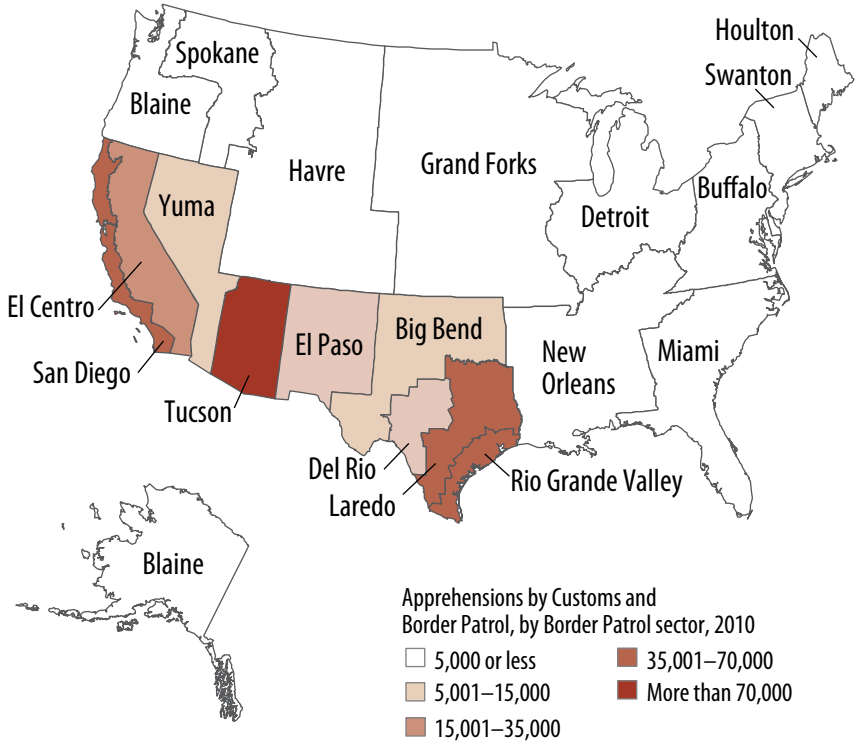
**U.S. Department of Justice**
Office of Justice Programs
*Bureau of Justice Statistics*

**Federal Justice Statistics Program**

# Immigration Offenders in the Federal Justice System, 2010

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**July 2012, NCJ 238581**

BJS

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The Bureau of Justice Statistics is the statistics agency of the U.S. Department of Justice.

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## Highlights

### Apprehension, Arrest, and Prosecution

- Apprehensions for immigration violations peaked at 1.8 million in 2000 but dropped to 516,992 in 2010—the lowest level since 1972.
- Apprehensions for immigration offenses declined an average annual rate of 16.6% between 2005 and 2010, influenced mostly by declines in apprehensions in the Southwest border patrol sectors.
- Most immigration suspects were arrested for illegal entry while most immigration defendants in federal court were charged with illegal reentry.
- Between 2004 and 2010, the number of Border Patrol officers nearly doubled, increasing from 10,819 to 20,558.
- From 1994 to 2010, suspects booked by the U. S. Marshals Service for a federal criminal immigration offense increased from 8,777 to 82,438—an average annual increase of 16%.
- Ninety percent of federal immigration arrests in 2010 occurred in five Southwest border federal judicial districts (California Southern, Arizona, New Mexico, Texas Western, and Texas Southern).
- Immigration apprehensions resulted in about 16 arrests per 100 apprehensions in 2010, up from 2 arrests per 100 in 2002.
- In 2010, 83% of all federal immigration offenders arrested for federal charges were booked in federal courts in 11 cities along the Southwest U. S. border.
- The majority of deportable aliens in 2010 were citizens of Mexico (83%), an increasing share coming from countries in Central America which reached 12% of deportable aliens in 2010 up from 3% in 2002.
- The number of suspects referred to U. S. attorneys for an immigration offense increased from 7,122 in 1992 to 84,606 in 2010.
- In 2010, most immigration suspects were referred to U.S. attorneys for illegal entry (51%) or reentry (42%) followed by alien smuggling (5%) and misuse of visas or other immigration violations (2%).
- The Arizona district (27,369) had the greatest number of immigration referrals to U.S. attorneys in 2010, followed by Texas Southern (22,833), and Texas Western (14,630).
- In 2010, the Arizona district received the most illegal reentry referrals (13,584 suspects), followed by Texas Southern (5,333 suspects).
- From 2006 to 2009, the number of immigration cases disposed by U.S. magistrates in Southwest border districts nearly doubled, from 31,196 to 55,604.
- Illegal reentry after previous removal was the fastest growing immigration offense referred to U.S. attorneys.
- In 2010, 90% of suspects arrested for a federal criminal immigration offense were male. Most suspects (41%) arrested were between ages 25 and 34. Twenty-six percent of suspects were under age 25 and 9% were age 45 or older.

### Courts

- The most common immigration offense charged in U.S. district court in 2010 was illegal reentry (81%), followed by alien smuggling (12%), misuse of visas (6%) and illegal entry (1%).
- In 2010, public defenders (63%) and Criminal Justice Act-appointed counsel (32%) handled the bulk of federal immigration offenders charged in U S district court.
- During 2010, 97% of immigration defendants in cases terminated in U.S. district court were convicted, up from 95% in 2002.
- In 2010, nearly all (97%) immigration defendants in cases terminated pled guilty.
- Of the 28,589 immigration defendants charged in U.S. district court in 2010, 66% had a prior felony arrest and 57% had a prior felony conviction. Sixty-five percent of illegal reentry defendants had a prior felony conviction.
- Immigration matters with the highest prosecution rates in 2010 included suspects charged with alien smuggling (80%), misuse of visas (79%) and illegal reentry (67%).
- Most defendants charged with an immigration offense in U.S. district court in 2010 were male (93%), Hispanic (96%), and over age 25 (88%).
- Most immigration offenders charged in federal courts in 2010 were citizens of Mexico (78%), the countries of Central America (10%), or the U.S. (7%).

### Corrections and Supervision

- Eighty-one percent of immigration defendants who were convicted in U. S. district court received a prison sentence in 2010. The median prison term imposed was 15 months.
- At fiscal yearend 2010 (September 30), nearly 27,000 immigration offenders were in federal prison (82%) or on supervised release in the community (18%).
- Citizens of Mexico serving a federal prison term for an immigration offense increased from 2,074 in 1994 to 17,720 in 2010.
- The vast majority of immigration offenders in federal prison were convicted of illegal reentry or illegal entry offenses (90%), followed by alien smuggling (10%) and visa fraud (less than 1%).
- Fourteen percent of immigration offenders released from federal prison in 2007 were readmitted to federal prison within 3 years.

# 1. Overview

Abstract: Presents data on criminal and civil immigration violations handled by the federal justice system. The report details recent trends in immigration apprehensions and arrests, processing of immigration matters in federal court, and correctional supervision of immigration offenders. It describes immigration violators by sex, age, country of origin, type of offense, prior criminal record, and geographic location where apprehended in the U.S. It looks at prosecution, adjudication, and sentencing outcomes for criminal immigration offenders and provides findings on immigration offenders returning to federal prison after release. This report uses data from the Bureau of Justice Statistics' (BJS) Federal Justice Statistics Program (FJSP) and other published sources. Data from seven federal agencies are used (U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Marshals Service, Executive Office for the U.S. Attorneys, Administrative Office of the U.S. Courts, Federal Bureau of Prisons, and Executive Office of Immigration Review).

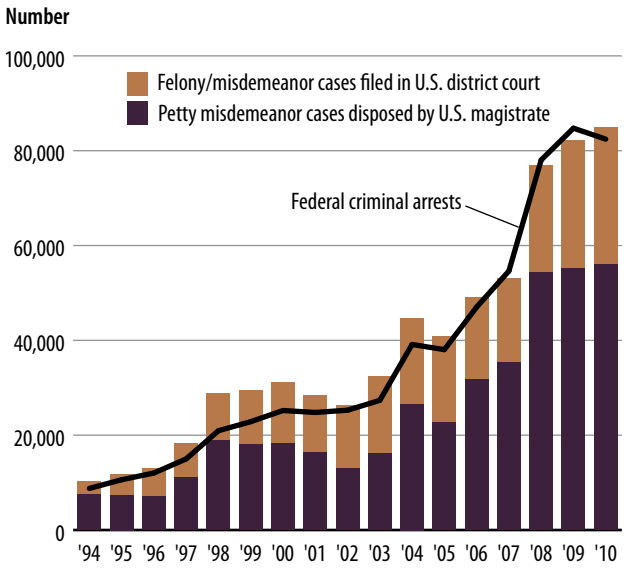
This report uses data from the Federal Justice Statistics Program (FJSP) and other published sources to describe the federal enforcement of criminal provisions of the Immigration and Nationality Act (INA, Title 8 U.S.C. 1101). Dual civil and criminal justice responses are authorized under the INA to address persons being in or attempting to enter the U.S. without authorization and persons committing immigration and other crimes while unlawfully in the U.S. The INA covers criminal immigration offenses that are subject to federal arrest and prosecution, including illegal entry into the U.S., illegal reentry after being removed, failing to leave the U.S. when ordered removed, remaining beyond days on conditional permit, bringing in or harboring aliens, marriage fraud, and employer worksite violations.

Law enforcement agencies may refer immigration matters to the U.S. attorneys office where the federal prosecutor may file charges against the defendant in U.S. district court, file the matter before a U.S. magistrate, or decline to prosecute. Immigration offenders who are charged with an offense may be convicted and sentenced to a term in federal prison or community supervision. An administrative court process is used to determine whether unauthorized immigrants are subject to removal from the U.S, including persons already in the U.S. without having been admitted and persons not having a valid visa.

### Between 2000 and 2010, federal apprehensions for immigration violations declined while arrests tripled

Over the last decade, the number of apprehensions for immigration violations declined, while the number of suspects facing federal criminal arrest increased.[1] Immigration apprehensions peaked at 1.8 million in 2000 and steadily declined between 2005 and 2010 to reach 516,992 apprehensions—the lowest level since 1972. Arrests booked by the U.S. Marshals Service for federal immigration offenses increased from 25,205 in 2000 to a record high of 84,749 in 2009, before declining slightly to 82,438 in 2010. Between 1994 and 2010, the number of suspects booked by the U.S. Marshals for a federal immigration arrest increased an average 16% per year (figure 1). Between 2004 and 2010, the number of U.S. Border Patrol officers almost doubled, from 10,819 to 20,558, with most deployed to the Southwest border.

**FIGURE 1**
**Federal criminal immigration arrests, by court of disposition, 1994–2010**




Source: U.S. Marshals Service, Prisoner Tracking System (PTS). Petty misdemeanor cases disposed by U.S. magistrates are from Administrative Office of the U.S. Courts, Judicial Business of the U.S. Courts, Table M-1A (1994–1999) and Table M2 (2000–2010). Felony and misdemeanor cases filed are from Administrative Office of the U.S. Courts, criminal master file, fiscal year.

[1]Apprehensions refer to instances in which a foreign national is caught in the U.S. illegally. Arrests refer to the booking of an individual by U.S. Marshals for violating federal criminal immigration law. Apprehensions and arrests represent events, not individuals, because some individuals may be apprehended or arrested more than once.

### Federal courts in eleven cities on the U.S.-Mexico border handled 83% of all immigration offenders arrested in 2010

The five federal judicial districts along the Southwest border (California Southern, Arizona, New Mexico, Texas Western, and Texas Southern) accounted for 56% of all federal suspects arrested and booked in the U.S. and 90% of all immigration arrests in 2010. These districts also handled the greatest number of felony cases per judge in the federal criminal court system, most of which were immigration offenses (map 1). Federal courts in eleven cities on the U.S.-Mexico border handled 83% of all immigration offenders arrested in 2010. Border Patrol and Customs officers in the Tucson Sector made 212,202 apprehensions in 2010, and 21,275 immigration offenders were arrested and faced criminal charges in the federal court in Tucson—the largest number of cases handled by a federal court in the U.S. (map 2).

Immigration authorities in 2010 made about 17 federal criminal arrests per 100 apprehensions in Southwest Border Patrol sectors, an increase from about 2 federal criminal arrests per 100 apprehensions in 2001. Outside of the Southwest Border Patrol sectors, immigration authorities made 24 arrests per 100 apprehensions in 2010.

### Most immigration matters were disposed by a U.S. magistrate

A small share (less than 1%) of immigration matters referred to U.S. attorneys resulted in a declination for prosecution in 2010.[2] Immigration matters disposed by magistrate increased from 7,467 matters in 1994 to 85,039 in 2010, including a 54% increase between 2007 and 2008.

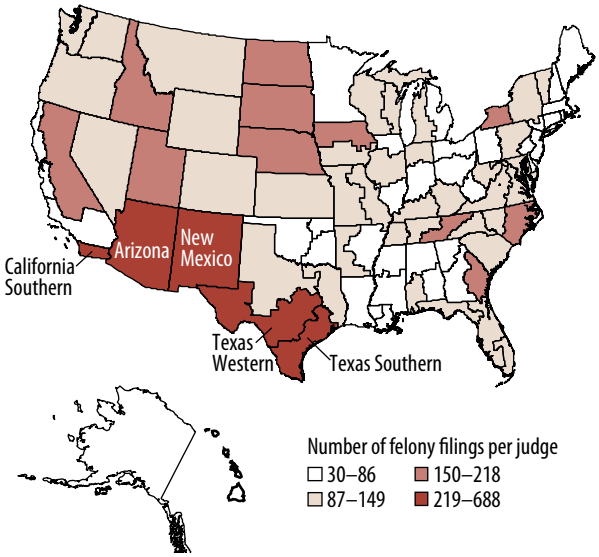
About two-thirds of immigration violators arrested with a federal offense in 2010 were charged with a misdemeanor for illegal entry and were sentenced to jail for up to 180 days by a U.S. magistrate judge. These matters comprised the least serious immigration offenses. Half of immigration matters disposed by magistrate in 2010 were processed on the same day as received by the court, compared to about three weeks for immigration suspects prosecuted in U.S. district court.

The remaining third of immigration offenders arrested in 2010 were charged in U.S. district court for a felony or a more serious misdemeanor, including illegal reentry, alien smuggling, and visa fraud. Cases filed in U.S. district court increased from 2,934 in 1994 to 29,019 in 2010, including a 27% increase between 2007 and 2008. In 2010, most immigration offenders were charged in U.S. district court for illegal reentry into the U.S. (78%) or alien smuggling (11%).

[2]A matter or investigation is defined as a referral from federal law enforcement for which a federal prosecutor spends at least one hour.

**MAP 1**

**Federal felony filings per judge, by federal judicial district, 2010**

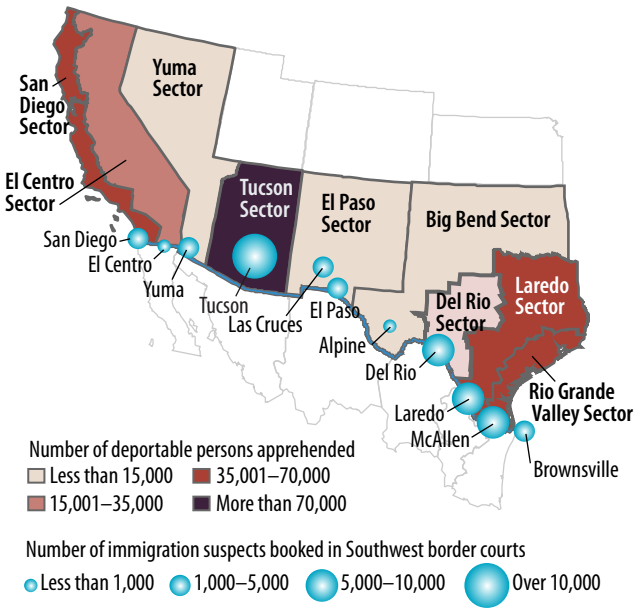



Note: District of Columbia (37), Guam (26), Puerto Rico (214), and Virgin Islands (65) are not shown on map .

Source: Administrative Office of the U.S. Courts, criminal master file, and Federal Court Management Statistics, fiscal year.

**MAP 2**

**Apprehensions by Border Patrol sector and criminal immigration suspects arrested in U.S. district courts on the Southwest border, 2010**




Note: Tucson District Court had 21,275 arrests.

Source: U.S. Marshals Service, Prisoner Tracking System (PTS), U.S. Department of Homeland Security, 2010 Yearbook of Immigration Statistics, fiscal year.

### More than half (57%) of immigration offenders charged in U.S. district court had a prior felony conviction

In 2010, 97% of immigration offenders in cases concluded were convicted, and almost all convictions were the result of a guilty plea. Public defenders provided counsel for most (63%) immigration defendants in cases concluded in U.S. district court, followed by panel attorneys appointed by the court (32%). In 2010, 81% of convicted immigration defendants were sentenced to prison; half received a prison sentence of 15 months.

The criminal history profile of immigration offenders charged in U.S. district court reflected relatively serious prior criminal records. In 2010, 66% of immigration offenders charged in U.S. district court had a prior felony arrest and 57% had a prior felony conviction. During 2010, among immigration offenders with a prior felony conviction, 21% had a prior felony drug conviction and 17% had a prior felony violent conviction. In 2010, 61% of immigration defendants convicted and sentenced under the federal sentencing guidelines had a prior conviction with a sentence of 60 days or more—about the same (59%) as in 2000.[3]

### Immigration courts ordered removals from the U.S. in 75% of cases decided

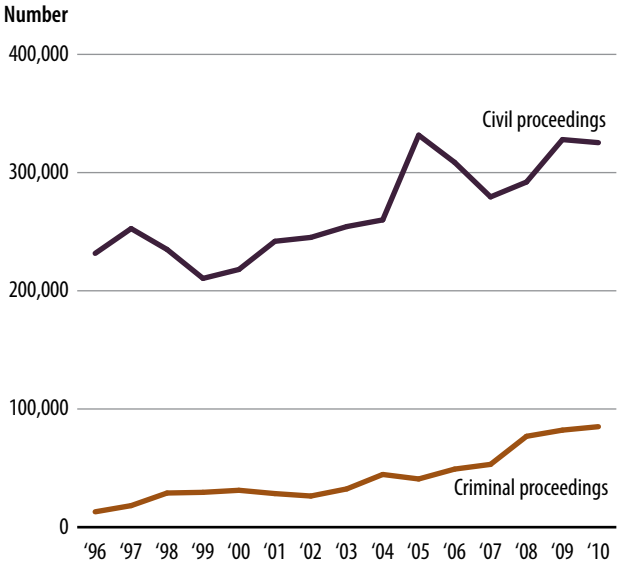
From 2000 to 2010, the number of immigration cases handled in civil and criminal courts increased substantially. The number of proceedings in civil immigration court increased 49%, from 218,049 cases in 2000 to 325,326 in 2010 (figure 2).

