

**Social Media Surveillance by Homeland Security Investigations:
A Threat to Immigrant Communities and Free Expression**

Immigration and Customs Enforcement (ICE) has become the subject of national ire over its role in the Trump administration's harassment, intimidation, and deportation of immigrants and immigrant families. While most attention has focused on ICE's Enforcement and Removal Operations (ERO), which is responsible for detention and deportation, far less attention has been paid to the agency's Homeland Security Investigations (HSI). HSI, primarily known for investigating cross-border criminal activity, has quietly become the backbone of the White House's immigration enforcement apparatus. Its operations increasingly focus on investigating civil immigration violations, facilitating deportations carried out by ERO, and conducting surveillance of First Amendment-protected expression, often using information pulled from social media — data that is frequently unreliable and difficult to interpret. Risks of online surveillance include the chilling effect on speech, intrusions into privacy, and the likelihood of discrimination in deployment and impact. And there is little proof that the use of such data by HSI — which will affect American citizens and residents as well as immigrant populations — will keep the country safer.

- 1. HSI conducts overbroad, open-ended, and unaccountable social media surveillance.** HSI's scope of operations has expanded far beyond enforcing the laws under the agency's purview, including using social media to target vocal critics of the administration and to collect information on First Amendment-protected activities.
 - **Tracking “Anti-Trump” Protests:** In summer 2018, HSI used Facebook to monitor “Anti-Trump” protests in New York City. Agents maintained and disseminated a [spreadsheet](#) tracking the protests, the left-wing organizing groups, their political goals, and the number of people who signed up on Facebook to attend the protests.
 - **Interrogating Lawyers, Journalists, and Advocates at the Border:** Since 2018, lawyers, journalists, and advocates have been investigated, harassed, detained, and deported in retaliation for their humanitarian and documentary work at the U.S.-Mexico border. As part of an international, interagency operation involving ICE, Customs and Border Protection (CBP), the Federal Bureau of Investigation (FBI), and the Mexican government, HSI collected information and created [dossiers](#) on American and foreign advocates, journalists, and lawyers, in part based on their social media activity.
 - **Searching Electronic Devices:** Within [100 miles](#) of any U.S. border and during ICE's wide-ranging investigations, HSI [claims](#) the right to access the information on electronic devices (e.g., cell phones, laptops, tablets, thumb drives) and in social media accounts [without a warrant](#). When HSI agents search the device of someone trying to enter into the U.S., near the border, or otherwise encountered during ICE operations, they can use hand-held [tools](#) to instantly unlock, decrypt, and download the full contents of the device, including [all data](#) from the individual's Facebook and Twitter accounts. These searches inevitably pick up information about American friends, family members, business associates, and online contacts. HSI uses the social media data extracted from devices to map out social networks to [fuel](#) further investigations and intelligence operations.
- 2. HSI exploits social media information to target vulnerable populations and those speaking out against the administration's immigration policies, often based on extremely thin evidence.**
 - **Social Media Surveillance for “Extreme Vetting”:** HSI has [plans to continuously](#) monitor the moment-by-moment social media activity of 10,000 foreign visitors flagged as “high-risk,” from the time of travelers' visa applications throughout their time in the U.S. HSI personnel are expected to conduct this surveillance manually, though the program originally aimed to use social media posts to algorithmically predict whether a traveler would be a “positively contributing member of society” and “make contributions to the national interest” — criteria drawn from the President's blatantly discriminatory [first Muslim ban](#), and likely to impact the same group of people as the ban itself. This monitoring will impinge upon free speech; anyone wanting to come to the U.S. will be reluctant to post on controversial topics, as will Americans communicating with them.

