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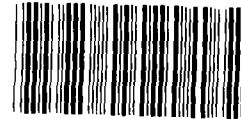
GAO

Report to the Chairman, Subcommittee on  
Immigration, Refugees, and International  
Law, Committee on the Judiciary, House  
of Representatives

November 1987

# CRIMINAL ALIENS

## INS' Enforcement Activities



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**General Government Division**

B-222060

November 10, 1987

The Honorable Romano L. Mazzoli  
Chairman, Subcommittee on Immigration,  
Refugees, and International Law  
Committee on the Judiciary  
House of Representatives

Dear Mr. Chairman:

This report is in response to your August 11, 1986, request that we examine selected enforcement activities of the Immigration and Naturalization Service relating to criminal aliens in Chicago, Illinois; Denver, Colorado; Houston, Texas; Los Angeles, California; and Miami, Florida.

The report discusses the magnitude of the criminal alien problem in these cities and the Immigration and Naturalization Service's strategies and activities to respond to the problem.

As arranged with your office, unless you publicly announce the contents of the report earlier, we plan no further distribution until 7 days after the report date. At that time, we will send copies of this report to the Attorney General, Department of Justice; the Commissioner, Immigration and Naturalization Service; and other interested parties.

Sincerely,

Arnold P. Jones  
Senior Associate Director

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# Executive Summary

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## Purpose

At the request of the Chairman, Subcommittee on Immigration, Refugees, and International Law, House Committee on the Judiciary, GAO obtained information on (1) the views of state and local law enforcement agencies on the magnitude of the criminal alien problem and (2) how the Immigration and Naturalization Service (INS) deals with those agencies to address the problem.

GAO's review was conducted in five cities with large alien populations—Chicago, Illinois; Denver, Colorado; Houston, Texas; Los Angeles, California; and Miami, Florida. (See p. 13.)

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## Background

The term "criminal aliens," as used in this report, includes legal and illegal aliens who have been convicted of crimes. Aliens convicted of certain types of criminal offenses such as murder, manslaughter, and rape may be subject to deportation. Illegal aliens can be deported even if they did not commit a deportable crime.

INS is responsible for, among other things, identifying, investigating, and apprehending criminal aliens, detaining and deporting them, and inspecting all aliens at ports-of-entry to ensure that previously deported criminal aliens do not reenter the United States. INS carries out these enforcement responsibilities through cooperation with state and local law enforcement agencies. (See p. 9.)

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## Results in Brief

Although no reliable data exist on how many criminal aliens there are, law enforcement officials and INS representatives in the five cities believe that alien involvement in crime is a serious problem.

The way INS district offices identify criminal aliens varies. In Houston, Los Angeles, and Miami, INS concentrates on investigating aliens in jail after their conviction. In Chicago and Denver, INS has concentrated its efforts on identifying aliens after they are arrested. In these two cities, INS' efforts have been adversely affected by funding constraints.

GAO found that two INS systems used to detect previously deported criminal aliens at ports-of-entry do not contain all of the needed identification and/or deportation information. As a result, INS' ability to exclude these aliens if they attempt to reenter the country at a port-of-entry is severely limited.

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## Principal Findings

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### Magnitude of the Criminal Alien Problem

Generally, crime statistics identify individuals as foreign-born rather than as aliens. Accordingly, GAO used FBI arrest statistics related to foreign-born individuals (which includes aliens and naturalized citizens) reported by law enforcement agencies as an indicator of the problem.

FBI statistics indicate that in fiscal year 1985, in Harris County (Houston) and Los Angeles County, more than 20 percent of the arrests in which the offender's place of birth was known involved foreign-born individuals. In Dade County (Miami) the comparable figure was 38 percent. Although the statistics reflect a smaller percentage in Cook County (Chicago) and Denver—9 and 7 percent, respectively—INS officials consider the problem significant in Cook County and Denver and have made it a priority, as it is in the other cities. (See p. 18.)

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### INS Efforts to Identify Criminal Aliens

INS district offices in the five cities concentrate their investigative efforts at different stages of the criminal justice system. The Houston, Los Angeles, and Miami District Offices direct their investigative efforts mainly at incarcerated aliens.

INS' Houston and Los Angeles District Offices are also trying to identify criminal aliens earlier in the criminal justice system. For example, Houston is attempting to establish a means for identifying arrested offenders when they appear in court for bail hearings. The Los Angeles office has participated in projects with local law enforcement agencies to identify and remove from the country, aliens involved in street crime.

The Chicago and Denver offices concentrate their efforts at the early stages of the criminal justice system—at bond hearings in Chicago and before bond hearings in Denver. However, efforts in these locations have been hampered by a lack of funds. (See p. 21.)

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### INS Is Unable to Identify All Previously Deported Criminal Aliens at Ports-Of-Entry

To help detect previously deported criminal aliens at ports-of-entry, INS inspectors use two information systems which contain selected information on deported aliens. INS' ability to prevent previously deported aliens from entering, however, was severely limited because these systems did not always contain deportation information.

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Some deported criminal aliens returned to the United States. FBI arrest records for 165 deported criminal aliens for whom data did not appear in INS' information systems showed that 56 reentered the country at least once. These 56 were deported a total of 152 times and reentered 122 times. They accounted for a total of 260 arrests. (See p. 35.)

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## Recommendations

In a March 1987 report, GAO recommended to the Commissioner of INS that he should ensure INS systems contain the data needed to help INS identify deported aliens at ports-of-entry. In August 1987, INS said it has implemented the suggestions contained in the March report. Therefore, GAO is making no further recommendations.

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## Agency Comments

The Department said that it generally concurs with the report and finds the report to be an accurate reflection, in most cases, of how criminal alien investigations are handled in those jurisdictions studied. (See app. II.)



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**Abbreviations**

ACAP	Alien Criminal Apprehension Program
CCIC	Colorado Crime Information Center
CIS	Central Index System
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
INS	Immigration and Naturalization Service
MCC	Metropolitan Correction Center
NAILS	National Automated Immigration Lookout System
NCIC	National Crime Information Center

# Introduction

Aliens may be in the United States legally or illegally. Legal aliens generally include (1) immigrants who have entered the country on valid visas and have been granted resident status by the Department of Justice's Immigration and Naturalization Service (INS) and (2) nonimmigrants such as students, tourists, temporary workers, and business visitors who do not violate the conditions set forth in their visas. Illegal or undocumented aliens include (1) those who enter the country without visas or passports and without making themselves known to INS and (2) nonimmigrants who violate a condition of their visas, such as remaining in the country beyond the period of time authorized.

The Immigration and Nationality Act (8 U.S.C. 1101) authorizes INS to apprehend aliens and deport them as criminal aliens if they have been (1) convicted of a crime involving moral turpitude committed within 5 years of entry and sentenced to confinement for a year or more or (2) convicted of two or more crimes involving moral turpitude, not arising from a single action, at any time after entry regardless of whether confined. Crimes of moral turpitude include murder, manslaughter, rape, and sodomy. INS can also deport aliens if they are narcotic addicts or have been convicted of a drug offense. An alien who enters the country illegally or violates a condition of entry can be deported either as an illegal alien or, if convicted of a deportable crime, as a criminal alien. Once deported, aliens are considered to be excludable, i.e., they generally may not legally reenter the country for 5 years.

Unless otherwise stated, the term "criminal aliens" as used in this report includes all aliens, legally or illegally residing in the country, who have been convicted of a crime. In some cases, the aliens' crime may not warrant deportation. However, if they are here illegally, they may be deported based only on their illegal status and not on their conviction.

According to INS, aliens involved in crimes pose a growing threat to the nation's domestic and internal security. For example, INS reported the following:

- In fiscal year 1985, federal, state, and local law enforcement agencies made more than 135,000 referrals to INS concerning aliens who they believe could have been deported on the basis of their criminal activity.
- In New York City, in the 15-month period ended September 30, 1985, 12,300 aliens were arrested for felonies.
- In the Albany, New York area, aliens were operating what drug enforcement officials considered to be the largest cocaine processing laboratory

outside of Colombia, capable of supplying 5 percent of the total U.S. cocaine market.

- A study by law enforcement authorities in Southern California estimated that illegal aliens represent 12 to 16 percent of all felony arrestees, 25 percent of all auto theft arrestees and, in some police precincts, 50 to 80 percent of those arrested for selling drugs.

Federal responsibility for criminal aliens has been reemphasized in the Immigration Reform and Control Act of 1986 (P.L. 99-603, Nov. 6, 1986). The act requires INS to begin deportation proceedings against aliens with deportable offenses as expeditiously as possible after their convictions. It also authorizes the Attorney General to reimburse states for costs they incur in imprisoning illegal aliens convicted of felonies. In addition, the Anti-Drug Abuse Act of 1986, (P.L. 99-570, Oct. 27, 1986) includes a requirement that law enforcement officials notify INS when they arrest any individual suspected of being an illegal alien on drug charges.

## INS Enforcement

INS operates through a central office, 4 regional offices, 33 domestic district offices, 20 Border Patrol Sectors, and 162 INS staffed ports-of-entry.<sup>1</sup> Within each district office, the enforcement structure consists of three major elements.

- Investigations: Criminal aliens are identified, detected, and apprehended by this group.
- Detention and deportation: This group detains criminal aliens and is responsible for removing them from the United States.
- Inspections: This group facilitates the entry of qualified applicants to the country and identifies and denies admission to those who do not qualify for entry.<sup>2</sup>

The Border Patrol is responsible for preventing the entry of aliens between ports-of-entry. In some areas, the Border Patrol also performs investigations to locate illegal aliens.

<sup>1</sup>Other ports-of-entry are not permanently staffed.

<sup>2</sup>In addition, inspections approve or deny applications and petitions for benefits such as visitors' requests to extend their stay in the country.

Since aliens most often come into contact with local criminal justice systems, INS' investigators often must work with local law enforcement officials. While the criminal justice process differs among localities, the same basic elements generally are present.

The process usually begins with the arrest of suspected offenders. The suspects then are arraigned (informed of the charges and enter a plea). A pretrial interview may take place to determine the suspect's eligibility for release and a bail hearing may be held to set release conditions. Subsequently, the suspects will stand trial or plead guilty without trial and if convicted be sentenced. If sentenced to a state prison, the offenders may spend a brief period of time in an intake facility, where they are processed and subsequently sent to a prison.

Arrestees can and do drop out of the process at various points so that, ultimately, only a fraction of them are incarcerated. Charges against arrestees may be dropped or dismissed; arrestees may be acquitted; they may abscond while on bond or otherwise fail to appear for a hearing or trial; or they may be diverted to a rehabilitation program before trial. Even if they complete the process to the sentencing stage, they may receive probationary or suspended sentences rather than sentences of prison or jail time.