In 2010, there were 85,039 criminal proceedings for immigration misdemeanor and felony cases. Criminal proceedings comprised 21% of all criminal and civil proceedings in 2010, up from 10% in 2002. The number of criminal proceedings increased at an average annual rate of 16% from 1996 to 2010, compared to a 3% average annual growth rate for civil proceedings received over the same period. Civil proceedings comprised 57% of the net increase between 1996 and 2010, and criminal proceedings made up 43% of the net increase.

For the past decade, most persons apprehended faced voluntary return to their country of origin. This has been increasing share of immigration violators were formally removed from the U.S. either as the result of an immigration judge's order, through expedited removal, or a reinstated order of removal (figure 3). Expedited removal of an unauthorized immigrant to their country of origin is used by the Department of Homeland Security (DHS) law enforcement in eligible cases to save time and costs

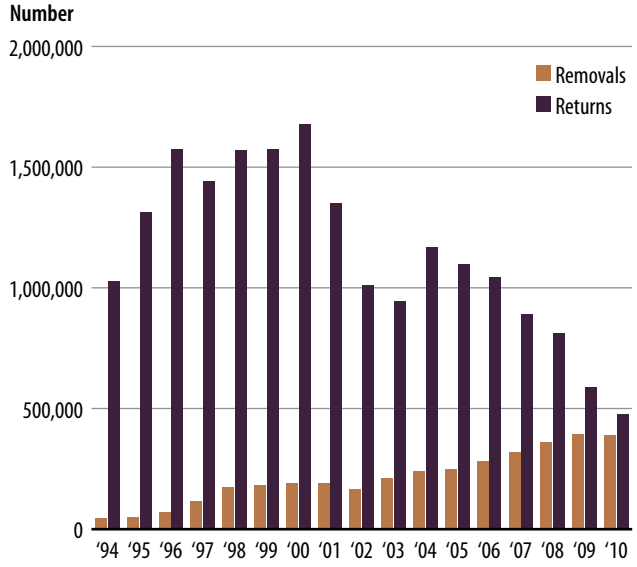
[3]Based on analysis of U.S. Sentencing Commission Monitoring data base.

**FIGURE 2**
**Number of civil proceedings in immigration court and criminal immigration proceedings in federal district court, 1996–2010**




Source: Civil proceedings obtained from Executive Office for Immigration Review (EOIR), Statistical Year Book, annual. Criminal immigration proceedings include petty misdemeanors disposed by U.S. magistrates obtained from Table M-1A (1994-1999) and Table M2 (2000-2010) in Administrative Office of the U.S. Courts (AOUSC) Federal Judicial Business of the U.S. Courts; and criminal cases filed in U.S. district court obtained from AOUSC, criminal master file. Both lines are shown as fiscal year.

**FIGURE 3**
**Illegal aliens removed from U.S. or returned to country of origin by immigration authorities, 1994–2010**




Note: A removal is compulsory movement out of the U.S. based on an administrative order and places administrative and criminal consequences on future reentry into the U.S. A return is voluntary movement out of the U.S. with eligibility for reentry.

Source: U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

of removal proceedings. Formal removals comprised 45% of all aliens removed from the U.S. or returned to their country of origin in 2010.

An immigration judge decides whether an individual is to be removed from the U.S. based on administrative law, which is applied uniquely to non-U.S. citizens in removal proceedings. In 2010, immigration courts ordered removal in 75% of the cases in which a decision was issued. In 25% of the cases decided by immigration judges, charges were either not sustained (11%) or the judge granted relief from removal from the U.S. (14%).[4]

Half of individuals in civil proceedings before an immigration judge did not have counsel in 2010. The government is not required to provide counsel to persons facing removal before an immigration judge nor in any appeal proceedings.

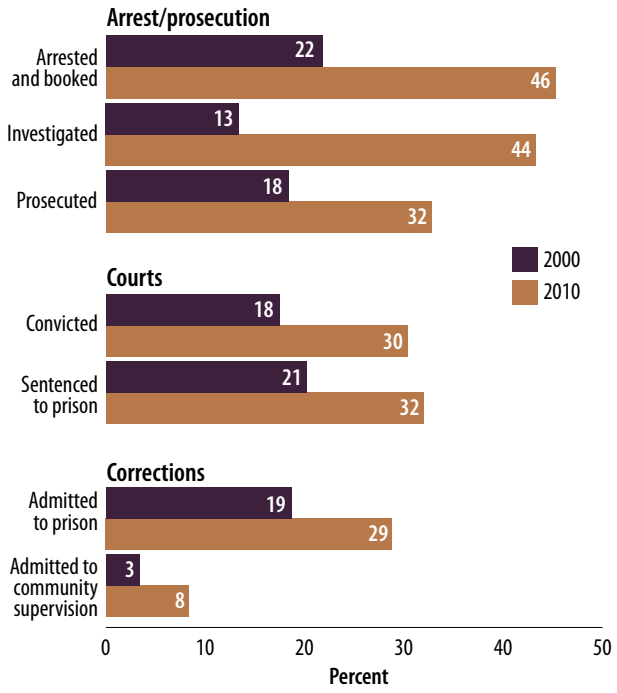
The growth of immigration offenders in the federal criminal justice system varied by case processing stage, with the greatest differences at the early stages of arrest and investigation. In 2000, immigration offenses comprised 22% of the suspects arrested and booked by the U.S. Marshals—the entry point into the federal criminal case process (figure 4). By 2010, immigration offenses comprised nearly half (46%) of suspects booked by U.S. Marshals.

Criminal immigration referrals to U.S. attorneys for investigation comprised 13% of all referrals in 2000 and 44% of all referrals in 2010.

The relative drop between the percentage of immigration suspects investigated in 2010 and the percentage of immigration suspects prosecuted in 2010 occurred due to the exclusion of matters disposed by U.S. magistrate from the prosecution count. Petty immigration matters appeared in the arrest and investigation stages but were excluded from later stages (prosecution, conviction, sentencing, and admission to prison and community supervision) because they were not prosecuted in U.S. district court. Immigration offenders comprised 18% of suspects prosecuted in 2000 and 32% of suspects prosecuted in 2010.

[4]Executive Office for Immigration Review, FY2010 Statistical Year Book.

**FIGURE 4**
**Immigration offenders as a percent of total federal criminal caseload, by stage, 2000 and 2010**




Source: U.S. Marshals Service, Prisoner Tracking System (PTS); Executive Office for U.S. Attorneys, National LIONS data base; Administrative Office of the U.S. Courts, criminal master file; Federal Bureau of Prisons, SENTRY data base; and Administrative Office of the U.S. Courts, FPSIS data base, fiscal years 2000 and 2010.

### In 2010, nearly 30% of federal prisoners were immigration offenders

The share of immigration offenders admitted to the Federal Bureau of Prisons (BOP) increased from 19% of all offenders admitted in 2000 to 29% in 2010. The share of immigration offenders admitted to federal supervision was 3% in 2000 and increased to 8% of offenders admitted in 2010. The bulk of immigration offenders in BOP facilities (95%) were non-U.S. citizens.

# 2. Apprehension, Arrest, and Prosecution

The apprehension of persons in the U.S. illegally is the entry point for both civil and criminal responses to immigration offenses. DHS exercises the power and duties provided under the INA to monitor the flow of people and commerce along U.S. borders and waterways, at ports of entry, and in the U.S. interior. Within DHS, Customs and Border Protection (CBP) officers and Immigration and Custom Enforcement (ICE) agents are responsible for most immigration enforcement. Some persons trying to enter the U.S. illegally were apprehended and arrested *between* ports of entry for entering the U.S. without inspection, reentrying after a prior removal, or committing other immigration and criminal offenses. Others were detected and apprehended *at* ports of entry while being smuggled in cars, trucks, and shipping containers or presenting fraudulent identification documents at inspection.

## Apprehension

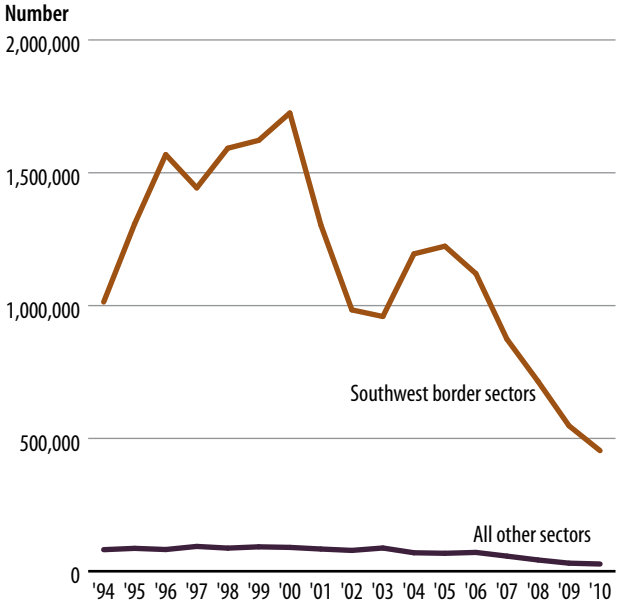
In 2010, CBP and ICE made 516,992 apprehensions for violating U.S. immigration laws—the lowest number of apprehensions since 1972 (figure 5). In 2009, they made 613,003 apprehensions, down from 791,568 in 2008. Overall apprehensions for immigration offenses declined at an average annual rate of 16.6% between 2005 and 2010, influenced mostly by declines in apprehensions in the Southwest border patrol sectors.

### Immigration apprehensions and arrests

Apprehensions refer to instances in which a foreign national is caught in the U.S. illegally. Arrests refer to the booking of an individual by U.S. Marshals for violating federal criminal immigration law. Apprehensions and arrests represent events, not individuals, because some individuals may be apprehended or arrested more than once.

**FIGURE 5**

**Aliens apprehended by immigration enforcement authorities, by Border Patrol sector, 1994–2010**




Note: Includes apprehensions made by Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE).

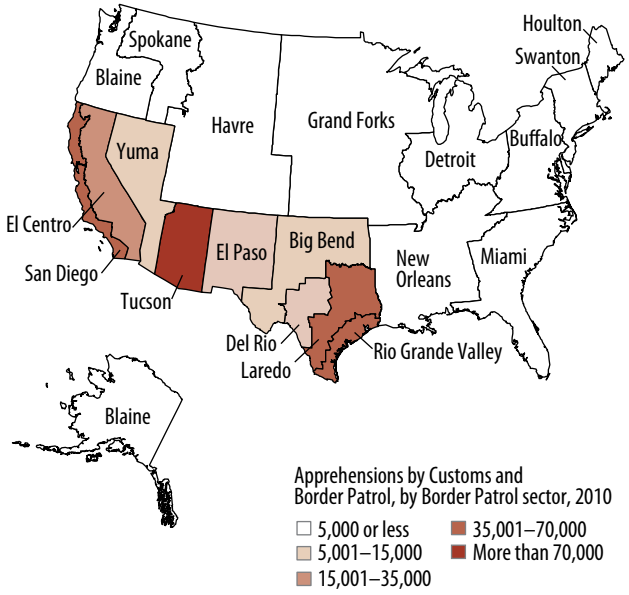
Source: U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

### Most immigration apprehensions were at or near the Southwest border

During 2010, 87% of apprehensions of persons in the U.S. illegally were at or near the Southwest border, 6% were in the northern and coastal Border Patrol sectors, and 7% were fugitives and persons removed from prison and other locations. Southwest border sectors with the most apprehensions in 2010 included the Tucson sector (212,202), followed by San Diego (68,565), Rio Grande Valley (59,766), Laredo (35,287), El Centro (32,562), and Del Rio (14,694) (map 3). CBP officers made 90% of apprehensions in 2010. The remaining 10% of apprehensions were the result of 17,836 ICE investigations and 35,774 ICE Enforcement and Removal Operations.

**MAP 3**

**Apprehensions by Customs and Border Protection, by Border Patrol sector, 2010**



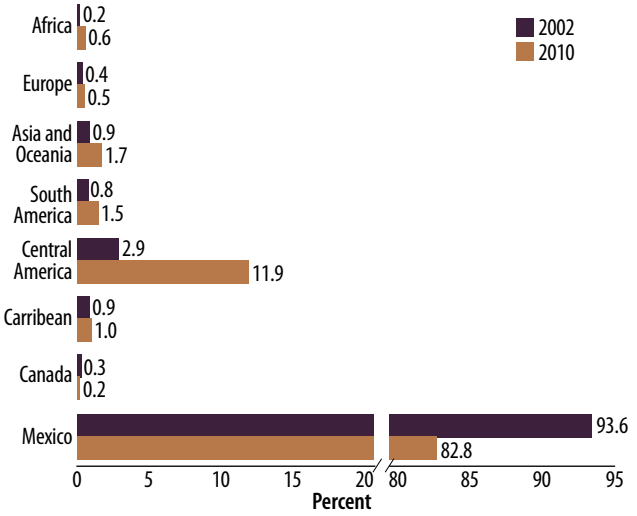

Note: Tucson Sector had 212,202 apprehensions. Ramey Sector (Puerto Rico) had 398 apprehensions (not shown on map) . Hawaii does not have a sector.

Source: U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

In 2010, citizens of Mexico comprised 83% of deportable aliens located by Homeland Security, down from 94% in 2002. The share of deportable aliens from Central America increased from 3% in 2002 to 12% in 2010 (figure 6). In 2002 and 2010, persons from South America, Asia and Oceania, and the Caribbean comprised between 1% and 2% each of deportable aliens, while persons from Africa, Europe, and Canada were less than 1% each.

**FIGURE 6**

**Region and nationality of aliens apprehended by immigration enforcement agencies, 2010**




Note: Includes apprehensions made by Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE).

Source: U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

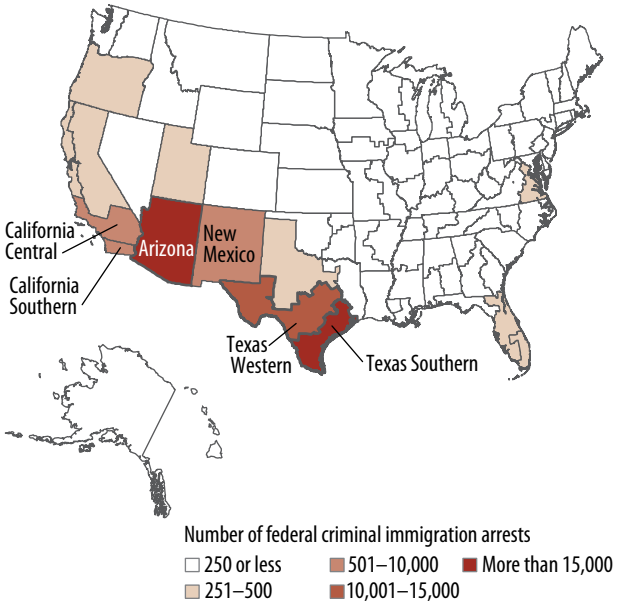
## Arrest

The number of suspects arrested for a criminal immigration offense reached a record high of 84,749 in 2009, before decreasing slightly (3%) in 2010 to 82,438 (figure 7). Between 1994 and 2010, immigration suspects arrested for a federal criminal offense increased an average 16% per year, from 8,777 to 82,438 arrests. The bulk of immigration arrests in 2010 were in Southwest border sectors (92%) compared to all other Border Patrol sectors (map 4).

From 2003 to 2010, the total number of immigration arrests made by CBP and ICE increased by 54,061 arrests. Criminal arrests made by CBP accounted for 63% of the increase and those made by ICE accounted for 37% of the increase (figure 8). From 2005 to 2010, federal criminal immigration arrests increased at a somewhat faster average annual rate for ICE (20%) than for the Border Patrol (18%). In 2010, 73% of immigration arrests were made by the Border Patrol, down from an 81% share of immigration arrests in 2009. In 2010, 25% of immigration arrests were made by ICE, up from a 17% share in 2009.

**MAP 4**

**Federal criminal immigration arrests, by federal judicial district of arrest, 2010**

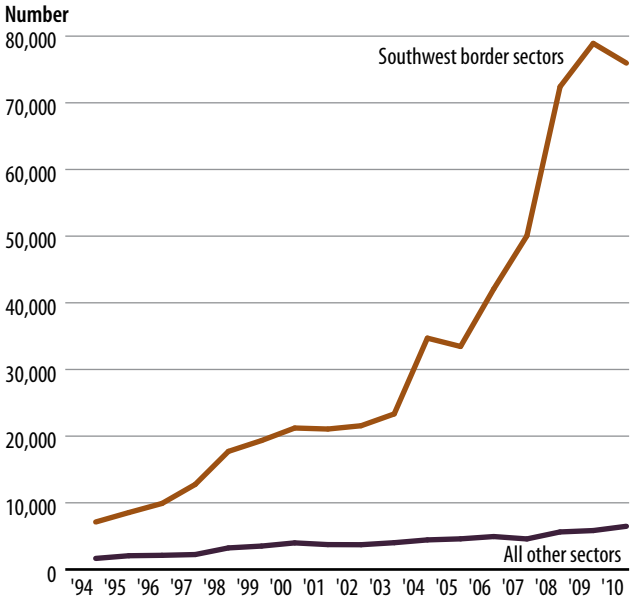



Note: The Arizona district had 27,740 immigration arrests. Texas Southern district had 22,961 immigration arrests.

Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

**FIGURE 7**

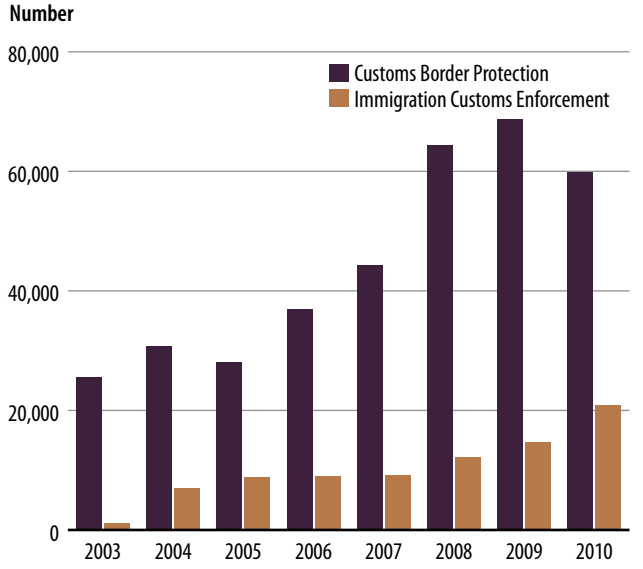
**Suspects arrested for a federal criminal immigration offense, by Border Patrol sector, 1994–2010**




Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

**FIGURE 8**

**Suspects arrested for a federal criminal immigration offense, by Homeland Security agency making arrest, 2003–2010**




Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

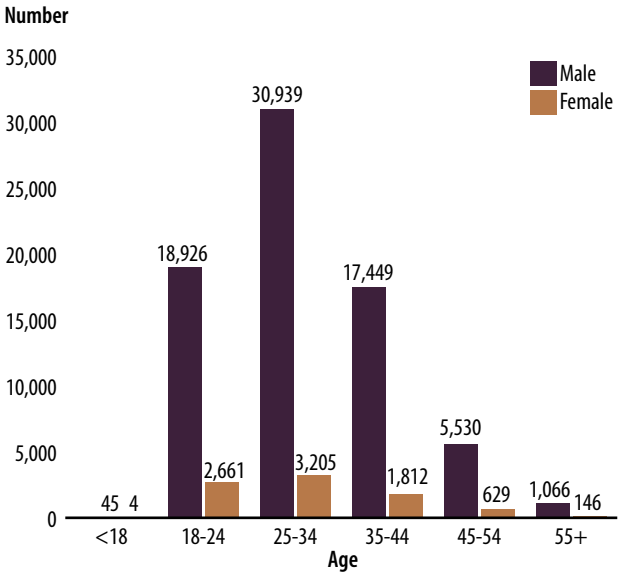
### 90% of federal immigration arrests were in the five Southwest border federal judicial districts

With primary law enforcement responsibility for immigration offenses, DHS law enforcement agencies arrested 98% of immigration suspects in 2010. Justice Department law enforcement agencies (mostly the Marshals Service) arrested 2% of immigration suspects booked for a federal criminal offense in 2010 (table 1). Ninety percent of federal immigration arrests were in the five Southwest border federal judicial districts (California Southern, Arizona, New Mexico, Texas Western, and Texas Southern). Of the immigration suspects arrested outside of the Southwest border districts, most (6,630 or 80%) were arrested by ICE. Arrests by U.S. Marshals were about evenly split between Southwest (49%) and non-Southwest (51%) border districts.

### In 2010, 41% of suspects arrested for a federal criminal immigration offense were between ages 25 and 34

In 2010, 90% of suspects arrested for a federal criminal immigration offense were male (figure 9). Twenty-six percent of suspects arrested for an immigration offense in 2010 were under age 25 and 9% were age 45 or older.

**FIGURE 9**
**Number of suspects arrested for a federal criminal immigration offense, by age and sex of suspect, 2010**




Note: Males totaled 73,955 and females totaled 8,457. For 24 apprehensions, the suspect's sex was unknown.

Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

**TABLE 1**
**Suspects arrested for a federal criminal immigration offense, by federal law enforcement agency making arrest, 2010**

| | Total | | District of arrest | | | | |
|---|---|---|---|---|---|---|---|
| | | | Number | | Percent | | |
| Federal law enforcement agency | Number | Percent | Southwest border | Non-Southwest border | All districts | Southwest border | Non-Southwest border |
| **All agencies** | 82,438 | 100% | 74,119 | 8,319 | 100% | 89.9% | 10.1% |
| **Department of Homeland Security** | 80,839 | 98.1% | 73,344 | 7,495 | 100% | 90.7 | 9.3 |
| Customs and Border Protection | 59,771 | 72.5 | 58,921 | 850 | 100% | 98.6 | 1.4 |
| Immigration and Customs Enforcement | 20,907 | 25.4 | 14,277 | 6,630 | 100% | 68.3 | 31.7 |
| Other DHS | 161 | 0.2 | 146 | 15 | 100% | 90.7 | 9.3 |
| **Department of Justice** | 1,507 | 1.8% | 728 | 779 | 100% | 48.3 | 51.7 |
| U.S. Marshals Service | 1,397 | 1.7 | 682 | 715 | 100% | 48.8 | 51.2 |
| Other DOJ | 110 | 0.1 | 46 | 64 | 100% | 41.8 | 58.2 |
| **Other agencies** | 92 | 0.1% | 47 | 45 | 100% | 51.1 | 48.9 |

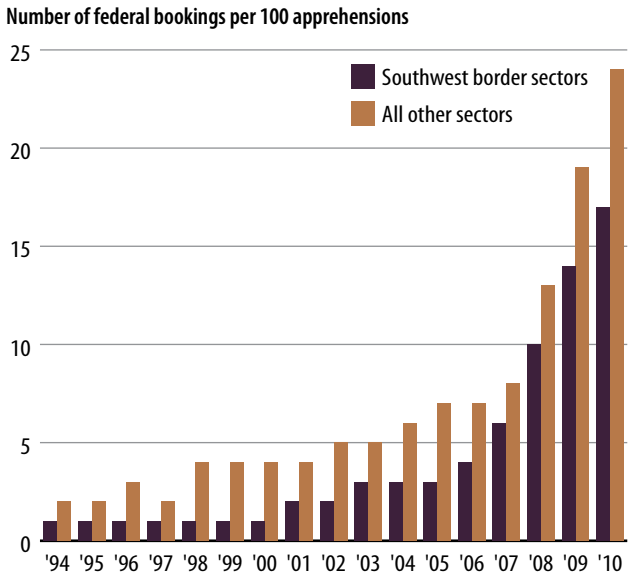
Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

From 1994 to 2010, a growing share of immigration apprehensions resulted in a federal criminal arrest. There were about 16 arrests per 100 apprehensions in 2010, up from 2 arrests per 100 apprehensions in 2002. The number of arrests per 100 apprehensions in Southwest and non-Southwest border sectors increased from 1994 to 2010. In 2010 arrests per apprehensions increased to higher levels in non-Southwest border sectors (24 arrests per 100 apprehensions) than in Southwest border sectors (17 arrests per 100 apprehensions) (figure 10).

The Immigration Reform and Control Act of 1986 emphasized increased allocation of border enforcement officers to prevent illegal entry into the U.S. Efforts were aimed at increasing the likelihood of apprehension starting with greater surveillance over major entry corridors along the border. More recently, the border patrol has incorporated a three point approach in a strategy to enhance enforcement with consequences. This includes the greater use of expedited removal, increased use of detention prior to removal proceedings, and charging a greater share of persons apprehended with a federal immigration crime.[5]

[5]Mark R. Rosenblum (2012). Border Security and Immigration Enforcement Between Ports of Entry. Congressional Research Services.

**FIGURE 10**
**Suspects arrested for federal criminal immigration offenses per 100 aliens apprehended, by Southwest border sector, 1994–2010**

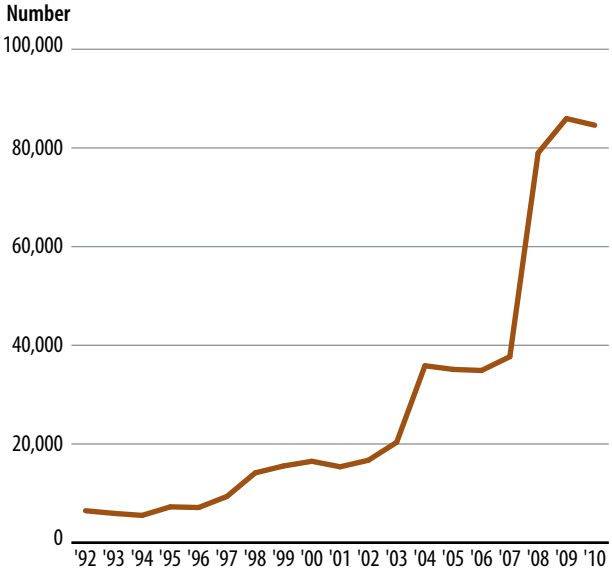



Source: U.S. Marshals Service, Prisoner Tracking System, U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

## Prosecution

Immigration matters were 44% of the total 195,260 matters referred to U.S. attorneys' offices by federal law enforcement agencies in 2010. The number of immigration matters referred more than doubled from 2005 to a record high of 85,950 in 2009, before decreasing slightly in 2010 (figure 11). The number of immigration suspects in matters referred to U.S. attorneys increased to 84,606 in 2010 from 7,122 in 1992.

**FIGURE 11**
**Federal immigration suspects referred to U.S. attorneys, 1992–2010**




Note: Includes matter with an immigration offense as the lead charge.
Source: Executive Office for U.S. Attorneys, National LIONS data base, fiscal year.

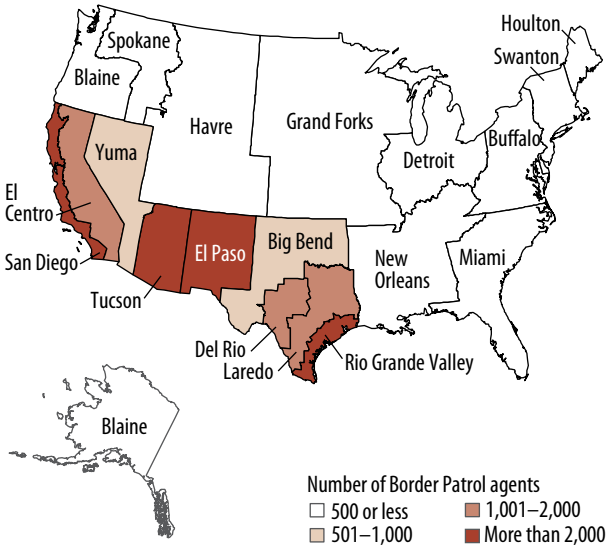
### Border Patrol officers nearly doubled between 2004 and 2010

The number of Border Patrol officers increased at an annual average of 7% from 1996 to 2006 and an annual average of 18% from 2007 to 2009. Between 2004 and 2010, the number of Border Patrol officers nearly doubled, increasing from 10,819 to 20,558. The rate of Border Patrol officer growth slowed from 2009 to 2010, increasing by 2%[6]

In 2010, 87% of Border Patrol officers were located in border patrol sectors along the Southwest border (map 5). Fifty-six percent of Border Patrol officers were located in four Southwest border patrol sectors: Tucson, El Paso, San Diego, and Rio Grande Valley.

[6]Department of Homeland Security, Customs and Border Protection, http://www.cbp.gov/xp/cgov/border.security/border-patrol/usbp-statistics).

**MAP 5**
**Number of Border Patrol officers, by Border Patrol sector, 2010**



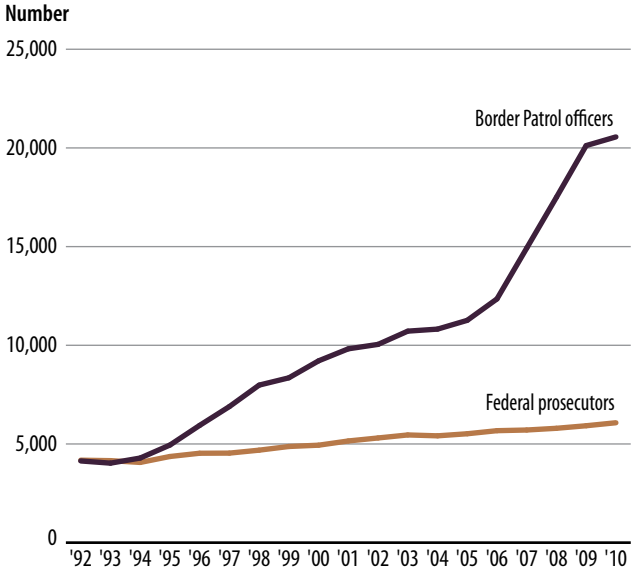

Note: See *Methodology* for a description of Border Patrol sectors. Tucson sector had 3,353 officers. Ramey Sector (Puerto Rico) is not shown on map. Hawaii is not in a designated sector.

Source: U.S. Department of Homeland Security, Yearbook of Immigration Statistics, fiscal year.

There were 6,075 full time equivalent (FTE) attorneys in the Justice Department in 2010.[7] From 1992 to 2010, the number of FTE attorneys in the Justice Department increased an annual average 2%, compared to Border Patrol staff which increased an annual average 10% (figure 12). In 1992 there was about one Border Patrol officer per FTE attorney, and in 2010 there were three Border Patrol officers per FTE attorney.

[7]U.S. Attorneys' Annual Statistical Report, 2010. Executive Office for U.S. Attorneys. See http://www.justice.gov/usao/.

**FIGURE 12**
**Number of full-time federal prosecutors and Border Patrol officers, 1992–2010**



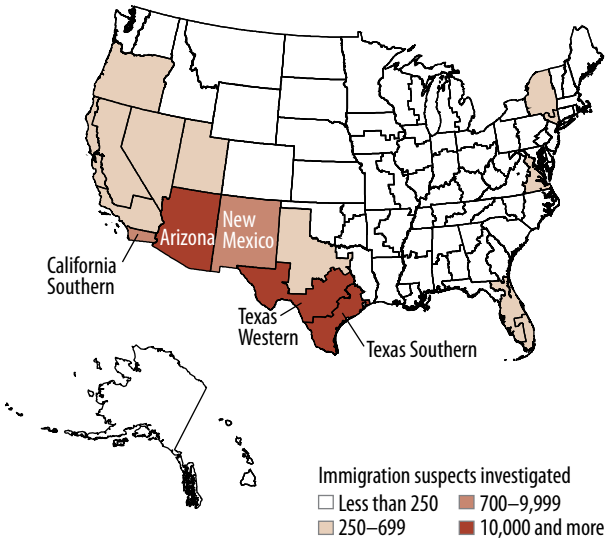

Source: U.S. Border Patrol. http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/staffing_92_10.ctt/staffing_92_11.pdf
Executive Office for U.S. Attorneys, U.S. Attorneys' Annual Statistical Report.

### Illegal reentry and entry suspects were 93% of immigration referrals to U.S. attorneys in 2010

In 2010, most immigration suspects were referred to U.S. attorneys for illegal entry (51%) or reentry (42%) offenses. Five percent of suspects were referred for smuggling aliens and 2% were referred for the misuse of visas or other immigration violations (table 2). Referrals for illegal entry declined as a share of immigration referrals from 65% of referrals in 2008 to 51% in 2010. The number of suspects referred for illegal reentry after previous removal comprised a growing share of immigration referrals, increasing from 26% of referrals in 2008 to 42% in 2010. The number of alien smuggling referrals declined from 4,788 in 2008 to 3,870 in 2010. Misuse of visas referrals dropped from 2008 to 2009 and then returned to 2008 levels in 2010.

In 2010, federal prosecutors in Arizona (32%) had the greatest share of immigration referrals, followed by Texas Southern (27%), Texas Western (17%), New Mexico (6%), and California Southern (5%) districts (map 6). These five federal judicial districts along the U.S.-Mexico border handled 88% of all immigration referrals in 2010, with 12% of referrals received from the remaining 89 federal districts (table 3). Illegal entry offenses comprised the largest share of immigration referrals in the Southwest border districts

**MAP 6**
**Immigration suspects investigated in matters referred to U.S. attorneys, 2010**




Note: Includes suspects with an immigration offense as the lead charge or the primary offense characterizing the investigation.
Source: Executive Office for U.S. Attorneys, National LIONS database, fiscal year.

**TABLE 2**
**Suspects referred to U.S. attorneys for an immigration offense as the lead charge, 2008-2010**

| | 2010 | | 2009 | | 2008 | |
|---|---|---|---|---|---|---|
| Immigration offense | Number | Percent | Number | Percent | Number | Percent |
| **Total** | 84,606 | 100% | 85,950 | 100% | 78,986 | 100% |
| **Smuggling, harboring aliens** | 3,870 | 4.6 | 3,880 | 4.5 | 4,788 | 6.1 |
| **Unlawful entry or reentry** | 78,890 | 93.0 | 80,176 | 93.3 | 72,172 | 91.4 |
| Improper entry | 43,300 | 51.2 | 51,234 | 59.6 | 51,673 | 65.4 |
| Reentry by removed aliens | 35,590 | 41.8 | 28,942 | 33.7 | 20,499 | 26.0 |
| **Misuse of visas/other violations** | 2,046 | 2.4 | 1,894 | 2.2 | 2,026 | 2.6 |

Note: Includes suspects with an immigration offense as the lead charge or the primary offense characterizing the investigation.
Source: Executive Office for U.S. Attorneys, National LIONS database, fiscal year.

**TABLE 3**
**Immigration suspects in matters referred by U.S. attorneys, by offense type and district, 2010**

| | Total | | Total | Alien smuggling | | Illegal entry | | Illegal reentry | | Misuse of visas | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Federal judicial district | Number | Percent | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent |
| **Total** | 84,606 | 100% | 100% | 3,870 | 4.6% | 43,300 | 51.2% | 35,390 | 41.8% | 2,046 | 2.4% |
| **Southwest border districts** | 74,642 | 88.2 | 100% | 3,216 | 4.3 | 42,594 | 57.1 | 27,731 | 37.2 | 1,101 | 1.5 |
| Arizona | 27,369 | 32.3 | 100% | 526 | 1.9 | 13,113 | 47.9 | 13,584 | 49.6 | 146 | 0.5 |
| California Southern | 4,462 | 5.3 | 100% | 932 | 20.9 | 976 | 21.9 | 2,373 | 53.2 | 181 | 4.1 |
| New Mexico | 5,348 | 6.3 | 100% | 105 | 2.0 | 2,822 | 52.8 | 2,.235 | 41.8 | 186 | 3.5 |
| Texas Southern | 22,833 | 27.0 | 100% | 1,208 | 5.3 | 16,280 | 71.3 | 5,333 | 23.4 | 12 | 0.1 |
| Texas Western | 14,630 | 17.3 | 100% | 445 | 3.0 | 9,403 | 64.3 | 4,206 | 28.8 | 576 | 3.9 |
| **All other districts** | 9,964 | 11.8 | 100% | 654 | 6.6 | 706 | 7.1 | 7,659 | 76.9 | 945 | 9.5 |

Note: Includes suspects with an immigration offense as the lead charge or primary offense characterizing the investigation.
Source. Executive Office for U.S. Attorneys, National LIONS data base, fiscal year.

(57%), followed by illegal reentry (37%), alien smuggling (4%), and misuse of visas (2%). Nearly all (98%) illegal entry matters referred to U.S. attorneys in 2010 were from Southwest border districts. Most referrals for illegal entry within Southwest border districts were received from Texas Southern (38%), followed by Arizona (30%) and Texas Western (22%).

