



Caught in the Web

THE ROLE OF TRANSNATIONAL DATA SHARING IN THE U.S. IMMIGRATION SYSTEM

Foreign data-sharing programs are deeply embedded in U.S. immigration enforcement practices, with dire consequences for those caught in the unreliable data web. U.S. immigration agencies access a vast network of transnational data used to target immigrants for arrest, detention, and deportation. For asylum seekers and refugees, foreign data sharing allows repressive authorities to pursue their victims and force them back to their home countries to face the violence they fled in the first place.

Transnational data sharing plays an increasingly prominent role in pushing U.S. migration-control operations abroad. DHS officials often conflate immigration processing with national security, border security, and anti-gang and anti-crime programs. Multi-agency data systems link law enforcement, foreign intelligence, and immigration adjudication agencies together in ways that prejudice immigrants falsely accused of wrongdoing.

While U.S. immigration agencies rely on foreign data to target immigrants for enforcement, other U.S. agencies regularly report that the foreign security forces that supply that data are engaged in corruption and abuses, including warrantless arrests and acts of political repression.

NIJC investigated the ways in which foreign data interacts with immigration enforcement programs, surveying our legal teams and other legal service providers throughout the country. This investigation affirms that, despite the U.S. government's own recognition that the sources of foreign data are unreliable, immigration decision-makers routinely rely on the faulty information to determine the fate of immigrants seeking safety or immigration status in the United States.

How DHS collects data from foreign governments

DHS collects data from foreign governments through myriad programs, including:

- **U.S.-Led transnational task forces:** ICE and CBP agents gain broad access to unsubstantiated information through U.S.-led transnational task forces that collect information and monitor people long before they reach the U.S. border.

Camilo is an asylum seeker who fled El Salvador after police repeatedly threatened him for refusing to falsely testify against gang members. Camilo later learned that, as a result of the persecution he fled, he was accused of gang affiliation by Salvadoran police who transmitted the information through a transnational task force known as the Security Alliance Fugitive Enforcement (SAFE) program. Border agents sent him to detention, and ICE repeatedly denied his release because of the SAFE report. ICE finally released him from detention in the fall of 2021 and admitted that the allegations against him had been false. Camilo paid a steep price for ICE's mistaken reliance on foreign data — spending months detained in punitive conditions in ICE custody, with deteriorating physical and mental health.

- **Interpol Red Notices:** Despite the U.S. Department of Justice’s explicit recognition of the unreliability and inherent due process concerns with Interpol Red Notices, U.S. immigration agencies regularly rely on these notices to decide whether to detain someone or grant them asylum or other forms of immigration relief.
- **Criminal history and biometric data sharing:** The U.S. government maintains a network of information-sharing agreements with foreign governments, which DHS uses to collect and share data for arrests, detention, and deportation.

How DHS’s reliance on foreign data sharing harms people seeking protection in the United States

- **Family separations:** Although the media spotlight is gone, family separations persist today in many forms, including when CBP separates a parent from their child on the basis of unverified foreign data.
- **Immigration detention bond and custody decisions:** DHS relies on foreign data when making decisions regarding when to detain a person and for how long, often leading to prolonged detention without access to judicial review.
- **Prosecutorial discretion in ICE enforcement actions:** DHS officials have broad access to unreliable data culled from foreign sources when considering requests for “prosecutorial discretion” from individuals facing detention and deportation.
- **Access to asylum and other forms of relief from removal in immigration court:** Foreign data can have a harmful impact on asylum seekers, given the centrality of credibility and discretion to decisions regarding asylum and other forms of relief from removal.

Foreign-data-sharing operations involve a web of programs whose parameters are difficult to navigate, intersect in opaque ways with domestic criminal and biometrics databases, lack transparency, and fail to hold accountable unreliable data sources. To protect the rights of immigrants and asylum seekers, the U.S. government must review all foreign-data-sharing programs and terminate those that result in rights violations and/or the separation of families.

Until such change occurs, NIJC urges the administration and Congress to mitigate the harms caused by the reliance on foreign data sharing programs in immigration decision making in the following ways.

Victoria fled Colombia with her husband and their 10-year-old child, Felipe, to seek asylum in the United States. But the family was separated at the U.S.-Mexico border in May 2022 after a U.S. official accused Victoria of being affiliated with an armed group in her home country.

In CBP detention, a plain-clothed U.S. official who introduced himself as an “investigator” interrogated Victoria and accused her of belonging to an armed group and having spent time in jail in Colombia. Victoria was shocked and explained that none of the allegations were true. The day after the interrogation, CBP officials took Felipe away. Victoria had no chance to say goodbye. Months after their separation, NIJC obtained official documents from the Colombian government confirming there were no records of criminal history associated with either Victoria nor her husband. Still, to date, Victoria and her husband are separated from their child, causing their family irreparable lasting trauma and harm. Victoria’s story was detailed in the Texas Observer and a civil rights complaint filed on behalf of her family.

Alfred is a gay asylum seeker from Jamaica, who fled his country fearing for his life after being accused of violating discriminatory anti-gay laws. The Jamaican government issued an Interpol Red Notice wrongfully accusing him of crimes that he adamantly denies. After Alfred arrived to the United States, ICE detained him and placed him in solitary confinement because of the accusations against him stemming from the Red Notice. While Alfred was detained, an immigration judge and the Board of Immigration Appeals denied his asylum claim because of the Interpol Red Notice. ICE deported Alfred in early April 2022; he currently lives in hiding in Jamaica while his attorneys seek to reopen his case.

Recommendations

DHS and DOJ should:

- Restrict the reliance on foreign data in immigration decision-making and adjudication.
- Explicitly prevent DHS component agencies from relying on foreign data to justify family separations.
- Review and terminate bilateral and regional criminal history and biometrics data-sharing agreements.
- Issue privacy and civil liberties reports on foreign data sharing programs.
- Provide greater transparency in immigration adjudications and decision-making with regard to the use of foreign data.
- Create complaint mechanisms for impacted individuals.

Congress should:

- Restrict ICE and CBP access to foreign data.
- Convene oversight hearings on DHS's use of foreign data.
- Divest funding from unaccountable data systems.

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