INS' enforcement process usually begins when its investigators identify aliens within the federal, state, or local criminal justice systems, such as a court or a prison. Investigators compile the evidence needed to deport aliens and issue (1) detainers, which notify the local law enforcement agency to turn aliens over to INS when they are released from custody and (2) orders to show cause, which inform aliens that they must appear for deportation hearings and show cause why their deportation should not proceed. INS can apprehend criminal aliens when they are released and either place them in detention or release them on bond. At a deportation hearing, the case for deportation is presented by an INS trial attorney before an immigration judge of the Executive Office for Immigration Review. If INS is successful, the alien is deported.

To prevent aliens from reentering the country at a port-of-entry, INS inspectors screen arriving aliens and review their entry documents. To assist INS inspectors at ports-of-entry, INS has a Service Lookout Book which lists about 6,100 individuals who have been deported and its automated version, the National Automated Immigration Lookout System (NAIIS). In addition, INS inspectors can use the Central Index System

(CIS), which should contain deportation data as well as information on the immigration status of all aliens (not only those who were deported).

## INS Resources

In fiscal year 1986, 3,780 INS positions were allocated to investigations, detention and deportation, and inspections at a cost of about \$200 million. These functions also encompass activities other than those involving criminal aliens. For example, investigations of employers who hire illegal aliens and the detention, deportation, and inspection of aliens are also included. In fiscal year 1986, INS spent about 15 percent of its investigation resources on criminal alien investigations, or about 100 staff-years.

INS' investigative case management system and servicewide priorities govern the allocation of investigative resources. The system prioritizes its investigative resources into three levels. Level I includes investigations of criminal aliens who may have committed a deportable offense, immigration fraud schemes, and employers of illegal aliens. Investigations of illegal aliens who engage in criminal activity, but do not meet the criteria for deportation as criminal aliens, i.e., lack the necessary conviction, are categorized in level II. Level III includes administrative investigations, such as those dealing with equal employment opportunity complaints within INS. For INS to initiate a criminal alien investigation, the alien has to be charged with or convicted of a crime that could result in the alien's deportation.

INS' central office establishes annual servicewide priorities and objectives. For fiscal year 1987, two objectives relate to criminal aliens. One objective requires each district office to spend at least 80 percent of productive investigative time on level I investigations, which include criminal aliens. The other, which was added for fiscal year 1987, is to identify aliens involved in serious or violent crimes and narcotic offenses who can be removed from the country—this can include deporting the alien or having the alien voluntarily leave the country.

To achieve the specific objectives, regional offices are required to establish numerical goals for each district office. For fiscal year 1987, the regional offices set goals as follows:

- The Northern Region set goals of identifying 300 and 145 aliens involved in crime for its Chicago and Denver districts, respectively.
- The Western Region set a goal of identifying 1,200 aliens involved in crime for its Los Angeles district.

- The Southern Region set a regionwide goal, which includes Houston and Miami, of identifying 2,800 aliens involved in crime.

Four of the five district offices included in our review have investigators dedicated specifically to investigations of aliens involved in crimes, although they also work on other types of investigations. The resources used on these investigations during fiscal year 1986 appear in table 1.1.

**Table 1.1: Investigative Resources for Fiscal Year 1986**

	Nationwide	Chicago	District Office <sup>a</sup>			
			Denver	Houston	Los Angeles	Miami
Investigators authorized	815	68	16	18	77	34
Investigators assigned	696	55	16	15	65	31
Investigators assigned specifically to criminal aliens	Not available	11	0	5	13	10
Total investigative hours	1,381,638	120,699	32,391	30,504	122,784	60,724
Hours charged to individual criminal alien investigations	207,284	19,722	4,702	4,718	23,163	12,821
Percent of total investigative hours charged to individual criminal aliens	15.0	16.3	14.5	15.5	18.9	21.1
Equivalent investigator years <sup>b</sup>	99.7	9.5	2.3	2.3	11.1	6.2
Criminal alien cases completed <sup>c</sup>	12,543	471	106	932	1,621	478
Aliens removed from the country	5,217	157	43	351	462	222

<sup>a</sup>Statistics for each district office relate to the entire district, which includes geographical areas outside the specific city.

<sup>b</sup>One equivalent investigator year is 2,080 hours.

<sup>c</sup>INS considers a criminal alien investigation to be completed when no more investigative time will be spent on the case, regardless of the final action taken against the alien. For example, a case is completed when it is referred to Detention and Deportation personnel. INS decides when further work would be unproductive. An investigation may have started in prior years but was not considered complete until fiscal year 1986. Further, the time spent on an investigation case in any year varies for each case. For example, a case may have minimal time spent on it in the year in which it was completed.

## INS' Investigative Strategy

In March 1986, at Senator D'Amato's request we reported on the criminal alien problem in New York City.<sup>1</sup> The report pointed out that INS generally did not pursue most aliens involved in crime who came into contact with the criminal justice system. Rather, INS waited until the aliens were incarcerated in state prisons before initiating investigations to identify the aliens as potentially deportable. This strategy, which focused on the later stages of the criminal justice process, may not have

<sup>1</sup>Criminal Aliens, INS' Investigative Efforts in the New York City Area (GAO/IGD-86-58BR, Mar. 10, 1986).

identified potentially deportable aliens. For example, seven of eight felony arrestees in New York are not incarcerated and therefore not available for INS investigators to contact.

In response to congressional concerns about the issues raised in that report, INS developed an overall strategy and plan for investigating, apprehending, and deporting criminal aliens called the alien criminal apprehension program (ACAP). In general, ACAP's strategy calls for a more proactive approach to identifying and removing criminal aliens from the streets and country and to developing closer working relationships with federal, state, and local law enforcement agencies. The strategy includes

- increasing INS participation in joint task force efforts with other law enforcement agencies, particularly those relating to narcotics;
- coordinating INS efforts with law enforcement, judicial, prosecutorial, and correctional officials at all levels to help identify and process aliens involved in crimes at the earliest stages of the criminal justice system; and
- obtaining the cooperation of immigration judges to hold hearings for incarcerated criminal aliens to ensure their immediate removal from the country upon their release.

As of March 1, 1987, INS was in the process of implementing pilot tests of its new strategy in selected district offices. A detailed discussion of INS' strategy is contained in chapter 2.

## Objectives, Scope, and Methodology

By letter, dated August 11, 1986, Representative Romano L. Mazzoli, Chairman, Subcommittee on Immigration, Refugees, and International Law, House Committee on the Judiciary, requested us to review INS efforts to deal with the criminal alien problem in five cities—Chicago, Illinois; Denver, Colorado; Houston, Texas; Los Angeles, California; and Miami, Florida. According to the Bureau of the Census, these cities as well as New York City and the surrounding areas account for more than half of the total estimated illegal alien population. According to INS, our work in these cities and our previous work in New York City enables us to generalize about INS' operations regarding the criminal alien problem. However, we cannot statistically project our audit results nationwide.

As agreed with the subcommittee, we obtained the views of state and local law enforcement representatives on the crime problem associated with aliens in each city. We also studied how INS

- identifies aliens who come into contact with criminal justice systems;
- cooperates with state prosecutors in identifying those aliens who should be given the option of leaving the country in lieu of prosecution;
- is able to identify, and thus exclude, deported criminal aliens at ports-of-entry; and
- implements its overall strategy for dealing with the criminal alien problem.

As agreed with the subcommittee, our work focused on INS efforts as they relate to aliens involved in crime.

To obtain information on the estimated magnitude of the criminal alien problem in each city, we held discussions with representatives of INS district offices in Chicago, Denver, Houston, Los Angeles, and Miami. We also held discussions with, and reviewed data compiled by, local law enforcement officials in these cities and their metropolitan areas.

We obtained statistics from the Federal Bureau of Investigation's (FBI) Automated Identification Division System on the number of persons arrested in each city, including those foreign-born. The system contains arrest information submitted by local law enforcement agencies on more than 10 million persons, about 4.6 million of whom are in California, Colorado, Florida, Illinois, New York and Texas. The FBI statistics include only those arrestees who were reported by local law enforcement agencies and for whom they submitted acceptable fingerprint cards. Accordingly, the number of arrests reflected in these statistics might be smaller than the number of actual arrests made by these local law enforcement agencies.

Additionally, in gathering data for Chicago, Houston, Los Angeles, and Miami, we included data on their respective counties (Cook, Harris, Los Angeles, and Dade) because data by city was not readily available. Data was available for the city of Denver.

Generally, crime statistics identify individuals as foreign-born rather than as aliens. (Foreign-born individuals include aliens, naturalized citizens, and children of U.S. citizens born outside the country.) Accordingly, we used data on foreign-born individuals as an indicator. Our use of these statistics is not intended to imply that foreign-born individuals are more prone to criminal activity than are American-born. Since the foreign-born population is greater than the alien population, the crime problem reflected by this data may be overstated.



To assess the magnitude of aliens involved in crime, we used arrest statistics. However, caution should be exercised when using such statistics because being arrested does not mean someone is guilty of the charge, and multiple charges can be associated with one arrest. In addition, the Department of Justice in commenting on our draft report said arrest statistics do not necessarily give a complete picture because some aliens involved in crime may never be arrested or may be infrequently arrested, even though they may be involved in criminal activity. Further, Justice added that some foreign-born individuals are United States citizens, and many aliens falsely claim to be born in the United States and therefore their arrests are not reflected in the FBI statistics. Justice also said that while the percentages we obtained by using FBI records are valid, not all FBI arrest records for specific jurisdictions were sampled.

In order to determine how INS identifies aliens who come into contact with the criminal justice system, we held discussions with INS district managerial, supervisory, and investigative personnel and with law enforcement authorities in these localities, and reviewed INS policies, procedures, and records relating to its investigations.

To understand how INS cooperates with state prosecutors in identifying aliens who should be given the option of leaving the country in lieu of prosecution, we held discussions with five INS district office trial attorneys and with state prosecutors from Cook County (Chicago), Illinois; Denver County, Colorado; Harris County (Houston), Texas; Los Angeles County, California; and Dade County (Miami), Florida.

To determine how INS is able to identify and thus exclude deported criminal aliens at ports-of-entry, we held discussions with INS managerial and supervisory inspection personnel and observed inspections of aliens entering the country at O'Hare International Airport (Chicago); Stapleton International Airport (Denver); Intercontinental Airport (Houston); Los Angeles International Airport; and Miami International Airport.

We also tested the two systems maintained by INS to detect and prevent deported aliens from reentering the country: (1) the Service Lookout Book and its automated version, NAILS, and (2) CIS.

Our test consisted of entering the names of 457 criminal aliens deported by the five INS district offices during the period October 1, 1983, to June 30, 1986, into the Service Lookout Book/NAILS and CIS. We did this to test INS' controls for entering deported aliens' names into the systems. This time period was selected to ensure we had a sufficient number of cases

to test INS' procedures and practices for data entry. We tested INS' systems in February 1987 which gave INS at least 7 months to enter the data into the systems.