Illegal reentry after previous removal is a felony under federal law (Title 8 U.S.C. 1326) and is the fastest growing immigration referral offense, with growth occurring in Southwest border districts. In 2010, Southwest border districts handled 78% of all illegal reentry referrals and non-Southwest border districts handled 22% of illegal reentry referrals. In 2008, Southwest border districts handled 73% of illegal reentry referrals and non-Southwest border districts handled 27% of referrals (not shown in table). The Arizona district received the most illegal reentry referrals (13,584 suspects), followed by Texas Southern (5,333 suspects). In 2010, the greatest number of alien smuggling suspects were referred from the Texas Southern district (1,208), followed by California Southern (932). Alien smuggling suspects comprised 21% of all immigration referrals received by California Southern in 2010.

Districts not along the Southwest border handled 12% of immigration referrals in 2010, and illegal reentry suspects comprised the bulk (77%) of immigration matters referred, followed by misuse of visas (10%), illegal entry (7%), and alien smuggling (7%) suspects. Among non-Southwest border districts, referrals for an immigration offense were greatest in Central California (686), Southern Florida (523), Eastern California (481), Middle Florida (459), and Northern California (407) (not shown in table).

After criminal investigations are initiated and criminal suspects are referred to U.S. attorneys, federal prosecutors may file charges against the defendant in U.S. district court, file the matter before a U.S. magistrate (who has the authority to adjudicate misdemeanor offenses), or decline to prosecute the matter. The federal prosecutor has the discretion whether to charge a suspect and which charges to file. In 2010, there were 88,575 immigration suspects in matters concluded by U.S. attorneys.[8] U.S. magistrates disposed of 64% of immigration matters in 2010 (table 4). Thirty-five percent of immigration matters concluded in 2010 were prosecuted by U.S. attorneys. One percent of matters were declined for further prosecution.

[8]The conclusion of a matter reflects the federal prosecutor's decision to prosecute and file a case in U.S. district court, decline the matter, or dispose the matter by U.S. magistrate.

**TABLE 4**

**Suspects in matters concluded by U.S. attorneys for an immigration offense as the most serious charge, 2010**

| | Immigration matters concluded | | Outcome of matters concluded | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | Prosecuted | | Disposed by U.S. magistrate | | Declined | |
| Offense/district/processing time | Number | Percent | Total | Number | Percent | Number | Percent | Number | Percent |
| **Total** | 85,575 | 100% | 100% | 29,796 | 34.8% | 55,001 | 64.3% | 748 | 0.9% |
| **Alien smuggling** | 4,025 | 4.7% | 100% | 3,198 | 79.8% | 520 | 13.0 | 292 | 7.3% |
| **Unlawful entry or reentry** | 79,455 | 92.8 | 100% | 24,957 | 31.4 | 54,185 | 68.2 | 303 | 0.4 |
| Improper entry | 43,548 | 50.9 | 100% | 1,095 | 2.5 | 42,406 | 97.4 | 45 | 0.1 |
| Reentry by removed aliens | 35,907 | 42.0 | 100% | 23,862 | 66.5 | 11,779 | 32.8 | 258 | 0.7 |
| **Misuse of visas/other violations** | 2,095 | 2.4% | 100% | 1,641 | 78.5 | 296 | 14.2 | 153 | 7.3 |
| **Southwest U.S. border districts** | 75,751 | 88.5% | 100% | 21,330 | 28.2% | 54,268 | 71.6% | 148 | 0.2% |
| Arizona | 27,344 | 32.0 | 100% | 3,729 | 13.6 | 23,596 | 86.3 | 19 | 0.1 |
| California Southern | 4,649 | 5.4 | 100% | 3,606 | 77.6 | 958 | 20.6 | 83 | 1.8 |
| New Mexico | 5,617 | 6.6 | 100% | 2,558 | 45.5 | 3,052 | 54.3 | 7 | 0.1 |
| Texas Southern | 23,135 | 27.0 | 100% | 6,289 | 27.2 | 16,824 | 72.7 | 20 | 0.1 |
| Texas Western | 15,006 | 17.5 | 100% | 5,148 | 34.3 | 9,838 | 65.6 | 19 | 0.1 |
| **All other judicial districts** | 9,824 | 11.5% | 100% | 8,466 | 86.4% | 733 | 7.5% | 600 | 6.1% |
| **Days from receipt of matter to disposition** | | | | | | | | | |
| Median | 2 days | | | 21 days | | 0 days | | 316 days | |

Note: Includes suspects with an immigration offense as the lead charge or primary offense characterizing the investigation.

Data: Executive Office for U.S. Attorneys, National LIONS data base, fiscal year.

### Most illegal entry matters (97%) concluded in 2010 were disposed by U.S. magistrates

U.S. magistrate judges are appointed and supervised by federal judges in the U.S. district court where they serve for a term of eight years. The duties of the magistrate judge include a variety of tasks, including handling preliminary proceedings in felony immigration matters and disposing of persons charged with entry without inspection (Title 8 U.S.C. 1825) as a petty misdemeanor—the least serious criminal immigration offense. In 2002, one petty immigration misdemeanor matter was disposed by U.S. magistrates for every immigration filing in Southwest border U.S. district courts (figure 13). In 2010, this had increased to three petty immigration misdemeanors disposed by U.S. magistrates for each case filed in Southwest border U.S. district courts.

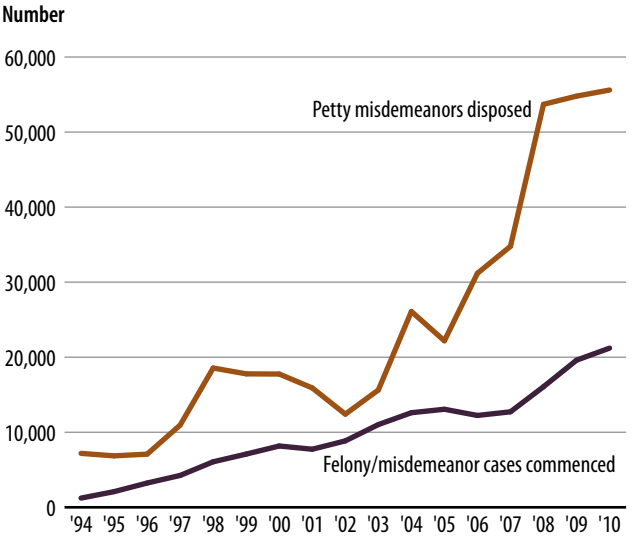
Most illegal entry matters concluded in 2010 (97%) were disposed by U.S. magistrates. About 33% of suspects investigated for illegal reentry were disposed by magistrates, followed by 14% of visa fraud suspects and 13% of alien smuggling suspects. Immigration matters with the highest prosecution rates included suspects with alien smuggling (80%), misuse of visas (79%), and illegal reentry (67%) offenses as the lead charge.[9] From 2006 to 2010, petty immigration cases disposed by U.S. magistrates in Southwest border districts nearly doubled from 31,186 to 55,604.

[9]Lead charge is the primary offense characterizing the investigation.

### A small percentage (1%) of immigration matters concluded were declined for prosecution in 2010

Prosecutors declined to prosecute 748 (1%) suspects out of 85,575 suspects in matters concluded in 2010 (table 5). Immigration matters with the highest declination rates included suspects charged with misuse of visas and alien smuggling (both 7%). Declination rates were lower for suspects charged with illegal entry or reentry offenses (1% or less).The most common reasons for declination of an immigration matter (30%) was lack of resources and by agency request, followed by alternative resolution (24%) which includes referred or handled in another prosecution or a pretrial alternative resolution and, case-related (22%) which includes weak evidence and jurisdiction or venue problems.

**FIGURE 13**
**Immigration cases in five Southwest border federal judicial districts, by court of disposition, 2010**




Source: Number of petty misdemeanors disposed by U.S. magistrates is from Administrative Office of the U.S. Courts, Judicial Business of the U.S. Courts, Table M-1A (1994–1999) and Table M2 (2000–2010). Number of felony and Class A & B misdemeanor cases filed is from Administrative Office of the U.S. Courts, criminal master file, fiscal year.

**TABLE 5**
**Primary reason immigration matters were declined for prosecution, 2010**

| | Immigration matters | | | Reason for declinations | | | | |
|---|---|---|---|---|---|---|---|---|
| Offense | Matters concluded | Number of declinations | Total | Case-related[a] | Suspect-related[b] | No crime | Alternative resolution[c] | Other[d] |
| Total | 85,575 | 748 | 100% | 22.2% | 5.4% | 19.1% | 23.7% | 29.7% |
| Smuggling, harboring aliens | 4,025 | 292 | 100% | 29.8 | 1.0 | 19.5 | 18.5 | 31.2 |
| Unlawful entry or reentry | 79,455 | 303 | 100% | 14.5 | 11.6 | 17.8 | 33.7 | 22.4 |
| Improper entry | 43,548 | 45 | 100% | 22.2 | 6.7 | 37.8 | 17.8 | 15.6 |
| Reentry by removed aliens | 35,907 | 258 | 100% | 13.2 | 12.4 | 14.3 | 36.4 | 23.6 |
| Misuse of visas/other violations | 2,095 | 153 | 100% | 22.9 | 1.3 | 20.9 | 13.7 | 41.2 |

[a]Includes weak evidence, stale case, witness problems, or jurisdiction or venue problems.

[b]Includes offender's age, criminal history, and drug or alcohol use.

[c]Includes referred or handled in another prosecution or pretrial alternative resolution.

[d]Includes lack of resources and by agency request.

Source: Executive Office for U.S. Attorneys, National LIONS data base, fiscal year.

### Half of matters disposed by U.S. magistrates were decided on the same day the matter was received

Overall, in 2010 the median processing time for immigration offenses from receipt of matter to conclusion was 2 days. Among matters prosecuted, it took a median of 21 days from receipt of a matter to the decision to prosecute. Half of matters disposed by U.S. magistrate were decided on the same day the matter was received. Matters ending in declination took a median of 316 days. The impact of the growth in immigration matters referred to U.S. attorneys was mitigated by the relatively faster case processing time that resulted from handling selected less serious immigration offenses as misdemeanors and proceeding before a U.S. magistrate.

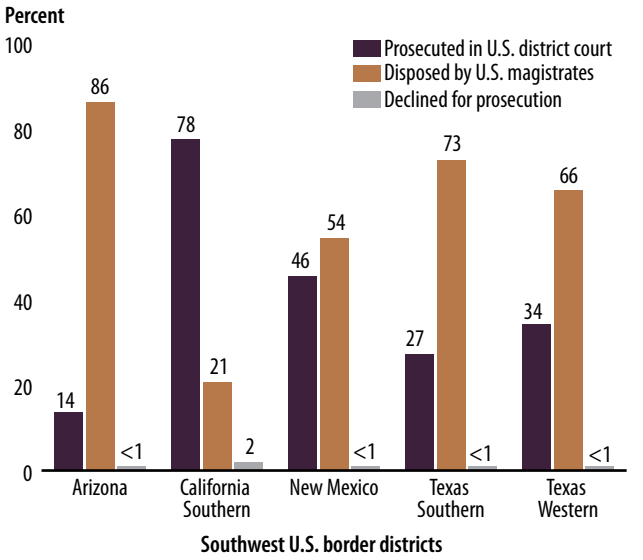
### Outcomes for immigration suspects varied across Southwest border districts

From 1994 to 2010, the number of petty misdemeanor immigration cases handled by magistrates increased in all of the Southwest border districts except California Southern where the number declined initially and remained stable. In those districts where the number of petty immigration cases handled by magistrates increased, the pattern of increase varied across districts. In Texas Southern, the long term trends, although erratic, were generally increasing throughout the period, while in Texas Western, Arizona, and New Mexico the increases were modest initially followed by sharp increases from 2005 to 2007. More recently, the number of these matters handled by magistrates has declined in Texas Southern, Texas Western, and New Mexico, but continued to increase in Arizona.

In California Southern districts, 78% of immigration matters were prosecuted, compared to 14% in Arizona, where 86% of matters were disposed by U.S. magistrates (figure 14). In New Mexico, 54% of matters were disposed by U.S. magistrates and 46% were prosecuted. In Texas Southern and Texas Western districts a greater share of matters were disposed by U.S. magistrates (73% and 66%, respectively) than prosecuted (27% and 34%, respectively).

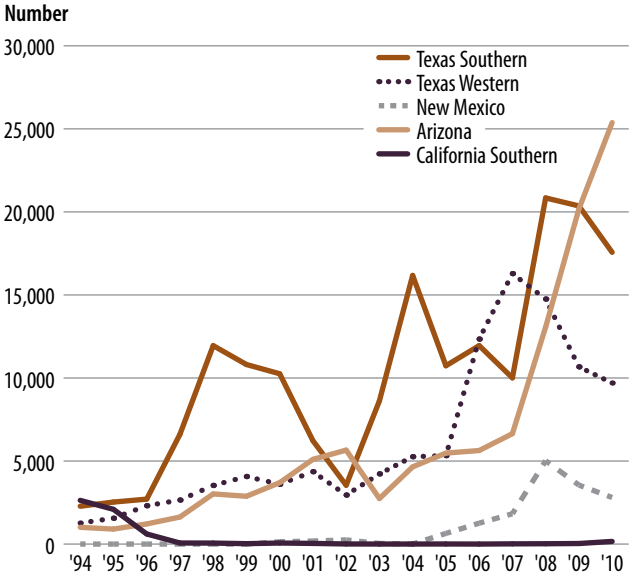
In 1994, California Southern disposed of 2,632 immigration matters by U.S. magistrates (figure 15). This comprised 37% of all immigration matters disposed by magistrates in the Southwest border districts in 1994. In this district from 1997 to 2010, immigration matters had declined to less than 1% of all immigration matters disposed by magistrates in Southwest border districts. In 2010, Arizona accounted for 25,376 (46%) of the 55,604 immigration matters disposed by U.S. magistrates in Southwest border districts, up from 6,647 (19%) of 34,776 immigration matters disposed by magistrates in 2007. Texas Western accounted for 2,953 (24%) of immigration matters disposed by U.S. magistrates in 2002 in the Southwest border districts and nearly half in 2007 (47% or 16,284 of 34,776 matters disposed) before dropping to 9,697 matters disposed by magistrates in 2010. In 2010, Texas Western comprised 17% of immigration matters disposed by magistrates in Southwest border districts.

**FIGURE 14**
**Outcome of matters concluded, by five Southwest border federal judicial districts, 2010**




Source: Executive Office for U.S. Attorneys, National LIONS data base, fiscal year.

**FIGURE 15**
**Immigration defendants charged with petty misdemeanor and disposed by U.S. magistrate, by five federal Southwest border judicial districts, 1994–2010**




Note: Includes five Southwest border districts: Texas Southern Texas Western, New Mexico, Arizona, and California Southern.

Source: Information on petty offense defendants disposed by U.S. magistrates obtained from Administrative Office of the U.S. Courts, Judicial Business of the U.S. Courts, Table M-1A (1995-1999) and Table M2 (2000–2010).

# 3. Courts

In U.S. district courts, defendants with an immigration offense as the most serious offense increased steadily from 1994 to 2010, nearly equaling the number of drug offenses in 2010 (figure 16). Immigration offenses accounted for 70% of the net increase of the total felony cases filed from 1994 to 2010.

The charging instrument initiates the filing of a case before the court. An indictment is the formal charges brought against a suspect with a felony (prison sentence of over 1 year) by a grand jury. A suspect can waive their right to an indictment and be proceeded against with an information charging instrument, which is a formal accusation by a federal prosecutor rather than by a grand jury charging a suspect with a particular crime. A criminal complaint is a written statement of the facts sworn to by a law enforcement officer or other interested party before a judicial officer, typically a U.S. magistrate.

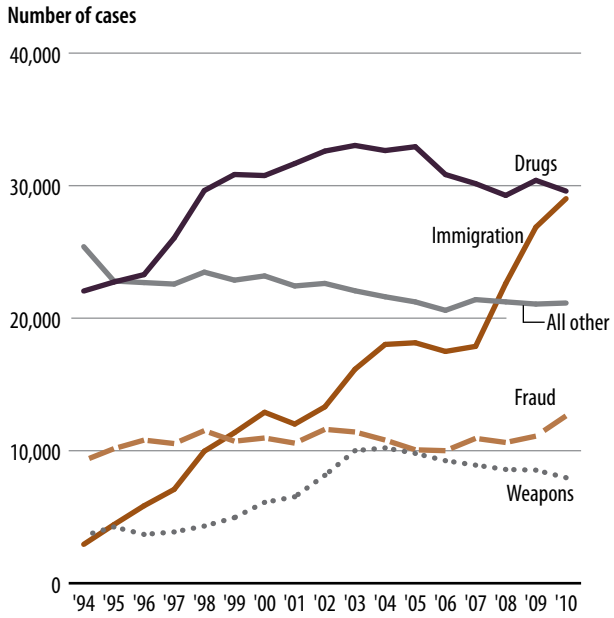
### Most immigration suspects were arrested for illegal entry and disposed by magistrate; most immigration defendants in U.S. district court were charged with illegal reentry

In 2010, 28,589 immigration suspects were charged in U.S. district courts (table 6). The most common immigration offense was illegal reentry (81%), followed by alien smuggling (12%), misuse of visas (6%), and illegal entry (1%). In 2010, immigration cases were mostly charged by indictment (63%), followed by information (26%), and criminal complaint (11%) (not shown in table).

### 88% of immigration defendants in U.S. district courts were age 25 or older

In 2010, most defendants charged with an immigration offense in U.S. district court were male (93%), Hispanic (96%), and age 25 or older (88%). Persons between ages 25 and 34 were the largest age group (41%) of defendants charged. Persons age of 50 or older (7%) comprised a greater share of defendants than persons under the age of 21(2%). The youngest (under age 18) and oldest defendants (age 65 and older) were less than 1% of defendants charged in 2010.

**FIGURE 16**
**Defendants in cases filed in U.S. district court, by most serious offense, 1994–2010**




Source: Administrative Office of the U.S. Courts, fiscal year.

