

FACT SHEET HB-1147

Concerning bail provisions for a person who is illegally present in the US

Why do we need this bill?

We have a persistent and recurring problem with the release of illegal immigrants charged with crimes, who either flee and/or flee and re-offend.

Two notable examples are just the tip of the iceberg. (Press reports attached.)

What does the bill do?

In any bail hearing where there is probable cause to believe the defendant is in the US illegally, creates a rebuttable presumption that the release of the defendant would place the public in significant peril and that the defendant is likely to flee.

So, what's a "rebuttable presumption"?

In the law, a rebuttable presumption is something that the Court must accept as factually true unless the Defendant contradicts it with evidence that the Court accepts as true and a reasonable person of average intelligence could logically conclude from the evidence that the presumption is no longer valid.

What gives rise to the rebuttable presumption?

Whether the Defendant can produce standard identifying documents; has a hold with ICE; any other law enforcement agency indicates the defendant is in US illegally; has admitted he/she is in US illegally; any other evidence that Defendant is in US illegally; any other evidence obtained by or presented to the Court.

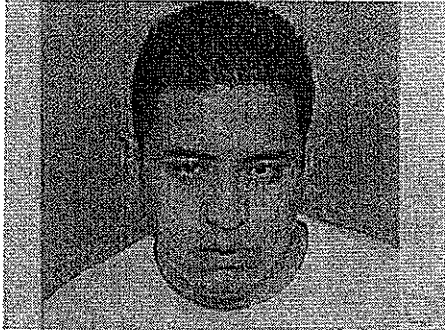
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Illegal Immigrant Accused of Rape Jumps Bail

Police: Manuel Flores disappeared from the U.S.

by Julie Hayden
May 23, 2007



Manuel Flores

DENVER -

Law enforcement agencies say they followed policies and procedures, but an illegal alien, accused of sexually assaulting a nine-year-old Denver girl, was still able to post a bond and flee the country.

The man, who called himself Manuel Flores, was arrested February 15 and accused of raping and sodomizing his girlfriend's daughter. According to police documents, he was not able to provide a Social Security number or driver's license. When he was booked into the Denver Jail, he told officers he was born in Moralos, Mexico.

A Sheriff's Department spokesman says they alerted federal immigration officials that Flores might be an illegal alien, but ICE apparently did not put an immigration hold on him. Judge Andrew Armatas set

as \$35,000 bond, which legal observers say is low for someone suspected of sexually assaulting a child. But before prosecutors had a chance to argue for a higher bond, Flores put up the \$3500 dollars necessary to bond out, and fled to Mexico.

Bounty hunter James Ness discovered Flores real name and tracked him to his hometown in Mexico. Ness says he provided the information to prosecutors, but there is no move to bring the suspect back to the United States. Ness says he thinks this case fell through the cracks, but he adds, "But the crack is huge. A lot of people fall into that crack."

ICE and the Judge did not respond to Fox31 calls. The Denver Sheriff's Department says they report roughly 20 suspected illegal aliens under arrest to ICE each day. But the federal agency typically puts holds on only two or three.

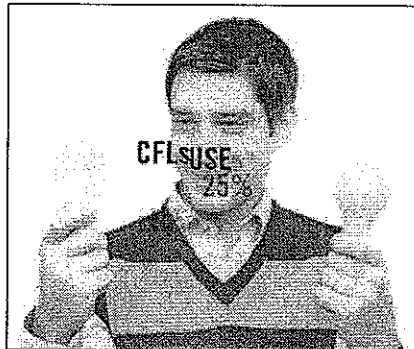
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Rocky Mountain News

Finger-pointing over handling of illegal immigrant in fatal crash

By Judi Villa, Rocky Mountain News

Published September 9, 2008 at 11:58 a.m.
Updated September 10, 2008 at 2:22 p.m.



Photo by Javier Manzano © The Rocky

Family and friends gather at the funeral services for 3-year-old Marten Kudlis. Francis Hernandez, the driver of the vehicle has never had a license in his life, Aurora police Lt. John Sopranuk said.