For Chicago, Denver, and Miami, we tested 286 of 525 criminal alien cases in the universe. We were unable to review and test 239 other cases because they had been transferred to other INS district offices, sent to archives, or could not be located. According to district office representatives, there was nothing unique about these missing cases to differentiate them from those that were available. For Houston, we entered a random sample of 81 cases out of a universe of 499, and for Los Angeles, we entered a random sample of 90 cases out of a universe of 1,210.

To determine INS' overall strategy for dealing with the criminal alien problem, we reviewed INS' strategy and plans for investigating and apprehending criminal aliens. We also held discussions with INS representatives at its central office, regional offices, and district offices, and reviewed INS documents dealing with strategy and plans for its implementation.

In conducting our work, we used information contained in two of our previous reports dealing with criminal aliens in New York City—Criminal Aliens: INS' Investigative Efforts in the New York City Area (GAO GGD-86-58BR, Mar. 10, 1986) and Criminal Aliens: Majority Deported from the New York City Area Not Listed in INS' Information Systems (GAO GGD-87-41BR, Mar. 3, 1987).

We did not review ACAP, the Immigration Reform and Control Act of 1986, and the Anti-Drug Abuse Act of 1986 because they were put into effect toward the end of our review. However, in commenting on our draft report Justice (1) stated the FBI identified a problem the Immigration Reform and Control Act of 1986 caused in sharing arrest information and (2) suggested an amendment to the Immigration and Nationality Act (see app. II). GAO has no position on these issues, which were outside the scope of our review. Because of resource and time constraints, we did not review computer controls relating to the arrest data provided by FBI and local agencies and the two INS systems discussed in chapter 4. Our work was conducted between September 1986 and March 1987. Except as noted above, our work was conducted in accordance with generally accepted government auditing standards.

# The Criminal Alien Problem and INS' Strategy in Dealing With It

No one knows how many deportable criminal aliens exist. However, according to INS, they are a growing threat to the nation's security. Generally, crime statistics identify individuals as foreign-born rather than as aliens. We therefore used such data as an indicator of the criminal alien problem. According to the 1980 census, foreign-born individuals represent about 6.2 percent of the total U.S. population and about 19.6 percent of the population in the six localities discussed in this report. The Bureau of the Census estimates that aliens represent about 50 percent of people who are foreign-born. FBI arrest data is available for foreign-born individuals, but it cannot identify whether such individuals are citizens or aliens. This data for 1985 for the six localities indicate that foreign-born individuals accounted for about 19 percent of the total arrests.

Table 2.1 shows the percentage of foreign-born population that are aliens, according to the Bureau of the Census.

**Table 2.1: 1980 Alien Population**

Locality	Foreign-born population (thousands)	Alien population (thousands)	Alien population (percent)
Chicago	630	325	52
Denver	31	16	52
Houston	202	140	69
Los Angeles	1,665	1,173	70
Miami	578	329	57
New York City	1,670	801	48

The identification of criminal aliens who may be deportable requires cooperation between INS and state and local law enforcement agencies. INS generally relies on these agencies to identify individuals who have come in contact with the criminal justice system and who the agencies believe to be aliens. These agencies rely on INS to determine if the identified people are aliens.

The five INS district offices identify criminal aliens at different stages of the state and local criminal justice process. The stage when district offices become involved is influenced by the resources available. Officials in each of the INS offices believe they are effectively using their resources by focusing on specific stages of the process and particularly on deportable aliens.

Although INS tends to concentrate on those aliens who have been charged with or convicted of a deportable crime, it has developed and is refining its approach to identifying aliens involved in crime earlier in the criminal justice process. Through early identification, INS intends to improve its apprehension of those it believes should be deported.

## Criminal Alien Problem Appears Significant

Aliens appear to be involved in crime to a significant degree in at least three of the five localities in our review. In Harris County (Houston) and Los Angeles County, more than 20 percent of the arrests involved foreign-born individuals. In Dade County (Miami), the comparable figure was 38 percent.

As shown in table 2.2, except for Houston and New York City, the percentage of foreign-born arrestees in the other four areas was similar to the percent of their foreign-born population. In Houston and New York City the foreign-born population was 8 and 24 percent and accounted for about 21 and 16 percent of the total arrests respectively.

**Table 2.2: Comparison of Percentages of Foreign-Born Population in the Six Localities to the Percentages of Total Arrests They Represent**

Locality	Population (millions)	Total arrests	Foreign-born (thousands)	Foreign-born arrests	Foreign-born (%)	Foreign-born to total arrests (%)
Chicago	5.3	55,143	630	5,069	12	9
Denver	5	3,955	31	273	6	7
Houston	2.4	25,358	202	5,247	8	21
Los Angeles	7.5	56,741	1,665	13,525	22	24
Miami	1.6	35,251	578	13,359	36	38
New York City	7.1	112,109	1,670	18,079	24	16

While Cook County's (Chicago) and Denver's problem with aliens involved in crime appears small in comparison to the other localities, INS officials consider the problem significant and have made it a priority, as it is in the other cities.

## Chicago (Cook County)

According to representatives from Chicago's District Office, the types of crimes committed by aliens appear to parallel those committed by the general criminal population. They said that INS recognized the severity of the problem in 1984 and established the identification, apprehension, and deportation of criminal aliens as a district priority. According to a

Cook County prosecutor, about 10 percent (or 40) of the average 400 daily arrestees appearing in Chicago's bond courts (where arrestees make their initial court appearance) are foreign-born.

An official of the Cook County Adult Probation Department estimated that 6 percent (or 816) of the 13,608 individuals sentenced to probation between December 1, 1984, and November 30, 1985, were foreign-born. The Illinois Department of Corrections estimates that as of November 2, 1986, 3 percent (or 528) of 19,380 inmates in state prisons were foreign-born. Since about 70 percent of the state prison population is comprised of Cook County offenders, about 370 inmates from Cook County could be foreign-born.

## Denver

Although the problem associated with aliens involved in crime in Denver may not appear to be as severe as in other cities, local police see the aliens involved in crime as significant and increasing. While not having data to support his views, the Denver Chief of Police believes that illegal aliens have given rise to violent crime in the nation, with Denver being no exception, and that much of the crime involving aliens in the city goes unreported because of fear of the police.

INS data indicate that aliens in Denver are less involved with such serious crimes as homicide and drugs and more involved with domestic and motor vehicle-related crimes (driving while intoxicated, driving under the influence, and driving without a license or insurance). Nevertheless, INS and some local officials view this as a problem because of the costs involved in legal and social services.

The Colorado Bureau of Investigations reported that as of November 18, 1986, 2 percent (or 76) of the 3,849 inmates in state prisons were foreign-born, as were 10 (or less than 1 percent) of 3,082 parolees.

## Houston (Harris County)

Local law enforcement agencies in Houston do not collect data on foreign-born offenders who come within their custody. Houston police representatives told us they had a criminal alien problem but were unable to provide specific information. An INS investigative supervisor said that Houston has a large criminal alien population. A representative of the Harris County Sheriff's Department said that while the department's computers have the capacity to collect statistics on foreign-born arrestees, they were not programmed to do so. The district attorney's

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office representative told us that he believes there is a substantial relationship between drug crimes and aliens. Also, according to the Texas Department of Corrections, 9 to 12 percent of the 38,000 to 39,000 inmates in state prisons are aliens.

A local constable who provides law enforcement for unincorporated areas of Texas believes that criminal aliens are becoming more involved in violent types of crime. The constable thinks that aliens believe INS to be shorthanded and probably unable to deal with them.

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### Los Angeles (Los Angeles County)

INS and local officials believe there is a significant criminal alien problem in this area. INS officials believe the area's problem is much larger than the problem in New York as reported by us in March 1986.<sup>1</sup> Following are some indicators of the problem's size:

- In a 1-week period in March 1987, the Los Angeles Police Department made 5,071 arrests; 1,439 or 28 percent of whom were foreign-born offenders.
- The INS Western Regional Commissioner estimated that about 95,000 aliens were arrested in 1985 for criminal offenses and other violations in Los Angeles County and adjacent Orange County.
- While not having supporting data, an Assistant Chief of the Los Angeles Police Department believed that illegal aliens may be generally responsible for 30 percent of the area's crime.
- As of November 30, 1986, the total population of California state prisons was 58,662; 6,040 or 10 percent of whom were foreign-born.
- As of November 30, 1986, there were 35,500 individuals in the California parole system; 4,124 or 12 percent of whom were foreign-born.

Drug crimes appear to have a heavy involvement of illegal aliens. For example, the results of a Los Angeles Police Department drug task force investigation indicated that more than 50 percent of those arrested were illegal aliens. In the city of Santa Ana, in nearby Orange County, illegal aliens are estimated to comprise about a quarter of the population and, according to the head of its narcotics task force, approximately 95 percent of those arrested are illegal aliens, mainly involved in drug trafficking.

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<sup>1</sup>Criminal Aliens: INS' Investigative Efforts in the New York City Area (GAO, GGD-86-58BR, Mar 10, 1986).

## Miami (Dade County)

INS district office officials and local officials believe that aliens are becoming more involved in Miami and Dade County crimes. According to INS representatives, the criminal alien problem centers around the drug trade and drug-related violence in South Florida. For example, 51 of the 109 Miami district deportation cases we reviewed involved drug crimes. Metro-Dade Police Department (County) representatives indicated there has been an overall increase in violent crime, not only by but against foreign-born individuals. Following are some indicators of the problem:

- From 1979 to 1985, the number of known foreign-born homicide offenders increased from 29 to 48 percent, while the number of foreign-born victims increased from 35 to 54 percent.
- Between October 26 and November 8, 1986, the Metro-Dade Police Department arrested 660 foreign-born individuals, an estimated one third of all arrests.
- As of November 15, 1986, the Florida Department of Corrections estimated that about 1,934 of its 31,281 prisoners in state prisons were foreign-born.
- As of November 7, 1986, 2,145 of about 65,000 offenders on parole and felony probation were foreign-born. Of the 2,145, 1,689 were located in southern Florida.

## INS Criminal Alien Investigations

Criminal alien investigations in Houston, Los Angeles, and Miami are mainly directed at aliens who are serving sentences in prison. INS officials believe that this is the best use of its resources. We reported previously that this strategy did not identify many criminal aliens in New York City because only a relatively small percentage of arrested individuals actually go to prison.<sup>2</sup> It is not known how many of those not imprisoned may be illegal aliens or criminal aliens who are deportable based on prior convictions.

The Houston District Office is attempting to establish mechanisms for identifying aliens involved in crimes before their incarceration. The Los Angeles District Office has participated in projects with local law enforcement agencies, which notify INS of aliens who have been apprehended.