**TABLE 6**

**Demographic characteristics of federal defendants charged in U.S. district court with criminal immigration offenses, 2010**

| | Total | | Alien smuggling | | Illegal entry | | Illegal reentry | | Misuse of visa/other[a] | |
|---|---|---|---|---|---|---|---|---|---|---|
| Defendant characteristic | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent |
| **Total** | 28,589 | 100% | 3,480 | 100% | 387 | 100% | 23,102 | 100% | 1,620 | 100% |
| **Gender** | | | | | | | | | | |
| Male | 26,428 | 92.5% | 2,591 | 74.6% | 332 | 85.8% | 22,274 | 96.5% | 1,230 | 76.0% |
| Female | 2,134 | 7.5 | 884 | 25.4 | 55 | 14.2 | 807 | 3.5 | 388 | 24.0 |
| **Race/ethnicity** | | | | | | | | | | |
| White[b] | 525 | 1.8% | 257 | 7.4% | 28 | 7.3% | 186 | 0.8% | 54 | 3.4% |
| Black or African American[b] | 401 | 1.4 | 70 | 2.0 | 9 | 2.3 | 258 | 1.1 | 64 | 4.0 |
| Hispanic/Latino | 27,344 | 96.0 | 3,047 | 88.1 | 310 | 80.5 | 22,565 | 98.0 | 1,422 | 88.6 |
| American Indian/ Alaska Native[b] | 50 | 0.2 | 44 | 1.3 | 5 | 1.3 | 0 | ~ | 1 | 0.1 |
| Asian/Native Hawaiian/ Other Pacific Islander[b] | 116 | 0.4 | 31 | 0.9 | 30 | 7.8 | 10 | -- | 45 | 2.8 |
| Other[b] | 38 | 0.1 | 10 | 0.3 | 3 | 0.8 | 6 | -- | 19 | 1.2 |
| **Age** | | | | | | | | | | |
| 17 or younger | 16 | 0.1% | 15 | 0.4% | 0 | ~ | 1 | -- | 0 | ~% |
| 18–20 | 611 | 2.1 | 276 | 7.9 | 16 | 4.1% | 273 | 1.2% | 46 | 2.8 |
| 21–24 | 2,842 | 9.9 | 570 | 16.4 | 73 | 18.9 | 1,995 | 8.6 | 204 | 12.6 |
| 25–34 | 11,712 | 41.0 | 1,226 | 35.2 | 162 | 41.9 | 9,689 | 41.9 | 634 | 39.2 |
| 35–49 | 11,310 | 39.6 | 1,051 | 30.2 | 123 | 31.8 | 9,535 | 41.3 | 601 | 37.1 |
| 50–64 | 1,975 | 6.9 | 303 | 8.7 | 11 | 2.8 | 1,543 | 6.7 | 118 | 7.3 |
| 65 or older | 123 | 0.4 | 39 | 1.1 | 2 | 0.5 | 66 | 0.3 | 16 | 1.0 |
| **Median age** | 34 years | | 31 years | | 30 years | | 34 years | | 33 years | |
| **Citizenship** | | | | | | | | | | |
| U.S. citizen | 1,787 | 6.3% | 1,656 | 47.9% | 32 | 8.5% | 50 | 0.22% | 49 | 3.1% |
| Legal alien | 416 | 1.5 | 295 | 8.5 | 21 | 5.6 | 41 | 0.18 | 59 | 3.7 |
| Illegal alien | 26,229 | 92.3 | 1,508 | 43.6 | 325 | 86.0 | 22,910 | 99.6 | 1,486 | 93.2 |
| **Region/nationality** | | | | | | | | | | |
| North America | 26,665 | 97.9% | 3,330 | 97.9% | 329 | 88.4% | 21,640 | 98.9% | 1,366 | 86.0% |
| United States | 1,783 | 6.6 | 1,652 | 48.6 | 32 | 8.6 | 49 | 0.2 | 50 | 3.2 |
| Mexico | 21,334 | 78.3 | 1,493 | 43.9 | 261 | 70.2 | 18,499 | 84.6 | 1,081 | 68.0 |
| Canada | 22 | 0.1 | 8 | 0.2 | 1 | 0.3 | 13 | 0.1 | 0 | 0.0 |
| Caribbean | 700 | 2.6 | 84 | 2.5 | 12 | 3.2 | 508 | 2.3 | 96 | 6.0 |
| Central America | 2,826 | 10.4 | 93 | 2.7 | 23 | 6.2 | 2,571 | 11.8 | 139 | 8.8 |
| South America | 314 | 1.2% | 42 | 1.2% | 2 | 0.5% | 160 | 0.7% | 110 | 6.9% |
| Asia and Oceania | 144 | 0.5% | 21 | 0.6% | 33 | 8.9% | 21 | 0.1% | 69 | 4.3% |
| Europe | 69 | 0.3% | 9 | 0.3% | 6 | 1.6% | 34 | 0.2% | 20 | 1.3% |
| Africa | 42 | 0.2% | 1 | 0.0% | 2 | 0.5% | 15 | 0.1% | 24 | 1.5% |

Note: Includes defendants charged with a felony or Class A misdemeanor immigration offense as the most serious charge.

[a]Includes fraud and misuse of visa and permits and other offenses including failure to depart from the U.S. following order of removal.

[b]Excludes persons of Hispanic or Latino origin.

-- Less than 0.5%.

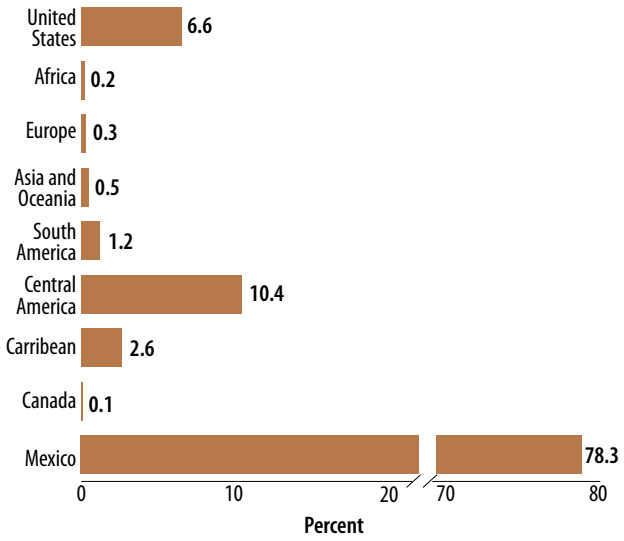
~ Not applicable.

Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

### Most immigration offenders charged in federal courts in 2010 were citizens of Mexico (78%), the countries of Central America (10%), or the U.S. (7%).

Noncitizens charged included persons with legal (2%) status (permanent residents, persons in possession of a green card, persons with a valid temporary visa, and persons with refugee status) and persons in the country without legal authorization (92%). About 78% of defendants charged in 2010 were of Mexican nationality, followed by 10% from countries in Central America, and 7% from the U.S. (figure 17). Defendants from countries in the Caribbean and South America were about 4% of defendants charged in 2010. Defendants from Asia and Oceania, Europe, and Africa together represented 1% of defendants charged in U.S. district court with an immigration offense.

**FIGURE 17**
**Nationality of immigration offenders charged in U.S. district court, 2010**




Note: Includes defendants charged with a felony or Class A misdemeanor immigration offense as the most serious charge.

Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

### Women were about a quarter of defendants charged with alien smuggling and misuse of visas

Females were 7% of all immigration defendants charged and they comprised a relatively greater share of defendants charged with alien smuggling (25%) and misuse of visas (24%) offenses, compared to their share of defendants charged with illegal entry (14%) and illegal reentry (3%). Males were 96% of defendants charged with illegal reentry. Hispanics were 96% of all immigration defendants charged and comprised 98% of defendants charged with illegal reentry, the most commonly charged immigration offense (81%) in 2010. The median age of defendants ranged from age 30 for defendants charged with illegal entry offenses to age 34 for defendants charged with illegal reentry offenses.

Nearly all defendants charged with illegal reentry (more than 99%) or misuse of visas (97%) were non-U.S. citizens. Legal aliens were 9% of defendants charged with alien smuggling. Among legal aliens charged, alien smuggling was the primary offense (71%), followed by misuse of visas (14%). Among U.S. citizens charged with an immigration offense, 93% were charged with alien smuggling.

### U.S. citizens (48%) comprised the greatest share of alien smuggling offenders charged

Nationality of immigration defendants charged varied somewhat by type of offense. Defendants from Mexico were were 85% of defendants charged with illegal reentry, followed by illegal entry (70%), misuse of visas (68%), and alien smuggling (44%). Twelve percent of illegal reentry offenders were from Central American countries, the second most common nationality for that offense following Mexico (85%). Non-U.S. citizens from countries other than Mexico comprised 15% of illegal reentry defendants charged in 2010, 29% of misuse of visa defendants, 21% of illegal entry defendants, and 8% of alien smuggling defendants. Sixty-eight percent of misuse of visas offenses charged involved citizens of Mexico, followed by persons from countries in Central America (9%), South America (7%), the Caribbean (6%), and Asia and Oceania (4%). U.S. citizens (48%) comprised the greatest share of alien smuggling offenders charged.

## Southwest border courts—Felonies per judge and case processing time

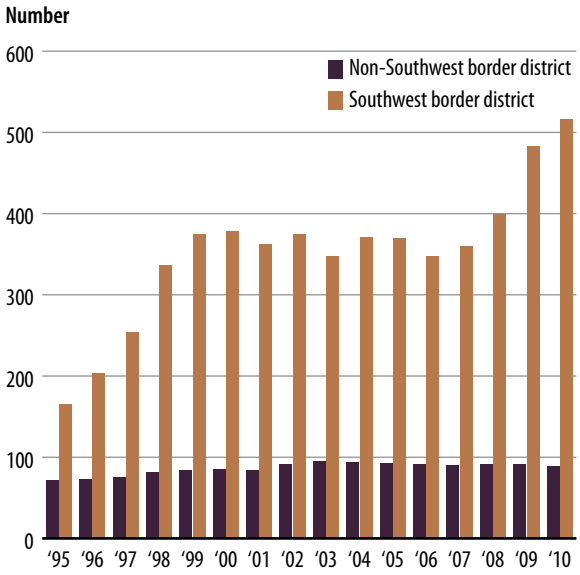
The total caseload of federal judges, as measured by felony filings per judge, reflected a growing gap between the five Southwest border districts (California Southern, Arizona, New Mexico, Texas Western, and Texas Southern) and the rest of the U.S. for all offenses filed from 1995 to 2010 (figure 18).[10] Felony filings per judge increased in Southwest border districts from 1995 to 1999, while the number of authorized judgeships remained at 49. The number of judgeships increased to 52 in 2000, 56 in 2001, and 65 in 2003, where it remained through 2010.

[10]This is measure is not weighted by the complexity of the case or other types of cases that districts may have (e.g., civil litigation) that may make caseload qualitatively different than the number of judges per 100 felonies.

### Felony filings per judge increased faster in Southwest border districts

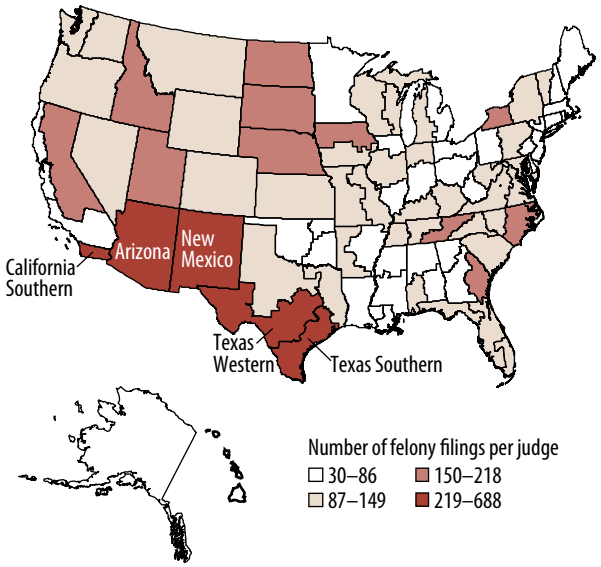
Felony filings per judge increased from 166 in 1995 to 517 in 2010 in Southwest border districts. Non-Southwest border districts which increased from 72 felony filings per judge in 1995 to 89 felony filings per judge in 2010. Among Southwest border districts, Texas Western had 688 felony filings per judge in 2010, followed by New Mexico (531), Texas Southern (485), Arizona (475), and California Southern (425) (map 7). The number of judges increased by 16 in Southwest border districts from 1995 to 2010, compared to an increase of 13 judges in all other federal judicial districts over this same period. These increases do not account for judges who were borrowed from other districts on a temporary basis.

**FIGURE 18**
**Felony filings per judge, by Southwest border district, 1995–2010**




Source: Administrative Office of the U.S. Courts, Federal Court Management Statistics and criminal master file, fiscal year.

**MAP 7**
**Felony filings per judge, by federal judicial districts, 2010**




Note: District of Columbia (37), Guam (26), Puerto Rico (214), and Virgin Islands (65) are not shown.

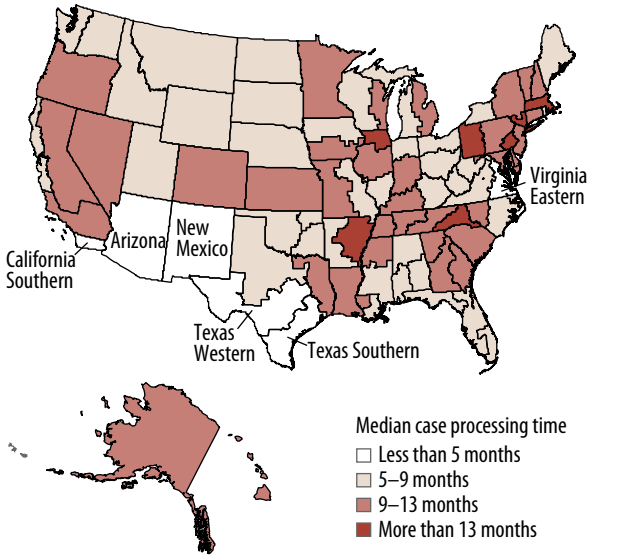
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

### In 2010, median case processing time was 4 months in Southwest border districts, compared to 9 months in non-Southwest border districts

In the Southwest border districts, the increase in immigration enforcement and the relatively high number of felonies per judge were offset in part by relatively quicker case processing times from filing to disposition (map 8). The median case processing time in Southwest border districts for federal offenses was about 4 months in 2010, down from about 5 months in 2006 (figure 19). For districts outside the Southwest border, the median case processing time gradually increased from 7 months in 1995 to 9 months in 2005, where it remained through 2010.

The median case processing time for immigration felonies increased from about 3 months in 1998 to almost 4 months in 2010 (figure 20). The median case processing time for all immigration offenses terminated in U.S. district court increased from 93 days in 1998 to a peak of 135 days in 2006 and then declined to about 120 days from 2008 to 2010.

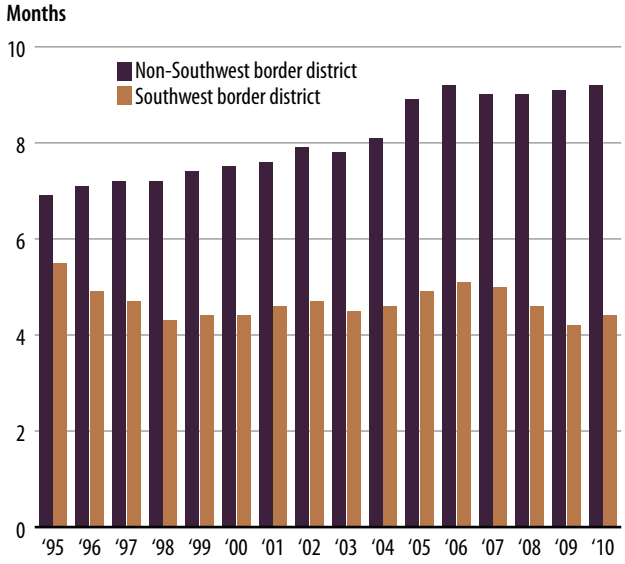
**MAP 8**
**Median case processing time for felonies terminated in U.S. district court, 2010**




Note: District of Columbia (13), Guam (10), Puerto Rico (13), and Virgin Islands (8) are not shown.

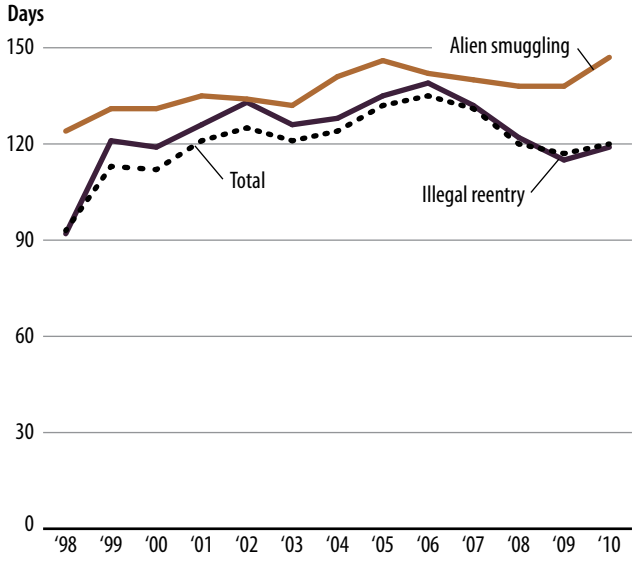
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

**FIGURE 19**
**Median felony case processing times from filing to disposition, by Southwest border district, 1995–2010**




Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

**FIGURE 20**
**Median case processing time from filing to disposition for total immigration offenses, illegal reentry, and alien smuggling, 2002–2010**




Note: Total includes alien smuggling, illegal reentry, and other immigration offenses (e.g., illegal entry and misuse of visa).

Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

## Prior criminal history of defendants charged

Of the 28,589 immigration defendants charged in U.S. district court in 2010, 86% had a prior arrest (table 7), and two-thirds (66%) had a prior arrest for a felony. Fifteen percent had 5 or more prior felony arrests, 29% had been arrested for a felony between 2 to 4 times, and 21% had one prior felony arrest. Among defendants with at least one prior arrest, the average number of prior arrests was 6. This included an average of 4 prior misdemeanor arrests and an average of 2 prior felony arrests.

In 2010, 77% of immigration defendants charged had a prior conviction. Of these, 57% had a prior felony conviction: 21% had a prior felony drug conviction, and 17% had a prior violent felony conviction. Thirty percent of defendants had two or more felony convictions.