- **Targeting Immigrant Activists:** HSI [tracks](#) the social media activity of immigrant rights groups and activists to target outspoken immigrants for deportation.
 - ICE [targeted](#) the Vermont-based farm workers' rights group Migrant Justice, using social media to track and monitor the group's advocacy campaigns, locate members for arrest, and compile dossiers on members' activities and social circles. HSI and ERO jointly planned the arrest of two prominent Migrant Justice activists whom the agency labeled "[high-profile cases](#)" despite their lack of criminal records. ICE and CBP arrested [over 40](#) immigrants involved with Migrant Justice between 2016 and 2018.
 - HSI used Facebook to track events organized by the New York City-based immigrant advocacy group New Sanctuary Coalition as part of its "Anti-Trump" protests [spreadsheet](#) in mid-2018. ICE arrested the two co-founders of the group, prominent activists Jean Montrevil and Ravi Ragbir, in January 2018. Montrevil was deported that month and Ragbir remained in immigration detention for nearly three weeks until a federal court [ordered](#) his release, expressing "grave concern" about ICE's possible targeting of Ragbir based on his protected speech. In April 2019, the Second Circuit Court of Appeals [ruled](#) that the First Amendment bars ICE from targeting activists for deportation based on their political speech.
 - **Migrant Youth Arrests:** Social media is a key part of HSI's crackdown on alleged "gang members," a label HSI uses [loosely](#) to target and racially profile individuals, particularly young migrants, suspected only of civil immigration violations. Agents use social media to track and locate these individuals for arrest. During gang raids, HSI agents claim [full authority](#) to arrest [any individual](#) based merely on the individual's immigration status, even if there are [no concrete facts](#) supporting a claim of gang affiliation. In raids targeting alleged members of the Salvadoran gang MS-13, HSI officers were encouraged to extract and save social media data from "[any and all available mobile devices](#)." Information from those devices, such as a list of Facebook friends, is [exploited](#) to map out social networks, identify new targets, and build cases to prove gang affiliation. HSI submits [memoranda](#) to immigration courts to support allegations of gang affiliation that often [rely on](#) specious social media information, such as online contacts or clothing worn in photos. These memoranda [ensure](#) that those labeled gang affiliates are denied bond in immigration court and that all future immigration services and applications are denied.
3. **The automated tools HSI uses to analyze social media have not been proven effective or objective and are likely to result in discriminatory assessments.** Automated systems have a poor track record of making [complex judgments](#), raising [red flags](#) about the push toward automation. Internal [evaluations](#) of earlier DHS pilot programs magnify the concern, as they did not find a sufficient basis to justify scaling up the use of social media screening to the rest of the Department due to the difficulty of spotting "[indicators](#) of fraud, public safety, or national security concern" on social media. Nevertheless, HSI has multiple contracts with data mining and analytics companies to [facilitate](#) its automated analyses.
- **Deportations based on Automated, Unaccountable "Threat Level" Assessments:** HSI has recently ramped up its enforcement against travelers who have allegedly overstayed their visas, [claiming](#) that overstays pose a serious national security threat, although there is [little evidence](#) to substantiate that assertion. HSI awarded a \$37 million [contract](#) to the data mining firm Giant Oak to continuously [monitor](#), aggregate, and analyze social media data to provide the agency with prioritized rankings of potential overstay leads for deportation. Giant Oak formulates these [rankings](#) based on automated assessments of each individual's "[threat level](#)" from their social media activity, among other information. Because social media posts are notoriously [context-dependent](#) and [difficult to interpret](#), complicated assessments about individuals' threat risks will inevitably [rely on proxies](#) that tend to reflect stereotypes and assumptions about the groups being vetted. There is no public information about the validity of Giant Oak's assessments or whether they are discriminatory.
 - **Mapping Social Networks for a Digital Dragnet:** HSI [funnels](#) the information it collects into a large analytical database, FALCON, which was [developed](#) by the data mining company Palantir, to analyze and assess massive amounts of personal data on individuals not suspected of any wrongdoing. Palantir's technology enables HSI to conduct "[social network analysis](#)" and [link analysis](#), creating a [digital dragnet](#) to identify people who may be only very tangentially related to criminal activity. There is no check on the veracity of the information in this system or the connections it draws between individuals, and as the volume of information grows, so does the risk of error.