The Chicago and Denver district offices concentrated their efforts at the early stages of the criminal justice system—at bond hearings in Chicago

<sup>2</sup>Criminal Aliens: INS' Investigative Efforts in the New York City Area (GAO/GGD-86-58BR, Mar. 10, 1986).

and before bond hearings in Denver. Thus, these two districts had a greater opportunity to identify potentially deportable aliens. Due to an August 1986 Northern Region directive, apprehensions of aliens are limited to those who are convicted of a deportable offense. The directive was introduced because of the lack of detention and deportation funds needed to detain aliens and process them for deportation. Additionally, the lack of funds has curtailed most of the Denver office's investigative efforts.

The following sections discuss the cooperation between INS and each of the five localities in our review to identify aliens who have come in contact with the criminal justice system. The process used by INS varies among the five localities.

## Chicago

The Chicago INS District Office generally identifies aliens when they appear at bond hearings soon after arrest, tracks aliens' court appearance dates, and identifies those who can be deported after incarceration. Also, through meetings, local law enforcement groups may contact the district office about suspected criminal aliens. Some of these actions may be reduced because of the Northern Region directive of August 1986. The Cook County court system includes bond courts where arrestees charged with felonies and drug offenses appear. The investigators review booking reports of individuals waiting to appear before a judge to identify individuals who claim foreign birth. These individuals are then interviewed in the court holding cells and the INS investigator tentatively determines their immigration status pending a more detailed review of INS records. This information is shared with Chicago prosecutors and judges to assist them in determining amounts and conditions of bail.

An investigative supervisor told us that from September 1 to November 30, 1986, investigators interviewed 261 foreign-born individuals at bond court. The preliminary interview revealed that 57 were illegal aliens. The alien status of the others was not readily apparent, but he estimated that at least another 20 who claim to be lawful residents may be illegal aliens and that most of the remaining 184 are probably legal aliens. Of those foreign-born individuals interviewed at the bond court, he estimates that 50 percent entered the United States without inspection (illegally); 30 percent were legal residents; 15 percent entered legally but overstayed their visas; and 5 percent were naturalized citizens.



INS is provided with office space and use of court scheduling records and computer systems by the state attorney's office for Cook County. The records and systems enable INS to track individual aliens through the criminal justice system and identify the date of the alien's next court appearance, its purpose, and the ultimate disposition of the case. An investigator told us that as of November 10, 1986, INS was tracking approximately 792 aliens who may be deportable.

The alien status of individuals serving prison sentences is determined by the INS district office. Every 4 to 6 months, the Illinois Department of Corrections sends the district office a list of inmates suspected of being foreign-born. Investigators compare the names to those in INS records to see if detainees have already been placed on any of the inmates. For those for whom INS has no detainees in place, the names are flagged, and approximately twice a year investigators go to the prisons and interview these inmates to determine their alien status, including if they are deportable. District office representatives said they have no formal working relationship with the Chicago Police Department primarily because of a city executive order prohibiting city agencies from disseminating information about citizenship or residency status.

District office representatives occasionally speak before local law enforcement groups about aliens. According to the Department of Justice, the primary purpose of these engagements is to develop and maintain liaison programs. The Department added that the district office has established written referral programs with major law enforcement agencies, which identify criminal aliens and allow INS to take appropriate action. As a result of such contacts, they may receive information about suspected aliens in local custody.

Depending upon the offenders' geographical location and whether their criminal histories meet the deportability criteria, INS may take the criminal alien into custody at the conclusion of the local criminal justice process. The criminal alien unit supervisor explained that if the suspect does not meet the criteria for being deported, justifying the cost and time required to send an investigator on a trip to interview such a suspect is difficult. This is consistent with the Northern Region directive.

In commenting on our draft report, the Department said that the district office investigates a large number of cases to locate criminal aliens at large in the community, including criminal fugitives from other countries and states, aliens with felony records, criminal aliens who have

been deported and reentered the United States illegally, and serious narcotics and violent offenders.

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## Denver

The Denver District Office has several initiatives with state and local law enforcement agencies designed to identify aliens involved in crime very early in the criminal justice process. District officials told us that their major efforts, however, have been substantially curtailed because of funding constraints. Also, INS has access to a state crime information system that provides information on foreign-born individuals.

In March 1986, the district office initiated a program to identify deportable aliens booked into the Denver Police's prearrestment detention facility where arrestees are held temporarily. Each morning an INS investigator would visit the facility and review the daily report, which includes the names, dates of arrest, and charges against those in custody. The investigator used these reports and information provided by police officers to identify suspected aliens in order to interview them and place detainers on those he considered deportable.

Another district initiative was the use of an after-hours telephone service for local law enforcement agencies to contact INS. The agencies generally provided INS information on (1) suspected illegal aliens or others in custody and wanted by INS, (2) aliens being held in custody at INS' request, and (3) suspected illegal aliens who were freed because there was no charge on which to hold them.

The district office has practically discontinued its efforts at the prearrestment detention facility and its after-hours telephone service as a result of the Northern Region's directive, according to the acting assistant district director for investigations. In addition, expenditures for detention and deportation were reduced from \$158,000 in the fourth quarter of fiscal year 1986 to \$75,400 in the first quarter of fiscal year 1987. A district official estimated that \$39,000 of the \$75,400 was used to reimburse local law enforcement agencies throughout Colorado that are housing Mariel Cubans.<sup>3</sup> He believes that the reductions are detrimental to INS' image and credibility in dealing with the illegal alien problem because local law enforcement agencies will stop informing INS of possible criminal aliens. Further, if such operations are reinstated, it

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<sup>3</sup>Some Cubans who arrived in the United States during the 1980 Mariel Boatlift have since been convicted of crimes and have served or are serving sentences in state and federal prisons. Since they cannot be deported due to the absence of a repatriation agreement with Cuba, INS must detain them indefinitely and pay their costs.

will require a massive reeducation to get local agencies into the habit of recontacting INS.

The district office also has access to the Colorado Bureau of Investigation's Colorado Crime Information Center (CCIC), a computer repository and communication facility for information concerning people and events of multi jurisdictional law enforcement interest. A CCIC representative told us there are about 300 police departments and other agencies, such as Departments of Motor Vehicles and Wild Life, with access to CCIC and which provide and request data in Colorado and Wyoming. INS has a CCIC terminal on which it receives requests and arrest information on foreign-born individuals from the participating CCIC agencies.

INS receives about 30 reports a day from CCIC, according to an INS investigator. He takes the information provided on each individual and enters it into various systems, such as the FBI's National Crime Information Center (NCIC) and INS' CIS, to obtain whatever other information exists about the individual. The district office can also forward INS arrest warrants on individuals for input into CCIC. This information will then appear when a participating agency makes a specific inquiry about such individuals.

Local officials generally were complimentary about the cooperation and assistance they receive from INS. They informed us that they were particularly satisfied with INS assistance in highlighting the adverse impact of illegal aliens on state and local governments. For example, a state Motor Vehicle Division representative told us that the assistant district director for investigations was instrumental in getting a section added to the state's vehicle and traffic statute that denies issuing a driver's license to any person who is in violation of immigration laws. He also stated that several times a year, the division contacts INS to request information concerning the immigration status of individuals who claim to be legal residents, although they have not provided sufficient proof to the division. In April 1986, the assistant district director testified before a city council committee about documents illegal aliens use to obtain benefits to which they are not entitled.

Houston

The Houston District Office's main effort in identifying criminal aliens is at the Texas Department of Corrections intake facility at Huntsville. However, the district office is working with the Harris County district courts to establish a program under which INS would receive information

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on foreign-born offenders at an earlier stage of the criminal justice process.

INS investigators usually visit Huntsville twice a week to interview suspected aliens. Prison personnel provide them with files of foreign-born individuals and anyone else they believe may be an alien. An investigative supervisor estimates that each month INS interviews about 100 of the 300 aliens at this facility (about 75 percent of whom are illegal). He noted, however, that INS misses many aliens because they may be processed before the investigator's visit.

A district office official indicated that they concentrate on aliens in prison because of staffing constraints. The district covers 30 counties, and officials believe their staff is insufficient to process all known criminal aliens, much less identify new ones.

Despite these limitations, earlier identification of criminal aliens is possible. District office officials believe that the potential exists for identifying criminal aliens earlier in the process during the pretrial stage in the Harris County courts. After their arrest, offenders are interviewed by pretrial service personnel to determine their eligibility for bail. The INS district office has proposed changing the standard interview form used by pretrial service personnel to include information, such as place of birth, citizenship status, and alien identification or visa number and expiration date. They believe this could result in at least 50 more criminal aliens being identified per month.

INS receives such pretrial information from 2 of 22 judges' offices. To obtain greater access to pretrial information, the district office has requested funds from its central office for a computer terminal to access the county's justice information system. This effort would reduce their reliance on data from the judges' offices. The district's request was outstanding as of December 1986.

Also, an INS investigator reviews booking records for the previous 24 hours at the Harris County jail and selects individuals suspected of being aliens. The investigator checks the names of such individuals against INS data bases for identification and interviews them when warranted.

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**Los Angeles**

The Los Angeles District Office's main effort is in identifying criminal aliens in state prisons and the county jail. Also, the district's Western

Regional Office has initiated several cooperative efforts with local law enforcement agencies to identify criminal aliens for subsequent removal by INS.

District officials believe the most efficient way to deal initially with the criminal alien problem is to concentrate their efforts in the prison system to ensure that criminals are not released before deportation proceedings are initiated. The officials believe that these incarcerated aliens are among the worst criminals and, therefore, should be the focus of INS efforts.

Consistent with this philosophy, in May 1986 the Los Angeles District Office started a major initiative for identifying criminal aliens. The objective is to identify aliens incarcerated in state prisons and place detainers on those considered deportable. However, district office officials said that they do not have sufficient staff to cover some of the state prisons within its jurisdiction.

Investigators identify criminal aliens as they enter the prison system at the two main prison reception centers located in Chino and at other reception centers where prisoners are processed, classified, and assigned to a prison. INS estimates that it interviews each month 300 aliens at these various reception centers, about 250 or 83 percent of whom are deportable.

In April 1986, the district estimated that INS had no records on more than 3,000 criminal aliens in state prisons. During the program's first month, about 2,500 prisoners' files were reviewed, and this resulted in INS interviewing about 950 suspected criminal aliens. By mid-March 1987, approximately 1,900 orders to show cause had been issued. The equivalent of six and one-half investigators were working on the program at that time. At this staffing level, INS will be able to clear the backlog and keep the workload current, according to a supervisor, but he could not estimate how long this would take.