Among immigration defendants charged in U.S. district court in 2010, illegal reentry offenders were more likely to have a prior arrest (93%) than offenders charged with illegal entry (69%), alien smuggling (58%), and misuse of visas (53%). Seventy-three percent of illegal reentry defendants had at least one prior felony arrest, and 51% had two or

**TABLE 7**

**Criminal history of defendants charged with immigration offense in federal courts, 2010**

| Characteristic | Total | Alien smuggling | Illegal entry | Illegal reentry | Misuse of visa[a] |
|---|---|---|---|---|---|
| **All defendants** | 28,589 | 3,480 | 374 | 23,104 | 1,620 |
| **Prior arrests** | | | | | |
| **Nature of prior arrests** | | 58 | 69 | 93 | 53 |
| No prior arrests | 14.1% | 41.7% | 31.0% | 7.4% | 46.5% |
| Prior misdemeanor only | 20.0 | 19.7 | 37.2 | 19.2 | 28.0 |
| Prior felony only | 11.4 | 10.5 | 5.1 | 11.9 | 7.5 |
| Prior felony and misdemeanor | 54.6 | 28.1 | 26.7 | 61.6 | 18.0 |
| **Number of prior felony arrests** | | | | | |
| None | 34.0% | 61.4% | 68.2% | 26.5% | 74.5% |
| 1 | 21.3 | 14.9 | 15.5 | 22.9 | 12.7 |
| 2–4 | 29.4 | 15.1 | 13.9 | 33.2 | 9.9 |
| 5 or more | 15.3 | 8.6 | 2.4 | 17.4 | 2.9 |
| **Mean number of prior arrests (among defendants with prior arrests)** | | | | | |
| Total prior arrests | 6.2 | 3.3 | 2.8 | 6.9 | 2.4 |
| Misdemeanor arrests | 3.9 | 2.0 | 2.0 | 4.3 | 1.8 |
| Felony arrests | 2.3 | 1.3 | 0.7 | 2.6 | 0.6 |
| **Prior convictions** | | | | | |
| **Nature of prior convictions** | | | | | |
| No prior convictions | 23.2% | 57.5% | 38.5% | 14.6% | 68.2% |
| Felony | 56.5% | 24.7% | 20.3% | 64.8% | 15.0% |
| Violent | 17.3 | 6.9 | 3.2 | 20.1 | 2.8 |
| Drug | 21.3 | 8.6 | 3.5 | 24.6 | 6.4 |
| Other[b] | 17.9 | 9.2 | 13.6 | 20.2 | 5.8 |
| Misdemeanor | 20.3% | 17.8% | 41.2% | 20.6% | 16.8% |
| **Number of prior felony convictions** | | | | | |
| None | 43.5% | 75.3% | 79.7% | 35.2% | 85.0% |
| 1 | 26.9 | 12.8 | 13.6 | 30.5 | 9.6 |
| 2–4 | 25.1 | 9.6 | 6.2 | 29.1 | 4.7 |
| 5 or more | 4.6 | 2.3 | 0.5 | 5.2 | 0.7 |
| **Mean number of prior convictions (among defendants with prior convictions)** | | | | | |
| Total prior convictions | 2.9 | 1.4 | 1.4 | 3.3 | 0.8 |
| Misdemeanor convictions | 1.7 | 0.9 | 1.1 | 1.9 | 0.6 |
| Felony convictions | 1.2 | 0.5 | 0.3 | 1.4 | 0.3 |

Note: Represents defendants charged in U.S. district court with a felony or Class A misdemeanor immigration offense as the most serious charge.

[a] Includes fraud and misuse of visa and permits and other offenses including failure to depart from the U.S. following order of removal.

[b] Includes defendants with warrants, walk-off status, or unknown criminal justice status.

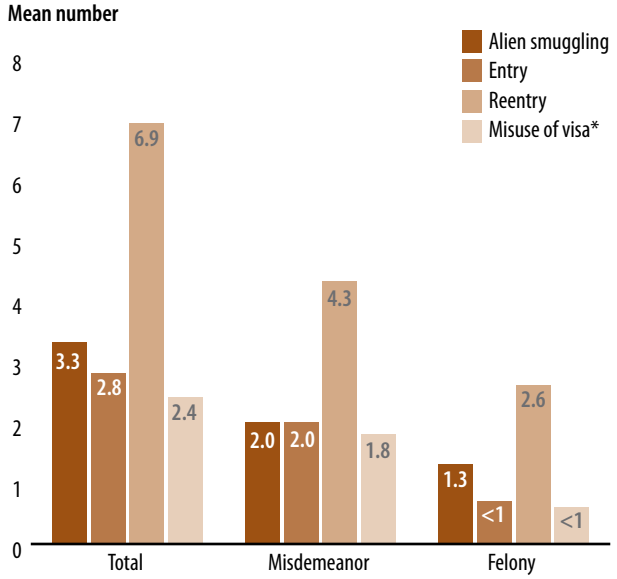
Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

more prior felony arrests. Illegal reentry defendants with a prior arrest had an average of 7 total prior arrests, with an average of 4 misdemeanor arrests and an average of 3 felony arrests. Alien smuggling and illegal entry defendants with a prior arrest each had an average of 3 total prior arrests. This comprised an average of 2 misdemeanor arrests and an average of 1 felony arrest for each offense (figure 21).

Defendants charged with illegal reentry were also more likely to have a prior conviction (85%) than those charged with illegal entry (62%), alien smuggling (43%), and misuse of visas (32%). Sixty-five percent of illegal reentry defendants had a prior felony conviction, and 34% had two or more prior felony convictions. Illegal reentry defendants with a prior conviction had an average of 3 total prior convictions, which was comprised of an average of 2 prior misdemeanor convictions and an average of 1 prior felony conviction. Alien smuggling and illegal entry defendants with a prior conviction each had an average of about 1 total prior conviction (figure 22).

**FIGURE 21**

**Average number of prior arrests for defendants charged in U.S. district court with an immigration offense, by type of offense, 2010**



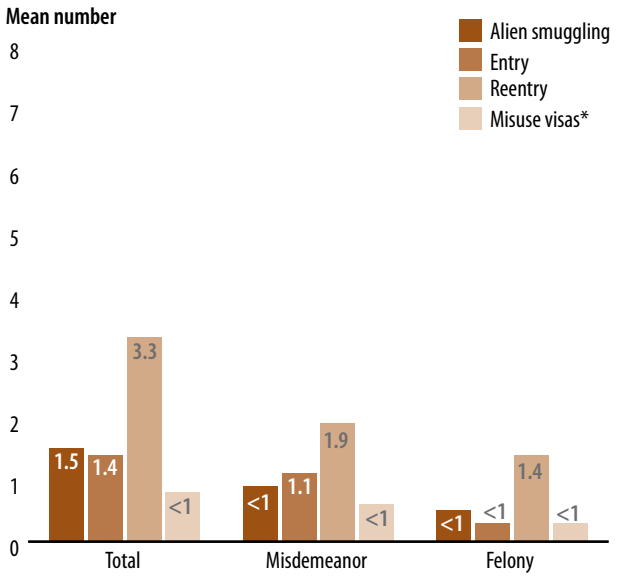

Note: Includes defendants charged with a felony or Class A misdemeanor immigration offense as the most serious charge.

* Includes fraud and misuse of visa and permits and other offenses including failure to depart from the U.S. following order of removal.

Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

**FIGURE 22**

**Average number of prior convictions of defendants charged in U.S. district court with an immigration offense, by type of offense 2010**




Note: Represents defendants charged with a felony or Class A misdemeanor immigration offense as the most serious charge.

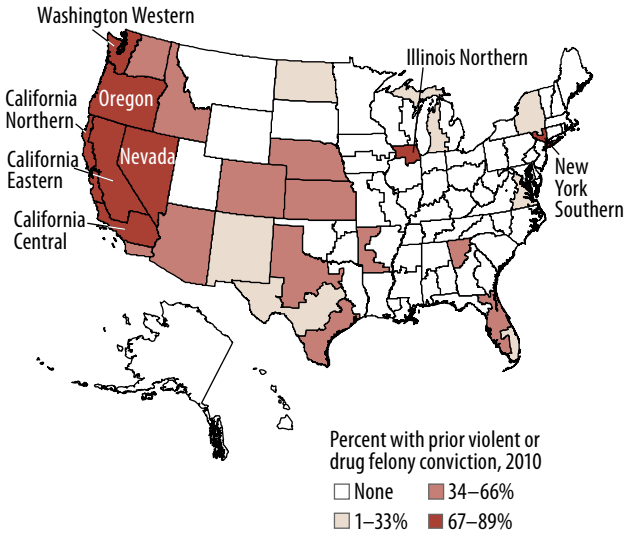
*Includes fraud and misuse of visa and permits and other offenses including failure to depart from the U.S. following order of removal.

Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

The percent of immigration defendants charged with a prior violent or drug felony conviction varied by federal judicial district. Federal districts with the highest percentage of immigration defendants who had a prior violent or drug felony conviction at initial appearance included California Eastern (89%), Oregon (80%), California Central (79%), Illinois Northern (78%), and Washington Western (77%) (map 9). New Mexico and Texas Western had a relatively lower percentage of immigration defendants arraigned with a prior violent or drug felony conviction.

**MAP 9**

**Percent of immigration defendants charged in U.S. district court with a prior violent or drug felony conviction, by judicial district, 2010**




Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

## Pretrial detention

Of 100,622 defendants in all cases terminated in U.S. district court in 2010, about 35% were released prior to their case disposition. In comparison, 16% of immigration offenders were released at some point before case disposition, similar to persons charged with robbery offenses (18%). Immigration offenders who pose a unique risk of absconding had one of the lowest pretrial release rates of any offense type. Of the 16% of immigration offenders released, most (84%) were required to post a financial bond or an unsecured bond (14%). Five percent of immigration offenders in cases terminated in 2010 were permitted release upon personal recognizance.

In 2010, immigration defendants comprised 45% of all federal defendants arraigned in U.S. district court and detained without release prior to case disposition, followed by drug (32%), weapons (10%), and property (6%) offenders (table 8).

The number of immigration defendants detained prior to case disposition increased by an annual average 13% from 2007 to 2010, whereas the total number of defendants detained increased by an annual average 6% over this period. The growth in the number of federal defendants detained from 2007 to 2010 was due to an increase number of illegal aliens being detained, as opposed to legal aliens or U.S. citizens.

**TABLE 8**

**Defendants detained prior to case disposition in U.S.district court, by offense type, 2007 and 2010**

| | 2007 | | 2010 | | |
|---|---|---|---|---|---|
| Offense/district | Number | Percent | Number | Percent | Average annual growth rate, 2007–2010[a] |
| **Total** | 41,035 | 100% | 48,143 | 100% | 5.6% |
| Violent | 1,715 | 4.2 | 1,803 | 3.8 | 2.0% |
| Property | 2,822 | 6.9 | 2,625 | 5.5 | -1.9 |
| Drug | 15,104 | 36.9 | 15,290 | 31.9 | 0.5 |
| Weapons | 4,641 | 11.3 | 4,586 | 9.6 | -0.4 |
| Immigration | 15,289 | 37.3 | 21,567 | 45.0 | 12.5 |
| Public order | 1,418 | 3.5 | 2,025 | 4.2 | 12.9 |

[a]Calculated using each fiscal year count from 2007 through 2010. Percentages are based on records with nonmissing offense information.

Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

## Adjudication and sentencing

In 2010, 28,503 defendants in cases terminated had an immigration offense as the most serious offense (table 9). Nearly all immigration defendants (97%) pled guilty in 2010. In 2010, 97% of immigration offenders were convicted, a slight increase from 2002 (95%). Less than half of 1% of immigration defendants went to either a jury or bench trial in 2010. Of the 3% of immigration defendants who were not convicted, most were dismissed and a smaller number were acquitted after a trial.

The number of immigration convictions in U.S. district court increased by an annual average 12% from 2002 to 2010. Immigration offenses comprised 18% of all convictions in U.S. district court in 2000 and 30% in 2010.

### Most immigration defendants (81%) received a prison sentence in 2010

Among the 27,689 immigration offenders who were convicted and sentenced in 2010, 81% received a prison sentence, 14% received a suspended sentence, 4% received a probation sentence only, and less than 1% received a fine only.

### 14% of immigration defendants received a suspended sentence in 2010

Suspended sentences in immigration cases increased at an average annual rate of 24% from 2002 to 2010 and accounted for 19% of the net growth in offenders convicted and sentenced. In certain districts, such as the Texas Southern, judges were increasingly issuing a suspended sentence in immigration cases contingent on the defendant's removal from the U.S. A condition of the sentence was that the defendant cannot return to the U.S. illegally. This was stipulated in the conditions of supervision and was a cause for revocation in the event the defendant fails to leave the U.S. or was apprehended in the U.S. after removal. From 2002 to 2010, the use of suspended sentences (average annual growth of 24%) more than double the use of imprisonment (average annual growth of 10%) in sentencing convicted immigration offenders. In 2010, 2,816 suspended cases were for illegal reentry (71%), and almost half (46%) of suspended sentences occurred in Texas Southern (1,206) and Texas Western (609). The number of immigration offenders sentenced to prison increased by an annual average 10% from 2002 to 2010.

**TABLE 9**
**Type of disposition, and sentence imposed in immigration cases terminated in U.S. district court, 2002, 2006, and 2010**

| | 2002 | | 2006 | | 2010 | | Average annual growth rate, 2002–2010[a] |
|---|---|---|---|---|---|---|---|
| Conviction status | Number | Percent | Number | Percent | Number | Percent | |
| **Total cases terminated** | 12,326 | 100% | 18,039 | 100% | 28,503 | 100% | 11.4% |
| **Convicted** | 11,757 | 95.4% | 17,467 | 96.8% | 27,689 | 97.1% | 11.7% |
| Plea | 11,635 | 94.4 | 17,348 | 96.2 | 27,587 | 96.8 | 11.8 |
| Trial | 122 | 1 | 119 | 0.7 | 102 | 0.4 | 2.4 |
| **Not convicted** | 569 | 4.6% | 572 | 3.2% | 814 | 2.8% | 6.2% |
| Dismissed | 553 | 4.5 | 554 | 3.1 | 799 | 2.8 | 6.5 |
| Trial | 16 | 0.1 | 18 | 0.1 | 15 | 0.1 | 4.7 |
| **Sentence imposed** | 11,757 | 100% | 17,467 | 100% | 27,689 | 100% | 11.7% |
| Prison[b] | 10,368 | 88.2 | 15,581 | 90.2 | 22,440 | 81.0 | 10.4 |
| Probation only | 388 | 3.3 | 487 | 2.8 | 1,090 | 4.0 | 16.8 |
| Fine only | 38 | 0.3 | 42 | 0.2 | 40 | 0.1 | 6 |
| Suspended sentence | 921 | 7.8 | 1,160 | 6.6 | 3,942 | 14.2 | 23.9 |

[a]Calculated using each fiscal year data from 2002 through 2010.

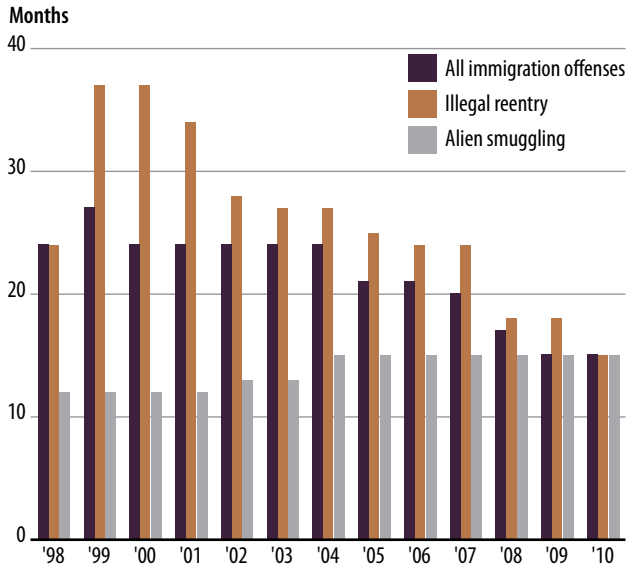
[b]Includes all sentences to incarceration including split sentences.

Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

The median prison term imposed on immigration offenders was 15 months in 2010, down from 21 months in 2006 and 24 months in 2002 (table 10). The median prison term imposed varied by the type of immigration offense over this period. In 2010, illegal entry offenses had a median sentence of 18 months, followed by alien smuggling and illegal reentry (each 15 months), and misuse of visa offenses (3 months). From 1998 to 2007, the median prison sentence for immigration offenses remained at or above 20 months, decreasing to a median sentence of 15 months from 2008 to 2010 (figure 23). The median prison sentence for illegal reentry peaked at 37 months from 1999 to 2000, declined to a median of 27 months from 2003 to 2004, and declined again to a median of 15 months in 2010. The median sentence for alien smuggling increased from 12 months in 2001 to 15 months in 2004, where it remained through 2010.

In 2010, the median prison term for a defendant convicted and sentenced to prison for an immigration offense was 13 months in Southwest border districts and 24 months in non-Southwest border districts. Among Southwest border districts, the median sentence varied from 2 months in New Mexico to 24 months in Arizona.

**FIGURE 23**
**Median prison sentence imposed for all immigration offenses, illegal reentry, and alien smuggling, 1998–2010**




Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

**TABLE 10**
**Length of term imposed on immigration defendants sentenced to prison, by type of offense and district, 2002, 2006, and 2010**

| | Median sentence length imposed on immigration defendants sentenced to prison | | |
|---|---|---|---|
| **Most serious offense at termination** | **2002** | **2006** | **2010** |
| **All offenses** | 24 mo | 21 mo | 15 mo |
| Felonies | 24 | 21 | 15 |
| Alien smuggling | 13 | 15 | 15 |
| Illegal entry | 24 | 24 | 18 |
| Illegal reentry | 28 | 24 | 15 |
| Misuse visas/other* | 6 | 5 | 3 |
| Misdemeanors | 3 mo. | 5 mo. | 4 mo. |
| **Southwest border district** | 21 mo. | 18 mo. | 13 mo. |
| California Southern | 24 | 21 | 15 |
| Arizona | 27 | 30 | 24 |
| New Mexico | 8 | 8 | 2 |
| Texas Western | 24 | 18 | 12 |
| Texas Southern | 18 | 18 | 15 |
| **Non-Southwest border district** | 30 mo. | 27 mo. | 24 mo. |

*Includes fraud and misuse of visa and permits and other offenses including failure to depart from the U.S. following order of removal.

