



**DHS/ICE**

**Detention and Removal Operations Report**

**Required by Section 904 of the**

**Haitian Refugee Immigration Fairness Act (PL 105-277)**

*December 4, 2009*

## **Message from the Assistant Secretary**

December 4, 2009



I am pleased to present the Fiscal Year 2008 report titled, "Detainees Not Seeking Asylum," prepared by U.S. Immigration and Customs Enforcement (ICE).

This report responds to the requirement contained in Section 904 of the Haitian Refugee Immigration Fairness Act (HRIFA), P.L. 105-277.

As you review this report, I would like to draw your attention to the fact that 51.85 percent of detainees housed in ICE facilities do not seek asylum.

Pursuant to our obligations in the HRIFA, I am transmitting a copy of this report to the following members of Congress:

The Honorable Patrick J. Leahy  
Chairman, Senate Committee on the Judiciary

The Honorable Jeff Sessions  
Ranking Member, Senate Committee on the Judiciary

The Honorable Charles E. Schumer  
Chairman, Senate Judiciary Subcommittee on Immigration, Border Security and Refugees

The Honorable John Cornyn  
Ranking Member, Senate Judiciary Subcommittee on Immigration, Border Security and Refugees

The Honorable John Conyers, Jr.  
Chairman, House Committee on the Judiciary

The Honorable Lamar S. Smith  
Ranking Member, House Committee on the Judiciary

The Honorable Zoe Lofgren  
Chairman, House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

The Honorable Steve King  
Ranking Member, House Judiciary Subcommittee on Immigration, Citizenship,  
Refugees, Border Security, and International Law

Inquiries about the contents of this report should be directed to Angie L. Williams at  
(202) 732- [REDACTED]

Sincerely yours,

A handwritten signature in black ink, appearing to read "John Morton", written in a cursive style.

John Morton  
Assistant Secretary  
U.S. Immigration and Customs Enforcement



# Homeland Security

## Foreword

The Department of Homeland Security is pleased to provide its report on “Detainees Not Seeking Asylum.” This report covers Fiscal Year 2008 and is provided pursuant to Section 904 of the Haitian Refugee Immigration Fairness Act (P.L. 105-277).

This report was produced using the U.S. Immigration and Customs Enforcement Integrated Decision Support (IIDS) reporting system.

Pursuant to Congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Patrick J. Leahy  
Chairman, Senate Committee on the Judiciary

The Honorable Jeff Sessions  
Ranking Member, Senate Committee on the Judiciary

The Honorable Charles Schumer  
Chairman, Senate Judiciary Subcommittee on Immigration, Border Security and Refugees

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Chairman, House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

The Honorable Steve King  
Ranking Member, House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

# Executive Summary

The Department of Homeland Security (DHS) is pleased to provide the enclosed report on “Detainees Not Seeking Asylum.” This report covers Fiscal Year 2008 and is provided pursuant to Section 904 of the Haitian Refugee Immigration Fairness Act (P.L. 105-277).

Section 904 of the The Haitian Refugee Immigration Fairness Act (HRIFA) of 1998 requires DHS to regularly collect data with respect to detainees not seeking asylum.

To fulfill this requirement, the Office of Detention and Removal Operations used the U.S. Immigration and Customs Enforcement (ICE) Integrated Decision Support (IDS) reporting system.

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## **I INTRODUCTION**

Section 904 of the Haitian Refugee Immigration Fairness Act (HRIFA) of 1998 requires the Attorney General to regularly collect data with respect to asylum applicants in detention. While Section 904 specifically references the responsibility of the 'Attorney General,' on March 1, 2003, the Department of Homeland Security (DHS) assumed the functions and authorities of the Department of Justice's Immigration and Naturalization Service, including the detention of aliens. This report pertains to aliens who were detained during fiscal year (FY) 2008.

The format of this report has changed slightly from previous versions because it was produced utilizing U.S. Immigration and Customs Enforcement's (ICE) new statistical reporting system, the Integrated Decision Support (IIDS).

## **II LEGISLATIVE AUTHORITY**

This report provides information on detainees who did not seek asylum as required by Section 904 of the Haitian Refugee Immigration Fairness Act.

## **III TIME PERIOD AND SCOPE**

The time period addressed in this report is FY 2008. Cases of detainees not seeking asylum are analyzed. This report includes actions on these cases through April 2009.

## **IV METHODOLOGY**

The findings of this report were obtained by evaluating the data contained in the following systems:

Refugee Asylum Parole System (RAPS), maintained by U.S. Citizenship and Immigration Services (USCIS), provides Affirmative Asylum Seeker case information.

Asylum Pre-Screening System (APSS), maintained by USCIS, provides Credible Fear case information.

The Case Access System (CASE), maintained by the Executive Office of Immigration Review (EOIR), within the U.S. Department of Justice, provides Defensive Filer Case information.

The Deportable Alien Control System (DACS), maintained by the ICE Office of Detention and Removal Operations, provided the relevant information on detention and removal actions.

The Enforce Alien Removal Module (EARM) system is maintained by Electronic Data Systems (EDS) for ICE. The servers are housed at the Stennis Data Center in Gulfport Mississippi, and the Rockville Data Center in Rockville, Maryland.