In addition to the notification process, the district office has undertaken a number of special projects with local agencies. For example, a cooperative effort was established with the Van Nuys and Los Angeles Police Departments to identify and remove criminal aliens. In one month, this project resulted in the identification of about 100 illegal aliens arrested by those departments for drug crimes and gang associations. In another project, INS provided assistance to a Los Angeles Police Department drug task force in a specific neighborhood after the police believe that more

than half of those initially arrested were illegal aliens. Eventually, over 2,300 illegal aliens were arrested. Task force officials indicated that INS had promised to deal with at least 30 referrals of possible deportable aliens a week. This goal was not met, and only about 200 aliens were deported between May 1985 and June 1986. INS stated that it had overestimated the number of referrals it could handle.

The district and the Los Angeles Police Department had an agreement on handling illegal aliens involved in criminal gangs, and INS assigned investigators to work with the police on this project. The police identified about a half dozen gangs engaging in murder, robbery, and auto theft. Under the agreement, illegal aliens who are positively identified as members of a gang involved in crime are taken into custody by INS for potential deportation. A police official noted that in little more than a week, INS deported a total of 36 members of two gangs.

A supervisor told us that projects like these have been affected by the Immigration Reform and Control Act of 1986. Some apprehended aliens have claimed they have been in the country prior to 1982 and are therefore eligible to apply for amnesty as the act authorized.<sup>4</sup> These claims limit INS' ability to deport these individuals at this time.

Another project involves INS visiting daily the central county jail. Jail personnel indicate on the booking record whether a criminal is foreign-born. INS investigators will interview such criminals serving sentences of 30 days or more. For the week of September 22, 1986, the county jail system had 436 inmates, 36 of whom were referred to INS and 18 subsequently had detainers placed on them.

## Miami

The Miami District Office directs most of its efforts to identifying criminal aliens incarcerated at the state's South Florida Reception Center and at the federal Metropolitan Correctional Center (MCC). The Border Patrol<sup>5</sup> also conducts jail checks in the Miami area to identify such aliens.

Florida opened its center in September 1986 as a central intake and processing facility for convicted criminals from the southern half of

<sup>4</sup>Under the act, illegal aliens who have been in the country continuously prior to January 1982 may be granted temporary residence. In evaluating alien claims, INS considers criminal histories.

<sup>5</sup>INS has 20 Border Patrol Sectors. Miami was the only city in our review where the Border Patrol was involved in criminal alien activity.

Florida. According to an INS district investigator, inmates stay an average of 4 to 6 weeks before being sent to 1 of 37 state prisons. The center's personnel screen inmates to identify criminals who may be aliens and provide INS information, including name and aliases, date of birth, and country of birth. An INS investigator checks the names with INS records to determine what is known about the individuals. According to the same investigator, he goes to the center about two or three times per week to interview criminals who may be aliens. INS was unable to provide information on the number of suspected aliens interviewed each week and the number of detainees placed.

MCC staff telephones INS about suspected aliens, and about once a week INS will send an investigator to interview the aliens. INS had no records or estimates on the number of suspects interviewed and the number of detainees placed on suspected criminal aliens.

The Border Patrol performs investigative activities in the Miami area. A Border Patrol official informed us that an officer usually visits the Dade County jail daily, reviews felony booking sheets to identify potentially deportable aliens, and interviews inmates to determine their alien status and their potential for subsequent deportation. If the inmate is deportable, the Border Patrol officer prepares an order to show cause and places a detainer. When local law enforcement proceedings are completed, INS is notified so it can assume custody of the alien.

While not having overall statistics, a Border Patrol representative provided us with data on criminal aliens for the month of February 1987, which he considered to be a typical month.

- Eighty aliens were identified in the county jail who, if convicted of the crimes for which they were charged, could be deported as criminal aliens.
- Sixty-five aliens charged with felonies were released on bond before the Border Patrol had determined their alien status.
- Fifty-five aliens were turned over to the Border Patrol by other local law enforcement agencies at the conclusion of the individuals' legal process. Six entered deportation proceedings as criminal aliens while proceedings for the remainder were due primarily to their illegal status since the offenses (e.g., traffic violations) were ones for which they could not be deported.
- Thirteen aliens in Dade County custody were issued orders to show cause and detainees by the Border Patrol. The INS district office was

notified of the aliens' release when the county completed their legal processing.

## Alien Criminal Apprehension Program

Recognizing the need to develop a comprehensive strategy for addressing the growing criminal alien problem, INS established ACAP. The strategy includes increased interaction with local law enforcement agencies to carry out the ACAP approach. The program will be tested in four cities.

ACAP is designed to improve INS' current reactive approach and to develop a more proactive approach for identifying criminals who are aliens.

- On the reactive side, INS will identify alien offenders within criminal justice systems and process them for deportation. ACAP establishes those parts of the criminal justice process through which aliens must be processed where they can be identified. INS district offices and representatives of local, state, and federal law enforcement agencies, prosecutors, courts, corrections, and other agencies are to establish procedures for notifying INS of such aliens involved in serious criminal activity. Ultimately, INS should be able to follow criminal aliens through the justice process and apprehend them at the conclusion.
- On the proactive side, teams of INS investigators, together with state and local police, will concentrate their enforcement efforts in areas of criminal activity with high concentrations of alien participants or suspects. INS district offices are to establish ACAP core squads that are flexible to meet particular local needs and problems. Some district offices would have squads that are both proactive and reactive (for example, investigators would participate in investigations as well as identify alien offenders who are within the criminal justice system), while other districts may have separate squads of agents dedicated to proactive investigations or to reactive investigations.

ACAP will be piloted in four cities—Chicago, Los Angeles, Miami, and New York. INS plans to expand ACAP beyond the four cities. INS anticipates spending about \$3 million for implementing ACAP in the four pilot cities. When the program is expanded nationwide, INS will need additional funds. However, the amount needed to fund the expanded program or to run it nationwide has not yet been determined.



# Local Officials Generally Favor Prosecution of Criminal Aliens

In those cases when an alien has been identified as deportable, state prosecutors, together with INS, can offer them the option of leaving the country in lieu of prosecution and possible incarceration. In discussing this option, state prosecutors in the five cities favored having criminal aliens prosecuted. In their opinion (1) people generally should be prosecuted based on the crime and not on alien status and (2) aliens would get the impression that the punishment for committing a crime is to be returned to their country of origin.

INS and the New York County District Attorney agreed to permit certain aliens who are charged with a crime the option of pleading guilty and departing the country rather than facing trial and possible incarceration. However, aliens have been declining this option.

With respect to incarceration costs for convicted illegal aliens, the Immigration Reform and Control Act of 1986 authorized the Attorney General to reimburse states. The impact of this provision is not known at this time since funds have not been appropriated. Should funds be appropriated and illegal aliens be deported or depart voluntarily rather than be prosecuted, the federal government could save potential incarceration costs.

## Prosecuting Accused Aliens

None of the prosecutors in the five localities favors giving aliens the option of leaving the country in lieu of prosecution. Most of the prosecutors consider criminal aliens to be no different from other criminals and, therefore, favor turning them over to INS after prosecution including possible incarceration.

INS' New York District Office and the New York County District Attorney have a formal agreement that certain kinds of arrested aliens will be allowed, as part of a plea bargain conviction, to consent to depart voluntarily from the United States in lieu of prosecution and possible incarceration. District attorney representatives believe the agreement is useful in cases of low probability of conviction or where probation, or a sentence of 3 years or less, is likely. These types of cases often involve repeat misdemeanor offenders who are rarely incarcerated. INS and district attorney representatives told us this agreement has not worked because aliens prefer to be prosecuted rather than leave the United States. Additionally, the aliens usually do not have sufficient money to pay for transportation to their country of origin.

None of the prosecutors in the five localities favored deportation in lieu of prosecution.<sup>1</sup> The following reasons were most frequently given:

- Allowing aliens to depart the country in lieu of prosecution gives a signal to aliens that they can commit crimes and their punishment is returning to their country of origin.
- Prosecution is based upon the individual's crime and not on alien status.
- Aliens being turned over to INS is not seen as a form of punishment for crimes since INS can only deport such individuals.
- Even if criminal aliens were turned over to INS and departed from the country, they could return.

But a few prosecutors believe that turning aliens over to INS in lieu of prosecution has some merit. They suggested that alien cases, such as those involving less severe crimes, where charges are dropped or are weak from a prosecutive standpoint, be turned over to INS for possible deportation. They indicated that if aliens were to be turned over to INS it would have to be on a case-by-case basis recognizing the alien's criminal history.

INS trial attorneys in the five cities informed us they were opposed to foregoing prosecution in favor of deportation. Like state prosecutors, they believed that would send a message to aliens that they could commit crimes and, if caught, would be returned to their country of origin. The attorneys also want the state criminal conviction on the aliens' records in order to strengthen their cases when requesting deportation of illegal aliens.

One attorney pointed out that an illegal alien's criminal history is used to support deportation because some immigration judges usually will not order deportation solely because the alien is in the country illegally. Another attorney had no problem in allowing an alien to plead guilty to a criminal charge or to a lesser criminal charge provided the alien

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<sup>1</sup>The options discussed with the local prosecutors were (1) dropping the charge in exchange for the alien's voluntary departure from the United States, (2) dropping the charge in exchange for the alien's agreement not to contest formal deportation, (3) allowing the alien to plead guilty to the charge in exchange for the alien's voluntary departure from the United States, (4) allowing the alien to plead guilty to a lesser charge in exchange for the alien's voluntary departure from the United States, (5) allowing the alien to plead guilty to the charge in exchange for the alien's agreement not to contest formal deportation, and (6) allowing the alien to plead guilty to a lesser charge in exchange for the alien's agreement not to contest formal deportation. The first two options are actually a waiver of all prosecution on the charge while the other four constitute a conviction with a waiver of sentencing, including possible incarceration. Also, if an alien pleads guilty, then the alien has a record which could preclude reentry.

received a suspended sentence before being turned over to INS for deportation. If the alien returns and is apprehended, the state could then impose the suspended sentence.

## Costs for Incarcerated Illegal Aliens May Be Borne by the Federal Government

Title V of the Immigration Reform and Control Act of 1986 addresses the issue of illegal aliens incarcerated in state prisons. It authorizes the Attorney General to reimburse states for costs of incarcerating illegal aliens convicted of state felonies. The act's impact on state prosecutions is uncertain. As of March 1987, no funds had been appropriated nor had a disbursement program been established. However, INS officials said that they are developing reimbursement guidelines.

In the five states the number of illegal aliens who are incarcerated in state prisons is not known. Some states identify foreign-born inmates in their custody, but generally only INS can determine alien status and the number of illegal aliens for which the states would be eligible to receive reimbursement costs.

As shown in table 3.1, the five states estimated their average daily inmate incarceration cost and the number of foreign-born inmates in their prisons in the latter half of 1986. Again, the number of foreign-born inmates was used because the number of illegal aliens is not known.