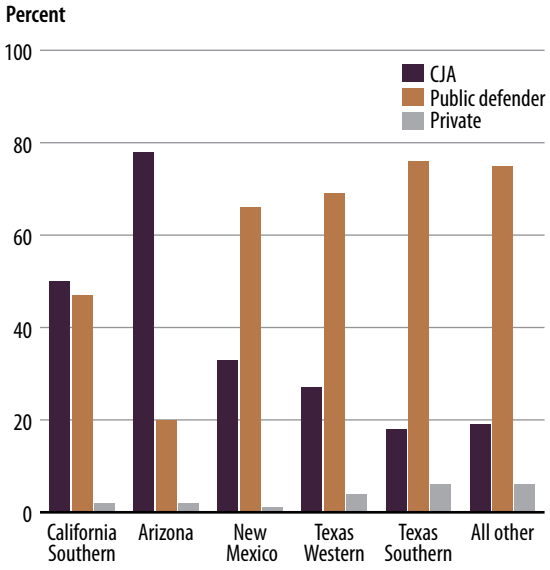
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

## Type of counsel

In 2010, 63% of immigration cases terminated in U.S. district court were represented by public defenders, followed by Criminal Justice Act appointed attorneys (CJA) (32%), and private attorneys (4%) (table 11). Most public defenders cases involved illegal reentry offenses (82%). CJA counsel represented 54% of alien smuggling defendants (1,732). All three types of counsel had about two-thirds or more of their immigration caseloads in one of the five Southwest border districts. CJA assigned counsel represented nearly 78% of immigration defendants in the district of Arizona and 50% in the California Southern (figure 24). Public defenders represented the majority of defendant's in Texas Southern (76%), Texas Western (69%), and New Mexico (66%) districts. From 1994 to 2010, the number of criminal immigration cases with public defenders as counsel grew by an annual average 18%, followed by CJA assigned counsel (17%) and private counsel (10%). In 1994, public defenders represented 57% of immigration offenders,which increased to 64% by 2010 (figure 25).

Twelve percent of convictions with private counsel received probation, compared to 4% of cases with CJA assigned counsel and 4% of cases with public defenders. The median prison sentence imposed was 15 months for immigration defendants sentenced to prison in 2010. Immigration defendants represented by a public defender had a median prison sentence of 14 months. Those represented by a CJA assigned attorney had a median prison sentence of 18 months, and defendants represented by private counsel received a median prison sentence of 21 months. Differences in sentence length may be due to variation in defendants' criminal history, offense severity, and other factors.

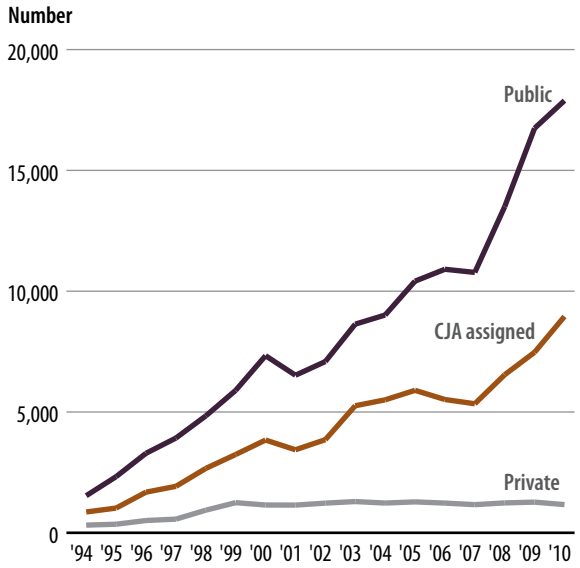
**FIGURE 24**
**Percent of immigration defendants in cases terminated, by type of counsel, 2010**




Note: All other includes 89 federal judicial districts not adjacent to the U.S.-Mexico border.

Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

**FIGURE 25**
**Immigration defendants in federal criminal cases by representation at case termination in U.S. district court, 1994–2010**




*Criminal Justice Act appointed attorney.

Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

*continued on next page*

## Type of counsel (continued)

**TABLE 11**

**Characteristics of immigration cases terminated in U.S. district court, by type of counsel, 2010**

| | Type of counsel at case termination | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Total cases | | CJA* | | Private | | Public defender | |
| Charactieristic | Number | Percent | Number | Percent | Number | Percent | Number | Percent |
| **Total immigration cases terminated** | 28,503 | 100% | 9,114 | 100% | 1,225 | 100% | 18,038 | 100% |
| **Type of immigration offense** | | | | | | | | |
| Alien smuggling | 3,219 | 11.3% | 1,732 | 19.0% | 369 | 30.1% | 1,097 | 6.1% |
| Unlawful entry or reentry | 23,755 | 83.3 | 7,023 | 77.1 | 713 | 58.2 | 15,940 | 88.4 |
| Improper entry | 1,646 | 5.8 | 409 | 4.5 | 79 | 6.5 | 1,132 | 6.3 |
| Reentry by removed aliens | 22,109 | 77.6 | 6,614 | 72.6 | 634 | 51.8 | 14,808 | 82.1 |
| Misuse of visas and other | 1,529 | 5.4 | 359 | 3.9 | 143 | 11.7 | 1,001 | 5.6 |
| **Federal judicial district** | | | | | | | | |
| Southwest border district | 20,956 | 73.5% | 7,707 | 84.6% | 754 | 61.6% | 12,466 | 69.1% |
| Arizona | 3,077 | 10.8% | 2,395 | 26.3% | 66 | 5.4% | 608 | 3.4% |
| California Southern | 3,749 | 13.2 | 1,881 | 20.6 | 89 | 7.3 | 1,772 | 9.8 |
| New Mexico | 2,730 | 9.6 | 892 | 9.8 | 32 | 2.6 | 1,806 | 10.0 |
| Texas Southern | 6,461 | 22.7 | 1,185 | 13.0 | 385 | 31.4 | 4,882 | 27.1 |
| Texas Western | 4,939 | 17.3 | 1,354 | 14.9 | 182 | 14.9 | 3,398 | 18.8 |
| All other districts | 7,547 | 26.5% | 1,407 | 15.4 | 471 | 38.5 | 5,572 | 30.9 |
| **Adjudication outcome** | | | | | | | | |
| **Total** | 28,503 | 100% | 9,114 | 100.0% | 1,225 | 100% | 18,038 | 100% |
| Convicted | 27,689 | 97.2% | 8,919 | 97.9 | 1,178 | 96.2 | 17,585 | 97.5 |
| Plea | 27,587 | 96.8 | 8,877 | 97.4 | 1,166 | 95.2 | 17,537 | 97.2 |
| Trial | 102 | 0.4 | 42 | 0.5 | 12 | 1.0 | 48 | 0.3 |
| Not convicted | 814 | 2.9 | 195 | 2.1 | 47 | 3.8 | 453 | 2.5 |
| Dismissed | 799 | 2.8 | 190 | 2.1 | 44 | 3.6 | 446 | 2.5 |
| Trial | 15 | 0.1 | 5 | 0.1 | 3 | 0.2 | 7 | -- |
| **Median time from filing to disposition (months)** | 3.9 mo. | | 4.0 mo. | | 4.9 mo. | | 3.8 mo. | |
| **Sentence imposedb** | | | | | | | | |
| **Total** | 27,689 | 100% | 8,919 | 100% | 1,169 | 100% | 17,585 | 100% |
| Prison | 22,440 | 81.6% | 7,361 | 82.9 | 820 | 70.2 | 14,253 | 81.6 |
| Probation only | 1,090 | 4.0 | 355 | 4.0 | 145 | 12.4 | 590 | 3.4 |
| Fine only | 40 | 0.2 | 9 | 0.1 | 19 | 1.6 | 12 | 0.1 |
| Suspended sentence | 3,942 | 14.3 | 1,151 | 13.0 | 185 | 15.8 | 2,605 | 14.9 |
| **Median prison term imposed (months)** | 15 mo. | | 18 mo. | | 21 mo. | | 14 mo. | |

[a]Criminal Justice Act appointed attorney

[b]Convicted defendants only

-- less than .05

*Total excludes 6 cases where defendant waived counsel or self-represented and 120 cases where counself information was unavailable.

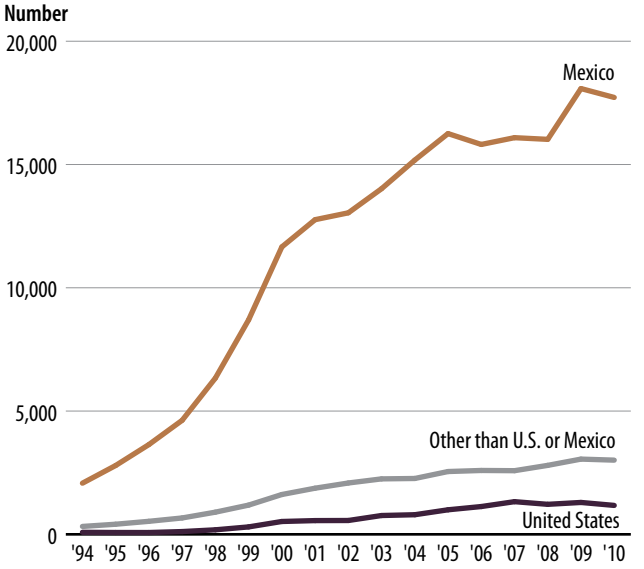
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

# 4. Corrections and Supervision

At fiscal yearend 2010, 26,898 immigration offenders were under federal post-conviction correctional supervision (table 12). Most immigration offenders (82%) were incarcerated in a federal prison, while the remainder (18%) served a term of supervised release in the community. Among immigration offenders under correctional supervision, 15% were on post-prison supervised release and 4% were on probation. Offenders committed to prison for illegal reentry or illegal entry (90%) comprised the bulk of immigration offenders in federal prison at fiscal yearend 2010, followed by offenders convicted of alien smuggling (10%) and visa fraud (less than 1%). Alien smuggling was the most common offense for offenders on probation (66%) or supervised release (85%). A greater share of misuse of visa offenders were under community supervision (67%) than in prison (33%) at yearend 2010.

Mexican citizens in federal prison for an immigration offense increased from 2,074 in 1994 to 17,720 in 2010 (figure 26). The share of federal prisoners serving a term for immigration offenses who were Mexican citizens declined slightly, from 84% in 1994 to 81% in 2010. U.S. citizens were 5% of offenders in prison for an immigration offense in 2010. Citizens of countries other than the U.S. and Mexico made up 14% of immigration offenders in prison in 2010.

**FIGURE 26**
**Nationality of immigration offenders in the custody of the Federal Bureau of Prisons at fiscal yearend, 1994–2010**




Source: Federal Bureau of Prisons, SENTRY database, fiscal year.

**TABLE 12**
**Immigration offenders under correctional supervision, by offense of conviction, fiscal yearend 2010**

| | | | | Type of immigration offense | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Total | | | Smuggling | | Unlawful entry or reentry | | Misuse of visas and other* | |
| Type of correctional supervision | Number | Percent | Percent | Number | Percent | Number | Percent | Number | Percent |
| **Total** | 26,898 | 100% | 100% | 6,130 | 22.8% | 20,241 | 75.3% | 527 | 2.0% |
| **Prison** | 21,917 | 81.5 | 100% | 2,101 | 9.6 | 19,642 | 89.6 | 174 | 0.8 |
| **Community supervision** | 4,981 | 18.5 | 100% | 4,029 | 80.9 | 599 | 12.0 | 353 | 7.1 |
| Probation | 1,074 | 4.0 | 100% | 714 | 66.5 | 272 | 25.3 | 88 | 8.2 |
| Supervised release | 3,907 | 14.5 | 100% | 3,315 | 84.8 | 327 | 8.4 | 265 | 6.8 |

*Includes fraud and misuse of visa and permits and other offenses, including failure to depart from the U.S. following order of removal.

Source: Federal Bureau of Prisons, SENTRY database, and Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

### 88% of the growth in immigration prisoners between 2002 and 2010 was in the 35 to 49 age group

Males comprised 97% of immigration offenders in federal prison at fiscal yearend 2010 and 94% of the increase in immigration offenders in prison between 2002 and 2010 (table 13). Most immigration offenders in federal prison in 2010 were Hispanic (92%), and Hispanics comprised 97% of the growth in immigration offenders in federal prison from 2002 and 2010. The median age of immigration offenders increased from 31 years in 2002 to 36 years in 2010. The 35 to 49 age category accounted for 88% of the growth in immigration prisoners between 2002 and 2010. Mexican offenders accounted for 75% of the growth of immigration offenders in federal prison during the same period.

**TABLE 13**
**Characteristics of immigration offenders in the custody of the Federal Bureau of Prisons, 2002 and 2010**

| Offender characteristics | 2010 Number | 2010 Percent | 2002 Number | 2002 Percent | Average annual growth rate, 2002–2010[a] |
|---|---|---|---|---|---|
| **All inmates** | 21,917 | 100% | 15,711 | 100% | 4.4% |
| **Sex** | | | | | |
| Male | 21,202 | 96.7% | 15,369 | 97.8% | 4.2% |
| Female | 715 | 3.3 | 342 | 2.2 | 10.0 |
| **Race/Hispanic origin** | | | | | |
| White[b] | 1,392 | 6.4% | 1,147 | 7.3% | 2.7% |
| Black or African American[b] | 392 | 1.8 | 455 | 2.9 | -1.6 |
| Hispanic or Latino[b] | 20,064 | 91.6 | 14,024 | 89.3 | 4.7 |
| American Indian/Alaska Native[b] | 32 | 0.2 | 20 | 0.1 | 8.5 |
| Asian/Native Hawaiian/Other Pacific Islander | 37 | 0.2 | 65 | 0.4 | -4.6 |
| **Age at fiscal yearend** | | | | | |
| 17 or younger | 1 | --% | 9 | 0.1% | --% |
| 18 to 20 | 167 | 0.8 | 338 | 2.2 | -2.3% |
| 21 to 24 | 1,196 | 5.5 | 1,918 | 12.2 | -4.1 |
| 25 to 34 | 7,902 | 36.1 | 7,873 | 50.1 | 0.2 |
| 35 to 49 | 10,537 | 48.1 | 5,104 | 32.5 | 10.1 |
| 50 to 64 | 2,035 | 9.3 | 458 | 2.9 | 22.3 |
| 65 or older | 79 | 0.4 | 11 | 0.1 | 34.9 |
| **Median age** | | 36 yr. | | 31 yr. | |
| **Citizenship** | | | | | |
| U.S. citizen | 1,173 | 5.4% | 561 | 3.6% | 10.6% |
| Non-U.S. citizen | 20,731 | 94.6 | 15,123 | 96.4 | 4.1 |
| **Country of citizenship** | | | | | |
| North America | 21,677 | 99.0% | 15,308 | 97.6% | 4.6% |
| United States | 1,173 | 5.4% | 561 | 3.6% | 10.6 |
| Mexico | 17,720 | 80.9 | 13,040 | 83.2 | 4.0 |
| Canada | 14 | 0.1 | 40 | 0.3 | -10.8 |
| Caribbean | 709 | 3.2 | 840 | 5.4 | -2.0 |
| Central America | 2,061 | 9.4 | 827 | 5.3 | 12.4 |
| South America | 151 | 0.7 | 217 | 1.4 | -4.0 |
| Asia and Oceania | 31 | 0.1 | 76 | 0.5 | -4.0 |
| Europe | 28 | 0.1 | 52 | 0.3 | -7.3 |
| Africa | 15 | 0.1 | 30 | 0.2 | -6.1 |
| **District of court commitment** | | | | | |
| **Southwest border district** | 14,671 | 66.9% | 9,398 | 59.8% | 5.9% |
| California Southern | 2,953 | 13.5% | 2,124 | 13.5% | 5.2% |
| Arizona | 3,475 | 15.9 | 2,302 | 14.7 | 5.8 |
| New Mexico | 609 | 2.8 | 457 | 2.9 | 4.7 |
| Texas Western | 2,959 | 13.5 | 2,388 | 15.2 | 3.0 |
| Texas Southern | 4,675 | 21.3 | 2,127 | 13.5 | 10.8 |
| **Non-Southwest border district** | 7,246 | 33.1% | 6,313 | 40.2% | 1.9% |

[a]Calculated using each fiscal year data from 2002 through 2010.

[b]Excludes persons of Hispanic or Latino origin.

--Less than 0.05%

Source: Federal Bureau of Prisons, SENTRY data base, fiscal year.

Most immigration offenders in federal prison were non-U.S. citizens (95%). The number of citizens of Central American countries increased an average annual 12% from 2002 and 2010, and U.S. citizens increased an average annual 11% over this period.

Most immigration offenders (67%) in prison at fiscal yearend 2010 had been committed from one of the five Southwest border districts. From 2002 to 2010, immigration offenders committed from Texas Southern comprised an increasing share of immigration offenders in prison at fiscal yearend (14% in 2002 and 21% in 2010). Most of the growth in immigration offenders in prison from 2002 to 2010 (6,206) fiscal yearend (73%) was the result of commitments from Texas Southern (41%), Arizona (19%), and California Southern (13%). Immigration offenders committed from a U.S. district court not located in the one of the five Southwest border districts comprised a decreasing share of immigration offenders in prison at fiscal yearend (40% in 2002 and 33% in 2010).

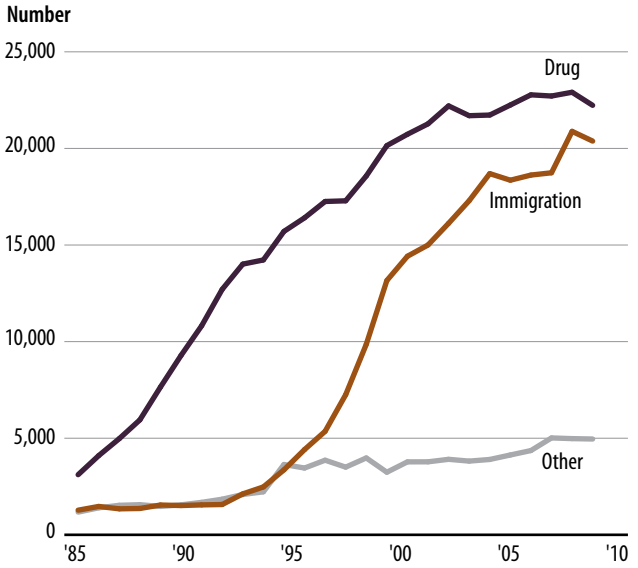
In 2010, 22,230 non-U.S. citizens in federal prison in 2010 were serving a sentence for a drug-related commitment offense (47%), followed by immigration offenses (43%) and other offenses (10%) (figure 27). The growth in drug offenses among non-U.S. citizens occurred from 1985 to 1993, when drug offenses increased an average annual 21%. About the time that the growth in drug offenses among noncitizens incarcerated in federal prison slowed, the growth in immigration offenses among non-U.S. citizens incarcerated in federal prison increased. From 1992 to 2000, immigration offenses as the commitment offense for non-U.S. citizens incarcerated in federal prison increased at an annual average rate of 31%. The growth rate for noncitizens incarcerated for immigration offenses slowed to an average annual 5% from 2001 to 2010.

## Supervision in the community

In 2010, 4,981 immigration offenders on federal community supervision included supervised release (78%) and probation (22%). Supervised release is required of all offenders following release from federal prison, with the duration of supervision specified at sentencing. Probation is a term of community supervision that is most often used as a sentence in lieu of imprisonment.

