return calls seeking comment. In a written brief, she told the court Rodriguez has since tried to re-enter the U.S. to stand trial, but been denied.

While in court, Rodriguez had been told the risks of bailing out while under an ICE detainer, Riesen said — standard practice in such cases.

A defendant's immigration status might come up again after a guilty verdict or plea, when prosecutors try to structure a sentence to mesh with federal deportation proceedings. But at trial, it's ignored as irrelevant.

"We never get anything that says this person's legal or not legal," Riesen said. "The only thing we get is word of mouth from the jail or maybe from ICE, if they're working the case somehow. But I never get anything in writing. In fact, I don't even know what you'd get."

"It's an interesting question in America. We don't carry papers. Prove you're a US citizen — if you don't have a passport with you, you really can't."

As for Rodriguez, Chelan County hasn't taken any steps beyond Bridges' warrant to bring him back for trial. Riesen could [petition Homeland Security](#) to allow the defendant's return to the United States, but that's never been done by his office.

"We just don't feel that provision is appropriate for somebody who voluntarily leaves," Riesen said. "It's usually used for witnesses."

Losing track

According to ICE, between June 2008 and June 2009 some 2,200 inmates booked into Eastern Washington jails — in all counties, from the Cascades to east to Idaho — were tagged with I-247 immigration detainers.

But there's little way to tell how many of those arrests ended in conviction, or how many of those detainers led to removal from the country. An ICE investigation may find an inmate has no visa problems, or it may be a case of mistaken identity.

Document

[Pew immigration report 2010](#)

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Even a legal alien convicted of a crime can find his or her visa revoked. Immigrants sentenced to 365 days or more, even on gross misdemeanor charges like third-degree theft, fall into the "aggravated felony category" of immigration law, said Jorge Barón, executive director of the Northwest Immigrant Rights Project. Convictions in that category [render the immigrant deportable](#) if an immigration judge so rules.

Drug convictions like that of Oscar Alvarez del Castillo also are deportable offenses, says Barón, whose nonprofit organization offers legal aid to low-income immigrants. "Then the 365 day rule doesn't matter," Barón said. "... So the rules on that are very complicated."

At least one U.S. citizen, Belize-born [Rennison Castillo](#), was nearly deported from the Northwest Detention Center in 2006. He'd been naturalized during service in the U.S. Army, but was tagged with a detainer while in Pierce County Jail for violating an order of protection. He was in ICE custody for seven months before proof of his citizenship emerged.

"I'm a naturalized citizen," said Barón, a native of Colombia. "I don't carry around my certificate of naturalization. Although I maybe should, knowing the story."

The immigration suspects named in this report were identified from court testimony and jail records. Dankers said ICE's privacy policy forbids her from commenting on the immigration status of individuals.

"And the department has determined that the privacy policy and confidentiality extends not only to those living legally in the country, but those living illegally in the country," she said.

She also declined to make Wenatchee-area ICE agents available for interview, or to say how many are involved in reviewing NCW jail populations.

Other than Okanogan County, NCW jails tend not to keep track of ICE detainers in their long-term records, leaving that up to the federal agency. The Chelan County Regional Justice Center, which holds inmates arrested in both Chelan and Douglas counties, was able to provide a raw count of ICE detainers for 2009, but Director Phil Stanley said it took hours to fish the data out of computer logs.

"We collect a lot of information," Stanley said. "That's just not one we have on our list to collect."

The Grant County Jail, which books 4,000 to 4,500 inmates a year, also did not have a ready count of detainees, and asked ICE to provide the figure. The agency had not done so by the time the jail's response to a Wenatchee World Freedom of Information Act request was due, said Melissa McKnight, public records officer for the Grant County Sheriff's Office.

"The only option we have is just searching by hand," McKnight said.

The Washington Department of Corrections tracks immigration detainees on its inmates, but at deadline for this report a FOIA request to DOC — seeking the number of ICE-detainer inmates sent to state prison from NCW counties, among other information — was still pending.

Back across the border

Oscar Alvarez del Castillo was found guilty and sentenced by Judge Bridges in a bench trial Sept. 8. He wouldn't discuss his drug arrest and conviction, except to say he'll appeal, claiming the police search of his truck was illegal.

Chelan County jail officials say he wasn't a model prisoner: During his nine months there, he spent 20 days in segregation for carrying a razor blade, which he said was for protection from another inmate.

Even an overturned conviction would still end with Alvarez in ICE custody. He first came to the United States to attend high school, and always planned to make a life in this country. Of all the places he's lived illegally in the United States, he liked Chelan best. It's the farthest he's ever traveled from Tijuana, and the wife and three kids waiting for him there.

"It's a nice town," he said. "Nice view of the lake, the mountains."

He'd hoped to bring his family to join him in Chelan this year. By the time of his arrest, he said, he'd gathered enough money to bring his wife into the country, but not his 3-year-old son and 2-year-old twin daughters. He was thinking of them, he said, when he chose to cross the border for the last time.

"There's a big difference," he said. "Schools are better here. That's why I wanted to bring them here. But it doesn't look like I'll be able to."

Jefferson Robbins: 664-7123

robbins@wenatcheeworld.com