**Table 3.1: Estimated Daily 1986  
 Incarceration Costs for Foreign-Born  
 Inmates**

State	Estimated number of foreign-born inmates	Estimated daily incarceration cost	
		Cost per inmate day	Total cost
California	6,040	\$47.77	\$288,531
Colorado	76	45.87	3,486
Florida	1,898	30.00	56,940
Illinois	528	43.21	22,815
Texas	3,490	33.00	115,170

With few exceptions, state and local officials we spoke to in November and December 1986 were unaware of the reimbursement provision.

# Internal Control Weaknesses Prevent INS Identification of Previously Deported Aliens

As discussed in the previous chapters, INS attempts to deport those aliens who are here illegally or have committed certain types of crimes. For the five localities in our review, we found that INS' internal controls over data entry into its Service Lookout Book or the automated version, NAILS, and CIS were not adequate to prevent deported aliens from reentering the country through ports-of-entry. While INS requires names of deported aliens and related deportation information to be entered into the systems, we found that in many instances this was not being done. Thus, INS is unable to rely on either system for identifying previously deported criminal aliens who may attempt to reenter the country through a port-of-entry. Some deported aliens have reentered the country and subsequently have committed crimes.

## Inspection Process at Ports-Of-Entry

Before entering the country at a port-of-entry, an alien must be inspected. At international airports, inspection is a two-stage process. A brief inspection of all alien passengers is made during a primary stage. Inspectors' check aliens' passports and visas for validity and ask questions aimed at determining whether the aliens are likely to overstay their authorized visit, plan to work in the country, and have sufficient money to support their stay. If inspectors identify an individual as potentially excludable from entering the United States, an in-depth inspection is made in a secondary stage. Aliens who pass inspection are admitted into the country. Aliens who fail can voluntarily leave the country or can be detained pending an exclusion hearing.

In primary inspection, the names of all aliens over 14 years old are looked up in the Service Lookout Book or NAILS. At Miami International Airport, INS inspectors use the Lookout Book whereas at O'Hare (Chicago), Intercontinental (Houston), and Stapleton (Denver) airports, inspectors directly access NAILS and other computerized law enforcement data bases through the Treasury Enforcement Communication System. The NAILS data base is incorporated in this system. At the Los Angeles International Airport, the method of access—manual or computer—depends upon the particular arrival location.

INS' estimates for the number of primary alien inspections per year for each airport, including John F. Kennedy (JFK) International Airport in New York, are in table 4.1.

<sup>1</sup>The Department of the Treasury's U.S. Customs Service at some locations also performs INS-related duties, such as determining the admissibility of people entering the country.

Table 4.1: Estimated Number of Primary  
Inspections Annually at Six Airports

Airport	Number of Inspections (thousands)
Los Angeles International	3,341
JFK International (New York City)	3,100
Miami International	3,000
O'Hare International (Chicago)	1,200
Intercontinental (Houston)	1,200
Stapleton International (Denver)	80

In INS secondary inspections, inspectors may access CIS. INS representatives at three of the airports we visited said that CIS is generally accessed about 200 times monthly. It is used less than 200 times monthly in Denver and Houston.

## Deportation Data Lacking From Information Systems

The Service Lookout Book and NAILS should contain the same names—about 40,000 individuals, approximately 6,100 of whom were previously deported. (The other names are there for various other law enforcement purposes.) NAILS can be a more useful tool than the manual system, which provides information by name only. NAILS can be accessed in various ways, such as by alien name, passport number, or alien identification number. NAILS also provides more information than the book, including details on why a name is listed, the types of crimes committed, dates of convictions, and aliases used by the deportee.

The CIS contains immigration status and other information on over 22 million aliens who have come into contact with INS and for whom a file has been initiated, including information on those deported. CIS can be used to detect a previously deported criminal alien if the alien's name is not in the Service Lookout Book/NAILS and the alien is referred to the secondary inspection area for a reason, such as a suspected forged passport.

We previously reported that at JFK (1) NAILS did not contain the names of approximately 94 percent of 891 criminal aliens deported during a 3-year period ended December 31, 1985, and (2) CIS showed no record of deportation for about 63 percent of the 891.<sup>2</sup> The absence of data from

<sup>2</sup>Criminal Aliens: Majority Deported From the New York City Area Not Listed in INS' Information Systems (GAO/GGD-87-41BR, Mar. 3, 1987).

these systems occurred mainly because INS was not preparing the documents or had not entered the information necessary to maintain the completeness of the data bases. Our review in five other cities indicated similar problems.

### Many Names Not Entered Into NAILS

INS instructions for maintaining the Service Lookout Book/NAILS specifies in part that the names of all deported aliens with criminal backgrounds be listed in the data base. The aliens' convictions for deportable offenses, if any, are also to be listed.

To determine if the names of deported criminal aliens were entered into NAILS, we queried the system during February 1987 using the names of criminal aliens reported by the five INS district offices as having been removed (deported or voluntarily departed) from the United States during the period October 1, 1983, through June 30, 1986. We believe from June 30, 1986, to February 1987 (7 months) was sufficient time for INS to input the names from the final month of the period, June 1986, into NAILS. Our test disclosed that names had not been entered into NAILS, as shown in table 4.2. This was due primarily to district offices not always initiating the documents needed to input the names into the system.

**Table 4.2: Number of Deported Criminal Aliens Whose Names Were Not in NAILS**

District office	Number of deportation cases	Names not in NAILS	
		Number	Percent
Chicago	128	128	100.0
Denver	51 <sup>a</sup>	29	59.2
Houston	81 <sup>b</sup>	19	23.5
Los Angeles	90 <sup>c</sup>	83	92.2
Miami	109 <sup>c</sup>	78	71.6

<sup>a</sup>There were 51 removals of 49 criminal aliens, two aliens were deported twice during the period under review.

<sup>b</sup>Random sample sizes out of universes of 499 (Houston) and 1,210 (Los Angeles).

<sup>c</sup>Includes four cases in which files did not clearly indicate how the alien left the country (i.e., by deportation, voluntary departure, or by leaving the country before being deported).

INS form G-143 (Lookout Notice Worksheet) is the basic data entry form for the Service Lookout Book/NAILS. The form is to be prepared by the appropriate district office detention and deportation staff when a case is closed. It is to be forwarded to the district's regional office for review and, if approved, forwarded to the central office for entry into the data

base. In reviewing deportation files, we looked for evidence that the district office prepared the form G-143. The results can be seen in table 4.3.

**Table 4.3: Number of Deported Criminal Aliens for Whom NAILS Input Documents Were Not Prepared**

District office	Number of deportation cases	Files not showing evidence of G-143	
		Number	Percent
Chicago	128	122	95.3
Denver	51 <sup>a</sup>	30	58.8
Houston	81 <sup>b</sup>	5	6.2
Los Angeles	90 <sup>b</sup>	66	73.3
Miami	109	73	67.0

<sup>a</sup>Two aliens were deported twice resulting in two additional cases

<sup>b</sup>Random sample sizes out of universes of 499 (Houston) and 1,210 (Los Angeles)

District officials responsible for preparing the form G-143 said the main reason the forms were not prepared was attributable to staffing shortages that required having to use untrained staff to close case files. Some officials said staff was often rotated in and out quickly and, therefore, did not receive proper training. In addition, some officials said their understanding of the criteria for entering a name into NAILS was that the district had to have certified conviction papers in the file to substantiate deportation as a criminal alien, irrespective of the actual reason for deportation. However, these same officials believe that all deported aliens should have been entered into the system.

We found instances where the G-143 input document was prepared at the district level but did not get into the system. We did not try to determine the reasons for this. Time constraints did not permit us to track the forms through regional and central office processing.

The Lookout Book/NAILS is an important enforcement tool but INS has not ensured that the names of all deported criminal aliens have been entered. Accordingly, the usefulness of the Lookout Book/NAILS to identify these aliens is severely limited, since they could reenter the country at ports-of-entry.

**Deportation Information Not Entered Into CIS**

We tested the same 459 cases of 457 deported alien names that we entered into NAILS by tracing them in CIS and found that CIS lacked information on deportation despite INS instructions that such data should be entered.

Of the 457 names tested, 12 were absent from the system and for another 7, the alien identification number did not agree with the name we extracted from INS files. CIS did not contain any deportation data for many of the other 438 aliens. Table 4.4 summarizes these results.

**Table 4.4: Number of Deported Criminal Aliens for Whom Deportation Data Was Not Shown in CIS**

District office	Number of aliens removed	No deportation data shown in CIS	
		Number	Percent
Chicago	125	111	88.8
Denver	49 <sup>a</sup>	20	40.8
Houston	75 <sup>b</sup>	7	9.3
Los Angeles	86 <sup>d</sup>	46	53.5
Miami	103	47	45.6

<sup>a</sup>There were 51 removals of 49 criminal aliens, two aliens were deported twice during the period under review

<sup>b</sup>Random sample sizes out of universes of 499 (Houston) and 1,210 (Los Angeles)

We did not determine why CIS data was missing because INS does not require that documentation be maintained that could be used to verify the completeness and accuracy of information entered into CIS. Like NAILS, CIS can enhance the effectiveness of INS inspectors to identify deported aliens at ports-of-entry. However, INS has not ensured that CIS contains deportation data on all deported aliens. Lacking such data, INS inspectors could inadvertently allow these aliens to reenter the country at ports-of-entry.

**Status of Deported Aliens at Time of Entry**

Most of the deported aliens entered the United States either (1) illegally, i.e., without INS inspection, or (2) legally as visitors, students, or temporary workers but have overstayed their visas and thus were in illegal status at the time they were apprehended for criminal activity. Table 4.5 shows the alien status of the deportees at the time of their most recent entry into the United States.



**Table 4.5: Status of Deported Criminal Aliens at the Time of Their Most Recent Entry Into the United States**

District office	Deportations reviewed	Entered without inspection	Visitors/ students/ work permits	Permanent residents	Other <sup>a</sup>	Unable to determine
Chicago	128	102	16	6	3	1
Denver	51 <sup>b</sup>	40	7	3	0	1
Houston	81 <sup>c</sup>	75	3	3	0	0
Los Angeles	90 <sup>c</sup>	64	3	16	0	7
Miami	109	17	68	7	10	7

<sup>a</sup>Includes aliens who entered the United States as crewmen, spouses of citizens, and stowaways

<sup>b</sup>There were 51 removals of 49 criminal aliens; two aliens were deported twice during the period under review

<sup>c</sup>Random sample sizes out of universes of 499 (Houston) and 1,210 (Los Angeles).