On August 11, 2008, ICE replaced its DACS case management system. The replacement of DACS was accomplished in two phases beginning with the deployment of the Enforce Alien Detention Module (EADM). EADM replaced the detention functionality of DACS on September 30, 2007. The replacement of DACS was finalized with the deployment of the EARM system that replaced the case management functions of DACS on August 11, 2008. The new applications draw data from the Enforce Integrated Database, utilize new technology, and provide enhanced reporting capabilities.

## V REQUIREMENTS AND FINDINGS

### SECTION 904 OF THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT

The Tables Appendix presents the reports findings in detail. The tables are organized to match the requirements posed in the congressional language. A summary of the main findings follows:

#### Section 904 Paragraph (1)

*SEC. 904. COLLECTION OF DATA ON OTHER DETAINED ALIENS. (a) IN GENERAL—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service<sup>1</sup> other than the aliens described in section 903, including the following information:*

**Section 904 (a)(1)** *The number of detainees who are criminal aliens and the number of detainees who are non-criminal aliens who are not seeking asylum.*

The table below reflects the number of criminal and non-criminals aliens that were detained and did not seek asylum.

Total	Criminal	Non-Criminal
310,907	90,595	220,312

**Requirement (a)(2)** *An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).*

This requirement was separated by age, gender, and countries of origin. Analysis shows the majority of this group, or 72.27 percent are found in two age ranges: 45.73 percent in the 21 to 30 age group and 26.54 percent in the 31 to 40 age group.

The population was 89.37 percent male. The top five countries of origin were Mexico, Guatemala, Honduras, El Salvador, and the Dominican Republic.

**Requirement (a)(3)** *The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.*

More than half of detainees not seeking asylum were housed in ICE facilities (51.85%).

(b) LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS- With respect to detainees who are criminal aliens and detainees who are non-criminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

**Requirement (b)(1)** *The number and frequency of transfers between detention facilities for each category of detainee not seeking asylum.*

Of this population, the majority (79.26%) were detained in one facility or were transferred once from October 2007 to September 2008 (FY 2008).

**Requirement (b)(2)** *The average length of detention for each category of detainee;*

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<sup>1</sup> As of March 1, 2003, U.S. Immigration and Customs Enforcement under the Department of Homeland Security assumed responsibility for compiling the Section 904 report and references to the Attorney General now refer to the Secretary of Homeland Security.



The average length of detention in FY 2008 for detainees not seeking asylum was approximately 66.18 days for criminal aliens, and approximately 39.62 days for non-criminal aliens.

**Requirement (b)(3)** *For each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;*

Days	Total	310,907
0 - 90	Criminal	79,080
	Non-Criminal	210,829
91 - 180	Criminal	6,739
	Non-Criminal	6,744
181 - 270	Criminal	2,304
	Non-Criminal	1,468
271 - 365	Criminal	1,143
	Non-Criminal	639
>365	Criminal	1,329
	Non-Criminal	632

**Requirement (b)(4)** *For each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service.*

ICE DRO Field Offices; Table (b)(4) displays the release rate of all 24 Field Offices for FY 2008.

**Requirement (b)(5)** *For each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.*

Total	BOND	REM	DIED	OR	OS	OTHER	PARO	TERM	USM	VD	WITH
310,907	22,189	187,038	11	8,106	5,905	6,616	469	3,656	10,334	66,088	496

Note: 'Other' includes the following release reasons: lack of funds, lack of space, escape, terminated, transfer, and reprocessing.

**Requirement (c)(1)** *The number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General.*

There were 67,007 criminal aliens who did not seek asylum apprehended but not detained.

**Requirement (c)(2)** *A list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.*

Aliens who did not seek asylum, and who were originally not detained committed a total of 7,709 crimes.<sup>2</sup>

<sup>2</sup> Based on criminal convictions within the EARM system.

<sup>2</sup> Based on criminal convictions identified from the EARM system.

**Requirement (c)(1)** *The number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General.*

<b>Criminal Aliens, not seeking asylum who were apprehended but not detained.</b>	
<b>Docket Type</b>	<b>Docket Control</b>
CRIMINAL	67,007

**Requirement (c)(2)** *A list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.*

<b>Aliens not seeking asylum who committed crimes after a decision was made not to detain them.</b>	
<b>Criminal Charge Code</b>	<b>Number of crimes committed after the decision was made not to detain*</b>
<b>Total</b>	<b>7,709</b>
Arson	8
Assault	551
Bribery	2
Burglary	179
Civil Rights	1
Commercialized Sexual Offenses	28
Conservation	1
Damage Property	24
Dangerous Drugs	1,936
Embezzlement	6
Extortion	9
Family Offenses	207
Flight / Escape	14
Forgery	158
Fraudulent Activities	200
Gambling	2
General Crimes	30
Health / Safety	30
Homicide	42
Immigration	1,953
Invasion of Privacy	50
Juvenile Offenders	1
Kidnapping	40
Larceny	259
Liquor	6
Military	1
Obscenity	1
Obstructing Judiciary, Congress, Legislature, Etc.	66
Obstructing the Police	92
Public Peace	57
Robbery	167
Sex Offenses (Not Involving Assault or Commercialized	125

Sex)	
Sexual Assault	160
Smuggling	7
Sovereignty	2
Stolen Property	87
Stolen Vehicle	80
Tax Revenue	2
Threat	2
Traffic Offenses	995
Weapon Offenses	128

\* These individuals were later detained.