Photo by Chris Schneider © The Rocky

Alberto Riveros walks in front of a makeshift memorial of stuffed animals, candles and messages today at the Baskin-Robbins store near East Mississippi Avenue and South Havana Street. Three people were killed after a collision there last week.

Colorado is supposed to have some of the toughest immigration laws in the country.

Yet an illegal immigrant managed to be arrested nearly 20 times over the past five years and remain free until he allegedly caused a car crash last week that killed two innocent women and a toddler.

Now, the governor says the system failed, and local police are pointing the finger at federal immigration officials.

But officials with Immigration and Customs Enforcement say it may just be that Francis Hernandez, 23, had masqueraded as a U.S. citizen for so long that he flew under the radar.

Both police and immigration officials insist they are doing their part to enforce a 2006 state law designed to identify and deport illegal

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immigrants.

Statewide, Colorado law enforcement agencies forwarded the names of 16,000 suspected illegal immigrants to ICE last year.

In fiscal year 2007, which ended last Sept. 30, ICE identified 4,545 illegal immigrants in Colorado's jails and prisons, said ICE spokesman Tim Counts. Nearly 5,600 illegal immigrants were deported. The number deported is higher because it includes some illegal immigrants identified in earlier years.

This fiscal year, through Aug. 4, ICE has deported 4,792 illegal immigrants from Colorado, Counts said.

"We are working very hard. We are being very responsive," Counts said. "I understand some law enforcement may feel frustrated if we're not there when they snap their fingers. But like all law enforcement, we have finite resources."

The Center for Immigration Studies estimates Colorado's immigrant population at 435,000. Nearly one-third of those people are believed to be illegal.

Across the country, crimes involving illegal immigrants have become a lightning rod for criticism and fiery rhetoric, and it's no different in Colorado.

The arrest of Hernandez and subsequent revelation that he is an illegal immigrant from

Guatemala has renewed a long-simmering and often acrimonious debate about immigration reform.

Hernandez is accused of broadsiding a pickup truck Thursday in Aurora, sending both vehicles careening into a Baskin Robbins ice-cream shop.

Two women in the pickup, Debra Serecky, 51, of Aurora, and Patricia Guntharp, 49, of Centennial, were killed as was Marten Kudlis, 3, of Aurora, who was in Baskin Robbins with his mother.

Aurora police said Arapahoe County sheriff's officials referred Hernandez to ICE on their behalf after Hernandez was arrested for speeding and driving without a valid license on April 25.

Counts said Tuesday that officials could find no record of an April referral. In fact, Counts said Hernandez was never referred to ICE before last week's triple-fatal crash.

Aurora police spokesman Bob Friel said Tuesday he stands by his department's assertion.

"He never got deported as a result of being arrested a lot of different times over a few years, and that's a failure of the system," Gov. Bill Ritter said Tuesday on 850 KOA News radio.

Ritter later said, "This is something we clearly have to fix. This is a problem."

Hernandez may have slipped through the cracks

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because most of his offenses stemmed from traffic-related misdemeanors and because he used numerous aliases and dates of birth. When he was arrested in Aurora in April, he had a recent pay stub on him, and officers noted that he spoke English. Hernandez said he was born in California.

State Republican Sen. Tom Wiens, the author of the 2006 bill, said the law, for the most part, has worked as it has supposed to because it has been able to hold law enforcement agencies accountable for making referrals when they come into contact with suspected illegal immigrants.

Still, law enforcement officials say they are taking people like Hernandez off the streets every day.

Jefferson County officials said they hold about five illegal immigrants a day for ICE. In Adams County, sheriff's officials made 1,915 queries to ICE last year. This year, they have made 1,625. Aurora police said they referred about 2,500 suspected illegal immigrants to ICE last year.

At the Colorado Department of Public Safety, 23 troopers were specially trained last year to enforce immigration laws during routine traffic stops.

In its first year, the unit processed about 920 undocumented foreign nationals, said spokesman Lance Clem. Among those were 21 wanted felons and 188 foreign nationals with

criminal backgrounds that ranged from multiple felonies to drug charges to DUIs. During that time, 367 detainers were issued for suspects in custody.

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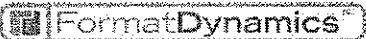
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