## Some Deported Criminal Aliens Returned to the United States

In order to test the impact of INS not maintaining complete data in NAILS and CIS, we provided the FBI the names of 457 deported criminal aliens. Of these, 215 did not appear in NAILS and contained no deportation data in CIS. The FBI entered the 215 into its system and provided us with available criminal history records. This enabled us to determine if each alien had been (1) deported and subsequently reentered the United States and (2) arrested after returning.

The FBI was able to provide criminal history records on 165 of the aliens. Of these, 56 showed evidence that they had reentered the country at least once and had come into contact with the criminal justice system. These 56 had a total of 152 deportations and at least 122 reentries as shown in table 4.6. In addition, the 56 aliens accounted for a total of 260 arrests.

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**Table 4.6: Number of Deportations and Reentries of Selected Criminal Aliens**

	<b>Number of aliens</b>	<b>Number of deportations</b>	<b>Number of reentries</b>
Deported once and reentered	17	17	17
Deported twice and: reentered twice	5	10	10
reentered once	18	36	18
Deported three times and: reentered three times	3	9	9
reentered two times	6	18	12
Deported four times and reentered three times	1	4	3
Deported six times and: reentered five times	1	6	5
Deported eight times and reentered seven times	2	16	14
Deported more than 10 times and reentered more than 10 times	3	36	34
<b>Total</b>	<b>56</b>	<b>152</b>	<b>122</b>

Information on the number of aliens who returned may be understated. As previously indicated, the FBI was able to provide information on only 165 of the 215 names. Additionally, an alien could have returned to the United States and engaged in criminal activity, but this would not have become known unless a law enforcement agency arrested the alien or issued an arrest warrant.

Following are case histories of some of these 56 aliens:

- An alien was arrested in Texas in March 1980 for unlawfully carrying a weapon. He was deported in January 1982. From June 1982 to February 1985, he was arrested six times in Los Angeles and Chicago for a variety of offenses including robbery, attempted robbery, burglary, battery, criminal trespass, and theft. In May 1985, he was deported for the second time. He reentered the country, was arrested in Dallas in August 1985 for burglary, and was sentenced to prison.
- An alien was deported in October 1977. In April 1980, he was arrested for burglary in Los Angeles and allowed to depart the country voluntarily. From December 1980 to November 1982, he was arrested seven times in California and Colorado for numerous offenses, including unlawful taking of a vehicle, petty theft, grand theft, and burglary. He was deported in May 1984 and returned. He was deported for the fourth time in September 1984.
- An alien was deported on May 20, 1978. On May 22, 1978, he was convicted of aiding and abetting illegal aliens and was jailed for 6 months.

In January 1979, he was arrested and jailed for attempted murder, and in December he was arrested and jailed for assault and criminal mischief. In January 1981, he was arrested for assault and in February for homicide. No information was available on the disposition of these charges. However, on February 3, 1983, the alien was extradited to Mexico where he was wanted for murder. On February 12, 1983, he was arrested in California for assault with a deadly weapon and battery. In August 1983, he was charged with two counts of first degree murder in Colorado.

How the aliens reentered is unknown. They could have crossed a border surreptitiously or entered at a port-of-entry with false documents. However, if they entered at a port-of-entry using their real names, the absence of appropriate data in CIS and NAILS would have precluded INS from detecting them.

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## Conclusions

The Service Lookout Book/NAILS and CIS are intended to help INS identify excludable aliens who attempt to enter the country at ports-of-entry. However, neither system contains the needed information on many excludable aliens. This occurs mainly because INS' internal controls are inadequate to ensure that input documents are prepared and information is entered into the systems. As a result, previously deported criminal aliens as well as other excludable aliens may be able to reenter the country.

Our March 1987 report on the activities of INS' New York District Office in maintaining the adequacy of the Service Lookout Book/NAILS and CIS contained recommendations aimed at improving these systems in the New York district.<sup>3</sup> Specifically, we recommended that the Commissioner of INS (1) periodically determine whether appropriate forms are being completed and entered into NAILS for all deported aliens and (2) determine why CIS does not contain information on all deported aliens and take the appropriate action to ensure that the system is kept current. Since our findings in five other INS district offices are essentially the same as those previously reported for the New York District Office, it is evident that the problem is widespread.

The Department in commenting on our draft report said that in August 1987, INS implemented our suggestions. On May 5, 1987, a telegram was

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<sup>3</sup>Criminal Aliens: Majority Deported from the New York City Area Not Listed in INS' Information Systems (GAO/IGD-87-41BR, Mar. 3, 1987).

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sent to all INS district and regional offices reiterating the requirement that Form G-143, Lookout Notice Worksheet, be completed and forwarded to INS Headquarters. Further, on July 15, 1987, a telegram was sent to all district and regional offices reiterating the requirement that the form, Notice of Deportation (I-157), be completed for each alien ordered deported, and that the completed forms be forwarded for input into CIS. The Central Office Detention and Deportation Program, which is part of INS' enforcement activities, is presently monitoring compliance with these directives. Further, the Department said that INS has initiated activities to eliminate the current deficiencies in the manual procedures for Lookout Notice Worksheet (G-143) and Notice of Deportation forms. These actions to ensure that input documents are prepared and information entered into the systems along with monitoring addresses our previous recommendations.



# FBI Arrest Information

**Table I.1: FBI Arrest Information by Birthplace for Cook County, Illinois, Fiscal Year 1985**

Offense category	Total arrested	Native-born	Foreign-born	Birthplace unknown
<b>Serious offenses</b>				
Criminal homicide	587	527	53	7
Forcible rape	1,045	949	85	11
Robbery	2,439	2,320	112	7
Aggravated assault	13,378	11,782	1,448	148
Burglary	2,706	2,565	123	18
Larceny/theft	10,619	9,448	1,085	86
Motor vehicle theft	1,644	1,564	70	10
Arson	146	129	16	1
<b>Total serious offenses</b>	<b>32,564</b>	<b>29,284</b>	<b>2,992</b>	<b>288</b>
<b>Drug offenses</b>				
	<b>8,276</b>	<b>7,579</b>	<b>645</b>	<b>52</b>
<b>All other offenses</b>				
Forgery and counterfeiting	348	321	24	3
Fraud	958	866	87	5
Embezzlement	0	0	0	0
Stolen property	219	189	28	2
Damage to property	3,412	3,087	297	28
Weapons	3,538	2,993	508	37
Prostitution	834	801	29	4
Sex offenses	114	101	11	2
Gambling	172	149	19	4
Offenses against family	402	367	32	3
Driving under the influence	279	246	28	5
Liquor laws	19	16	2	1
Drunkenness	17	16	1	0
Disorderly conduct	380	347	25	8
Vagrancy	1	1	0	0
All others	3,610	3,233	341	36
<b>Total all other offenses</b>	<b>14,303</b>	<b>12,733</b>	<b>1,432</b>	<b>138</b>
<b>Total</b>	<b>55,143</b>	<b>49,596</b>	<b>5,069</b>	<b>478</b>

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FBI Arrest Information

Table I.2: FBI Arrest Information by Birthplace for Denver, Colorado, Fiscal Year 1985

Offense category	Total arrested	Native-born	Foreign-born	Birthplace unknown
<b>Serious offenses</b>				
Criminal homicide	41	39	1	1
Forcible rape	118	101	13	4
Robbery	226	209	15	2
Aggravated assault	399	365	29	5
Burglary	548	517	29	2
Larceny/theft	474	446	27	1
Motor vehicle theft	298	275	23	0
Arson	19	12	7	0
<b>Total serious offenses</b>	<b>2,123</b>	<b>1,964</b>	<b>144</b>	<b>15</b>
<b>Drug offenses</b>	<b>459</b>	<b>432</b>	<b>27</b>	<b>0</b>
<b>All other offenses</b>				
Forgery and counterfeiting	330	319	11	0
Fraud	114	110	4	0
Embezzlement	1	1	0	0
Stolen property	48	37	11	0
Damage to property	94	85	7	2
Weapons	31	28	3	0
Prostitution	3	3	0	0
Sex offenses	5	5	0	0
Gambling	1	1	0	0
Offenses against family	8	8	0	0
Driving under the influence	10	6	3	1
Liquor laws	0	0	0	0
Drunkenness	0	0	0	0
Disorderly conduct	7	7	0	0
Vagrancy	0	0	0	0
All others	721	655	63	3
<b>Total all other offenses</b>	<b>1,373</b>	<b>1,265</b>	<b>102</b>	<b>6</b>
<b>Total</b>	<b>3,955</b>	<b>3,661</b>	<b>273</b>	<b>21</b>

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FBI Arrest Information

**Table I.3: FBI Arrest Information by Birthplace for Harris County, Texas, Fiscal Year 1985**

Offense category	Total arrested	Native-born	Foreign-born	Birthplace unknown
<b>Serious offenses</b>				
Criminal homicide	229	166	59	4
Forcible rape	230	187	42	1
Robbery	561	516	44	1
Aggravated assault	781	651	122	8
Burglary	997	857	125	5
Larceny/theft	3,190	2,386	753	1
Motor vehicle theft	809	682	121	6
Arson	7	6	1	0
<b>Total serious offenses</b>	<b>6,804</b>	<b>5,451</b>	<b>1,267</b>	<b>86</b>
<b>Drug offenses</b>	<b>5,222</b>	<b>4,467</b>	<b>703</b>	<b>52</b>
<b>All other offenses</b>				
Forgery and counterfeiting	243	221	21	1
Fraud	301	264	31	6
Embezzlement	1	1	0	0
Stolen property	168	136	27	5
Damage to property	307	263	40	4
Weapons	1,973	1,434	513	26
Prostitution	61	59	1	1
Sex offenses	60	49	10	1
Gambling	4	4	0	0
Offenses against family	59	50	7	2
Driving under the influence	8,996	6,431	2,447	118
Liquor laws	3	2	1	0
Drunkenness	2	1	1	0
Disorderly conduct	61	47	14	0
Vagrancy	0	0	0	0
All others	1,093	917	164	12
<b>Total all other offenses</b>	<b>13,332</b>	<b>9,879</b>	<b>3,277</b>	<b>176</b>
<b>Total</b>	<b>25,358</b>	<b>19,797</b>	<b>5,247</b>	<b>314</b>



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**Table I.4: FBI Arrest Information by Birthplace for Los Angeles County, California, Fiscal Year 1985**

<b>Offense category</b>	<b>Total arrested</b>	<b>Native-born</b>	<b>Foreign-born</b>	<b>Birthplace unknown</b>
<b>Serious offenses</b>				
Criminal homicide	799	563	222	14
Forcible rape	533	369	159	5
Robbery	3,561	2,950	567	44
Aggravated assault	4,535	3,207	1,234	94
Burglary	5,987	4,425	1,483	79
Larceny/theft	4,201	2,951	1,189	61
Motor vehicle theft	3,147	2,272	836	39
Arson	120	96	19	5
<b>Total serious offenses</b>	<b>22,883</b>	<b>16,833</b>	<b>5,709</b>	<b>341</b>
<b>Drug offenses</b>	<b>21,080</b>	<b>15,983</b>	<b>4,846</b>	<b>251</b>
<b>All other offenses</b>				
Forgery and counterfeiting	920	742	160	18
Fraud	512	422	82	8
Embezzlement	71	58	9	4
Stolen property	1,795	1,276	495	24
Damage to property	291	226	60	5
Weapons	2,819	1,934	836	49
Prostitution	2,132	1,851	259	22
Sex offenses	307	221	79	7
Gambling	193	162	30	1
Offenses against family	516	346	159	11
Driving under the influence	480	291	180	9
Liquor laws	3	3	0	0
Drunkenness	0	0	0	0
Disorderly conduct	461	374	83	4
Vagrancy	0	0	0	0
All others	2,278	1,690	538	50
<b>Total all other offenses</b>	<b>12,778</b>	<b>9,596</b>	<b>2,970</b>	<b>212</b>
<b>Total</b>	<b>56,741</b>	<b>42,412</b>	<b>13,525</b>	<b>804</b>

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FBI Arrest Information

**Table I.5: FBI Arrest Information by Birthplace for Dade County, Florida, Fiscal Year 1985**

Offense category	Total arrested	Native-born	Foreign-born	Birthplace unknown
<b>Serious offenses</b>				
Criminal homicide	363	170	189	4
Forcible rape	195	122	71	2
Robbery	1,293	936	338	19
Aggravated assault	3,785	2,294	1,429	62
Burglary	2,724	1,677	1,015	32
Larceny/theft	4,698	2,950	1,694	54
Motor vehicle theft	1,239	606	616	17
Arson	75	46	29	0
<b>Total serious offenses</b>	<b>14,372</b>	<b>8,801</b>	<b>5,381</b>	<b>190</b>
<b>Drug offenses</b>	<b>5,316</b>	<b>3,037</b>	<b>2,190</b>	<b>89</b>
<b>All other offenses</b>				
Forgery and counterfeiting	407	256	146	5
Fraud	886	505	364	17
Embezzlement	0	0	0	0
Stolen property	728	438	273	17
Damage to property	466	317	140	9
Weapons	2,546	1,351	1,156	39
Prostitution	343	288	54	1
Sex offenses	136	75	60	1
Gambling	123	76	46	1
Offenses against family	129	75	51	3
Driving under the influence	420	233	178	9
Liquor laws	23	13	10	0
Drunkenness	21	11	10	0
Disorderly conduct	2,005	1,307	663	35
Vagrancy	5	4	1	0
All others	7,325	4,550	2,636	139
<b>Total all other offenses</b>	<b>15,563</b>	<b>9,499</b>	<b>5,788</b>	<b>276</b>
<b>Total</b>	<b>35,251</b>	<b>21,337</b>	<b>13,359</b>	<b>555</b>

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Table 1.6: FBI Arrest Information by Birthplace for New York City, Fiscal Year 1985

Offense category	Total arrested	Native-born	Foreign-born	Birthplace unknown
<b>Serious offenses</b>				
Criminal homicide	1,052	814	208	30
Forcible rape	947	721	191	35
Robbery	5,892	5,213	595	84
Aggravated assault	9,176	7,386	1,546	244
Burglary	6,041	5,195	762	84
Larceny/theft	11,351	9,733	1,449	169
Motor vehicle theft	1,985	1,685	280	20
Arson	198	151	42	5
<b>Total serious offenses</b>	<b>36,642</b>	<b>30,898</b>	<b>5,073</b>	<b>671</b>
<b>Drug offenses</b>	<b>17,779</b>	<b>14,181</b>	<b>3,359</b>	<b>239</b>
<b>All other offenses</b>				
Forgery and counterfeiting	1,037	820	194	23
Fraud	4,508	3,755	661	92
Embezzlement	9	6	2	1
Stolen property	12,955	11,180	1,598	177
Damage to property	4,036	3,456	495	85
Weapons	9,296	7,125	1,976	195
Prostitution	2,796	2,651	126	19
Sex offenses	245	189	46	10
Gambling	1,806	1,224	554	28
Offenses against family	576	450	110	16
Driving under the influence	3,683	2,596	908	179
Liquor laws	248	185	58	5
Drunkenness	5	3	2	0
Disorderly conduct	2,895	2,410	390	95
Vagrancy	2	1	1	0
All others	13,591	10,692	2,526	373
<b>Total all other offenses</b>	<b>57,688</b>	<b>46,743</b>	<b>9,647</b>	<b>1,298</b>
<b>Total</b>	<b>112,109</b>	<b>91,822</b>	<b>18,079</b>	<b>2,208</b>

# Comments From the Department of Justice



U.S. Department of Justice

Washington, D.C. 20530

June 6 1987

Mr. Arnold P. Jones  
Senior Associate Director  
General Government Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Jones:

This letter responds to your request to the Attorney General for the comments of the Department of Justice on your draft report entitled "Criminal Aliens: INS' Enforcement Activities."

The Department generally concurs with the report and finds it to be an accurate reflection, in most cases, of how criminal alien investigations are handled in those jurisdictions studied. However, we would like to point out some areas overlooked in the study.

The General Accounting Office (GAO) report notes (p.21) that, "to assess the magnitude of aliens involved in crime, we used arrest statistics" and (p.24) that, "FBI [Federal Bureau of Investigation] arrest data is available for foreign-born individuals but it cannot identify whether such individuals are citizens or aliens." We believe that a stronger statement should be made to indicate that arrest statistics do not necessarily give a complete picture of the problem because some aliens involved in crime are never arrested or infrequently arrested even though involved in criminal activity. Additionally, while it is true that some foreign-born individuals are United States citizens, it is also true that many aliens falsely claim to be born in the United States and their arrests are not therefore reflected in the FBI statistics discussed. We also believe that a caveat should be added to the discussion to indicate that while percentages obtained by using the FBI records are valid, not all FBI arrest records for specific jurisdictions were sampled.

Now on p 15

Now on p 17

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Now on p 22

Now on p. 23

The GAO report notes (p.33) in its evaluation of the Chicago Office that, "through meetings, local law enforcement groups may contact the district office concerning suspected criminal aliens" and (p.34), "District office representatives occasionally speak before local law enforcement groups about aliens. As a result of such contacts they may receive information about suspected aliens in local custody." Although Immigration and Naturalization Service (INS) officers do make frequent speaking appearances before local law enforcement groups, the primary purpose of these engagements is to develop and maintain liaison programs, not merely to collect information. For example, the Chicago District Office has established, as a result of such initiatives, stable written referral programs with major law enforcement agencies which serve to identify criminal aliens and allow INS to take appropriate action. The GAO report, relative to Chicago, fails to reflect the large number of cases investigated to locate criminal aliens at large in the community. This category includes criminal fugitives from other countries or States, aliens with felony records, criminal aliens who have been deported and have reentered the United States illegally, and other serious narcotic and violent offenders.

Now on p 41

The GAO report states (p.63) that, "In July, 1987, INS informed us that it has implemented or it plans to implement the suggestions contained in our report." We propose that that sentence be removed and the following added: "In August 1987, INS informed us that it had implemented our suggestions in the following manner: On May 5, 1987, a telegram was sent to all district and regional offices reiterating the requirement that Form G-143, Lookout Notice Worksheet, be completed and forwarded to INS Headquarters. Further, on July 15, 1987, a telegram was sent to all district and regional offices reiterating the requirement that Form I-157, Notice of Deportation, be completed for each alien ordered deported, and that the completed forms be forwarded for input into the Central Index System. INS' Central Office Detention and Deportation Program is presently monitoring compliance with these directives." To address GAO's primary automatic data processing concerns regarding the incompleteness of deportable criminal alien information in the Central Index System (CIS) and the National Automated Immigration Lookout System (NAILS), INS has already initiated activities to construct and automate the interface from the Deportable Alien Control System (DACS) to both CIS and NAILS in order to eliminate the current deficiencies in G-143 and I-157 manual procedures.

Now on p 9

The description of INS enforcement activities listed in the center of page 12 is misleading. It implies that INS' detention and deportation program simply processes aliens for removal. In fact, this program is responsible for removing aliens from the United States. The terminology used could be interpreted to mean that another organization/program is responsible for alien removal. Similarly, the description of the inspections program indicates that its function is to "inspect aliens at ports of

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entry to ensure that previously deported criminal aliens do not return to the United States." In fact the mission of the inspections program is much broader. It is to facilitate the entry of qualified applicants and identify and deny admission to those not qualified (of which those previously deported are merely a subset). In addition, the inspections program is responsible for approving or denying applications and petitions for benefits which are sent to ports of entry for adjudication during officer stand-by time and for providing Border Crossing Cards to eligible persons. We request that you consider clarifying the descriptions of these programs.

We note that the report did not analyze the effects of the Immigration Reform and Control Act (IRCA) of 1986 on the enforcement activities of INS relating to criminal aliens because the law was implemented toward the end of GAO's review. However, GAO did report one interviewer's comments about the IRCA and how it limited INS' ability to deport certain aliens. In view of this, it is perhaps appropriate to mention a problem with the IRCA which the FBI has identified. Currently, when an authorized entity obtains a copy of a criminal history record which reflects that the subject has a warrant outstanding, the FBI will alert the "wanting" agency of the inquiry. This has proven helpful in the location and apprehension of wanted persons. However, the IRCA has specific language at Section 245A, Subsection (c) which has been interpreted to preclude the FBI from making such notifications if the INS requests a record to determine an illegal alien's suitability for change of status pursuant to the Act. Proposals for legislative changes in this regard are currently under review within the Department.

Finally, although GAO states that no recommendations are being made, the Department urges that GAO recommend that Section 241(b)(2) of the Immigration and Nationality Act be amended to preclude a local court from making a recommendation against deportation. These recommendations serve as a bar to the deportation of criminal aliens and have the effect of allowing a local court to make a decision binding on the Federal Government in a matter which the courts have held in all other areas to be a Federal issue (control of aliens). Modification or repeal of this section would put the issue of relief from deportation for criminal aliens within INS' jurisdiction where it properly belongs. The Department had proposed such an amendment during the 99th Congress.

See p. 28.

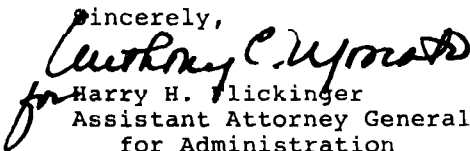
Appendix II  
Comments From the Department of Justice

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We appreciate the opportunity to respond to your report while in draft form. Should you have need for any additional information, please feel free to contact me.

Sincerely,

  
for Harry H. Flickinger  
Assistant Attorney General  
for Administration





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