The number of felony immigration offenders on supervised release increased an average annual 18%, from 657 offenders in 1999 to 3,894 in 2010 (figure 28). The number of immigration offenders on probation increased an average annual 2% over the same period.

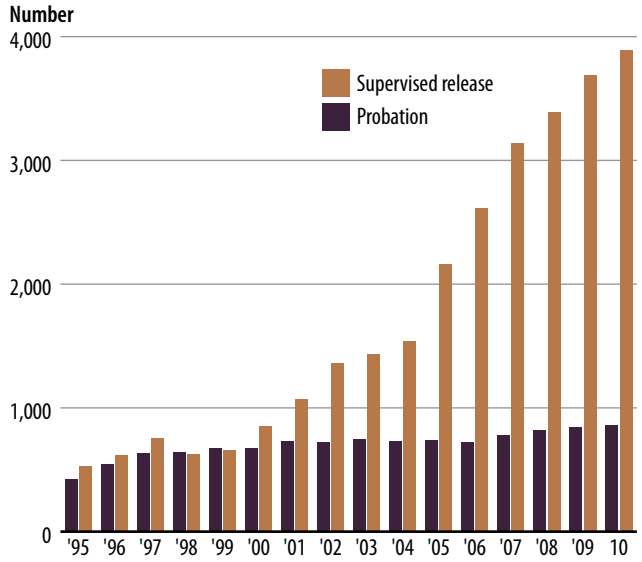
**FIGURE 27**
**Noncitizens incarcerated in federal prison, by offense type, 1985–2010**




Note: Includes commitments to federal prison for federal law violations. Commitments from D.C. Superior Court are excluded.

Source: Bureau of Prisons, SENTRY data file, fiscal year.

**FIGURE 28**
**Felony immigration offenders under federal community supervision, by type of supervision, 1995–2010**




Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year. Included felony immigration offenders.

## Immigration offenders returning to federal prison

Of immigration offenders first released from federal prison during 2007 following a U.S. district court commitment, 14% were readmitted to federal prison within 3 years (figure 29). This was similar to a cohort of immigration offenders first released from federal prison during 2000, where 16% were readmitted to federal prison within 3 years. About 4% of immigration offenders first released in 2007 returned to prison in 1 year, and 10% of immigration offenders first released in 2007 returned to prison in 2 years. As the window for observing returns to federal prison increases, the percentage of offenders returning to prison increases.

About 80% of immigration offenders first released in 2007 and returning to prison within 3 years of release were returned for new commitments, and 20% were returned to prison for a violation of supervision (table 14). Most of the offenders returned to prison for a new commitment had been convicted of another immigration offense.

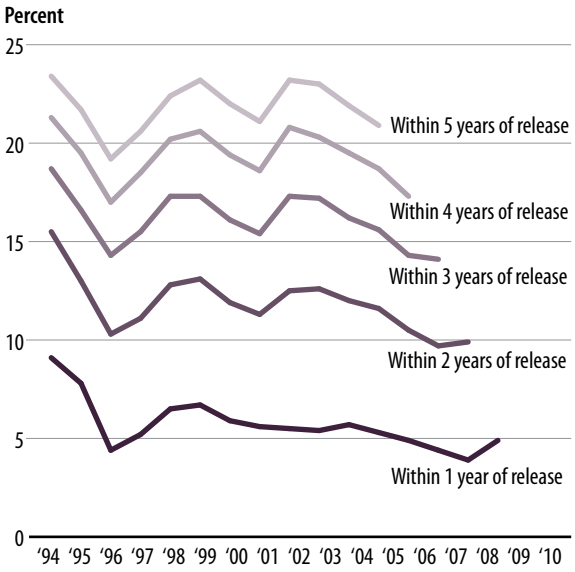
This was similar across types of immigration offense and type of commitment (a new commitment or supervision violation). Offenders who had been initially released for an alien smuggling offense had the highest 3-year return-to-prison rate (19%), followed by unlawful entry or reentry (13%) and misuse of visas (6%).

Return-to-prison rates were greater for younger than older released offenders. Offenders between the ages 18 and 20 had a 3-year return-to-prison rate of 17%. Of these returns, 27% were for a supervision violation and 73% were for new court commitments. The 18 to 20 age group had the highest percentage of releasees returned to prison for a supervision violation (27%). The age 61 and older group of immigration offenders had an 11% 3-year return-to-prison rate, of which most of the returns were for new court commitments. Males had a 14% 3-year return-to-prison rate compared to an 8% return rate for female immigration offenders released from federal prison in fiscal year 2007.

Among immigration offenders, 28% of U.S. citizens had returned to federal prison within 3 years, compared to 13% for non-U.S. citizens. This lower risk of return for non-U.S. citizens may be a function of differences in how non-U.S. citizen offenders are handled following release. Noncitizens may be deported or detained pending deportation by ICE. A small share of noncitizens is released to serve terms of federal supervision, so most non-citizens would not be at risk to return to prison for technical violations of supervision. About 9 in10 noncitizens who returned to prison in a 3-year period following release were recommitted for a new court commitment, and 1 in 10 were returned for a supervision violation.

**FIGURE 29**

**Percent of immigration offenders returning to federal prison after release, by time to return to prison, 1994–2010**




Note: Describes offenders returning to federal prison following a release from a U.S. district court commitment. Offenders released following incarceration for supervision violations or CBP/ICE detentions are excluded.

Source: Bureau of Prisons, SENTRY data file, fiscal year.

## Immigration offenders returning to federal prison (continued)

**TABLE 14**

**Immigration offenders returning to federal prison within 3 years of release from a U.S. district court commitment, 2007**

| | | Percent of offenders returned to federal prison | | | |
|---|---|---|---|---|---|
| | | | | Reason | |
| Characteristic | Number released | Total | All reasons | New offense | Supervision violation |
| **Total*** | 18,158 | 13.8% | 100% | 80.1% | 19.9% |
| **Original offense of conviction** | | | | | |
| Alien smuggling | 2,768 | 18.6% | 100% | 37.6% | 62.4% |
| Unlawful entry or reentry | 15,234 | 13.0 | 100% | 91.2 | 8.8 |
| Misuse of visas and other | 156 | 6.4 | 100% | - | - |
| **Age at release** | | | | | |
| 18 to 20 | 560 | 17.0 | 100% | 72.6 | 27.4 |
| 21 to 30 | 6,465 | 16.2 | 100% | 78.6 | 21.4% |
| 31 to 40 | 6,948 | 12.3 | 100% | 83.1 | 16.9 |
| 41 to 50 | 3,308 | 12.8 | 100% | 78.8 | 21.2 |
| 51 to 60 | 748 | 10.4 | 100% | 80.8 | 19.2 |
| 61 or older | 127 | 11.0 | 100% | 85.7 | 14.3 |
| **Sex** | | | | | |
| Male | 17,220 | 14.2% | 100% | 81.0% | 19.0% |
| Female | 938 | 7.7 | 100% | 50.0 | 50.0 |
| **Citizenship** | | | | | |
| U.S. Citizen | 1,336 | 27.5% | 100% | 17.4% | 82.6% |
| Non-U.S. citizen | 16,822 | 12.8 | 100% | 90.8 | 9.2 |
| Mexico | 14,889 | 13.5 | 100% | 91.2 | 8.8 |
| El Salvador | 359 | 9.5 | 100% | 82.4 | 17.6 |
| Guatemala | 230 | 10.0 | 100% | 87.0 | 13.0 |
| Honduras | 419 | 14.1 | 100% | 86.4 | 13.6 |
| Other | 925 | 2.2 | 100% | 80.0 | 20.0 |

Note: Describes offenders returning to federal prison following a release from a U.S. district court commitment. Offenders released following incarceration for supervision violations or CBP/ICE detentions are excluded.

*Includes offenders for whom a specific characteristic was unknown).

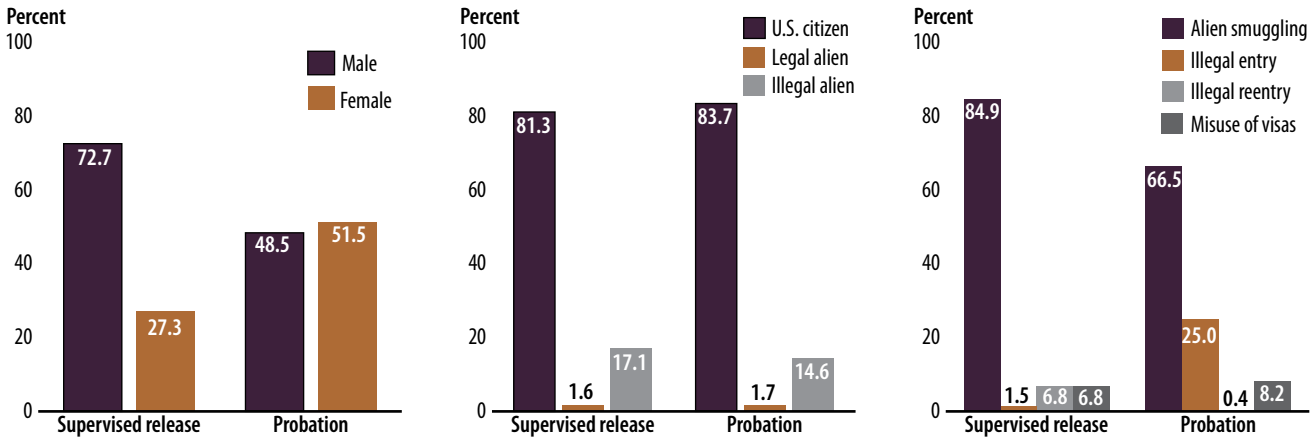
Source: Federal Bureau of Prisons, SENTRY database, fiscal year.

### Women made up more than half (52%) of immigration offenders on probation

In 2010, 73% of immigration offenders on supervised release were males. Females made up 52% of immigration offenders on probation (figure 30). Most (81%) immigration offenders under supervised release in 2010 were U.S. citizens, 17% were illegal aliens, and 2% were legal aliens (figure 31). Most (84%) immigration offenders on probation were also U.S. citizens, 15% were illegal aliens, and 2% were legal aliens. Alien smuggling was the most common offense of immigration offenders on supervised release (85%) or probation (66%) (figure 32). About 25% of immigration offenders were on probation for an illegal entry offense.

Seventy-six percent of offenders under community supervision in 2010 were from one of the five Southwest border districts (table 15). The bulk of supervised release offenders in the Southwest border districts were in the Texas Southern (35%) and the California Southern (27%) districts. Seventy-eight percent of immigration offenders were under supervised release in Southwest border districts. Texas Southern (37%) and Texas Western (12%) districts comprised nearly half of all immigration offenders on probation. Southwest border districts had 65% of immigration offenders on probation. Hispanics comprised 75% of immigration offenders under community supervision, white non-Hispanics made up 15%, black non-Hispanics 6%, Asians 3%, and Native Americans 1%. The median age was similar for immigration offenders under supervised release (34 years old) and probation (32 years old).

**FIGURES 30, 31, 32**
**Characteristics of offenders under federal supervision, fiscal yearend 2010**




Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

## TABLE 15
**Characteristics of immigration offenders under post-conviction federal supervision, fiscal yearend 2010**

| | Total | | Type of supervised release | | | |
|---|---|---|---|---|---|---|
| | | | Supervised release | | Probation | |
| Offender/offense characteristics | Number | Percent | Number | Percent | Number | Percent |
| **Number of offenders** [b] | 4,981 | 100% | 3,907 | 100% | 1,074 | 100% |
| **Sex** | | | | | | |
| Male | 3,350 | 67.6% | 2,838 | 72.7% | 512 | 48.5% |
| Female | 1,609 | 32.5 | 1,066 | 27.3 | 543 | 51.5 |
| **Race/Hispanic origin** | | | | | | |
| White[a] | 722 | 14.7% | 548 | 14.2% | 174 | 16.6% |
| Black/African American[a] | 279 | 5.7 | 229 | 6.0 | 50 | 4.8 |
| Hispanic/Latino | 3,664 | 74.8 | 2,933 | 76.2 | 731 | 69.6 |
| American Indian or Alaska Native[a] | 51 | 1.0 | 42 | 1.1 | 9 | 0.9 |
| Asian/Native Hawaiian | 165 | 3.4 | 89 | 2.3 | 76 | 7.2 |
| Other Pacific Islander[a] | 19 | 0.4 | 9 | 0.2 | 10 | 1.0 |
| **Age at admission** | | | | | | |
| 17 or younger | 3 | 0.1% | 0 | -- | 3 | 0.3% |
| 18 to 20 | 231 | 4.6% | 148 | 3.8% | 83 | 7.7% |
| 21 to 24 | 669 | 13.4 | 510 | 13.1 | 159 | 14.8 |
| 25 to 34 | 1692 | 34.0 | 1,334 | 34.1 | 358 | 33.3 |
| 35 to 49 | 1770 | 35.5 | 1,434 | 36.7 | 336 | 31.3 |
| 50 to 64 | 560 | 11.2 | 453 | 11.6 | 107 | 10.0 |
| 65 or older | 56 | 1.1 | 28 | 0.7 | 28 | 2.6 |
| **Median age** | | 34 yr. | | 34 yr. | | 32 yr. |
| **U.S. citizenship status** | | | | | | |
| U.S. citizen | 4,034 | 81.8% | 3,156 | 81.3% | 878 | 83.6% |
| Legal alien | 81 | 1.6 | 62 | 1.6 | 19 | 1.8 |
| Illegal alien | 815 | 16.5 | 662 | 17.1 | 153 | 14.6 |
| **Country of citizenship** | | | | | | |
| North America | 4,491 | 97.5% | 3,550 | 98.1% | 941 | 95.1% |
| United States | 4,113 | 89.3% | 3,217 | 88.9% | 896 | 90.6% |
| Mexico | 208 | 4.5 | 172 | 4.8 | 36 | 3.6 |
| Canada | 2 | 0.0 | 1 | 0.0 | 1 | 0.1 |
| Caribbean | 134 | 2.9 | 129 | 3.6 | 5 | 0.5 |
| Central America | 34 | 0.7 | 31 | 0.9 | 3 | 0.3 |
| South America | 30 | 0.7% | 18 | 0.5% | 12 | 1.2% |
| Asia and Oceania | 51 | 1.1% | 29 | 0.8% | 22 | 2.2% |
| Europe | 18 | 0.4% | 9 | 0.2% | 9 | 0.9% |
| Africa | 14 | 0.3% | 12 | 0.3% | 2 | 0.5% |
| **Federal judicial district** | | | | | | |
| **Southwest border** | 3,766 | 75.6% | 3,068 | 78.5% | 698 | 65.0% |
| Arizona | 302 | 6.1 | 251 | 6.4 | 51 | 4.7 |
| California Southern | 1,136 | 22.8 | 1,041 | 26.6 | 95 | 8.8 |
| New Mexico | 62 | 1.2 | 35 | 0.9 | 27 | 2.5 |
| Texas Southern | 1,754 | 35.2 | 1,357 | 34.7 | 397 | 37.0 |
| Texas Western | 512 | 10.3 | 384 | 9.8 | 128 | 11.9 |
| **Non-Southwest border** | 1,215 | 24.4 | 839 | 21.5 | 376 | 35.0 |
| **Immigration offense type** | | | | | | |
| Alien smuggling | 4,029 | 80.9% | 3,315 | 84.9% | 714 | 66.5% |
| Illegal entry | 328 | 6.6 | 60 | 1.5 | 268 | 25.0 |
| Illegal reentry | 271 | 5.4 | 267 | 6.8 | 4 | 0.4 |
| Misuse of visas | 353 | 7.1 | 265 | 6.8 | 88 | 8.2 |
| **Offense severity** | | | | | | |
| Felony | 4,758 | 95.5% | 3,894 | 99.7% | 864 | 80.5% |
| Misdemeanor | 223 | 4.5 | 13 | 0.3 | 210 | 19.6 |

Note: Percentages are based on non-missing cases.

--Less than 0.05%.

[a]Excludes persons of Hispanic or Latino origin.

[b]Includes suspects for whom characteristics are not known.

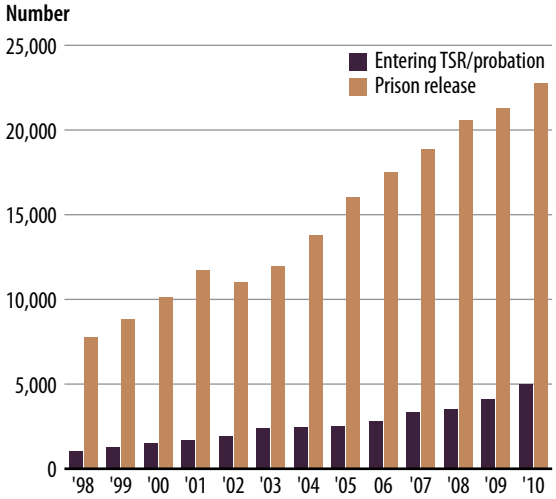
Source: Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

Community supervision of immigration offenders is comprised of probation or supervised release. The Sentencing Reform Act (SRA) of 1984, which took effect on November 1, 1987, created the federal sentencing guidelines and abolished parole release. The SRA established supervised release as a term of supervision following release from prison.

Immigration offenders entering a term of supervision following release from prison increased from 1,036 in 1998 to 4,985 in 2010 (figure 33).[11] Immigration offenders released from prison increased from 7,792 in 1998 to 22,752 in 2010. In 1998, about 8 immigration offenders were released from prison for every immigration offender who entered supervision (supervised release or probation).[9] By 2010, this had decreased to about 5 immigration offenders released from prison for every offender entering a term of supervision.

[11]The number of immigration offenders entering probation is included with immigration offenders entering supervised release in part because the number of immigration offenders on probation remained relatively constant from 1998 to 2010.

**FIGURE 33**
**Immigration offenders released from federal prison or entering federal supervision, 1998–2010**




Sources: Federal Bureau of Prisons, SENTRY database; Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System (PACTS), fiscal year.

# 5. Methodology

This report uses data from the Bureau of Justice Statistics' (BJS) Federal Justice Statistics Program (FJSP) and other published sources to describe immigration offenders in the federal justice system. The FJSP receives data from federal justice agencies that cover the case processing stages from arrest to imprisonment and provide a system perspective of the annual activity, workloads, and outcomes associated with offenders handled in federal criminal courts. Data are standardized by applying unified offense and case disposition categories across agencies and a common unit of analysis and reporting period. The data in this report are based on the fiscal year (October 1 to September 30).

Data from the FJSP are used to describe criminal immigration suspects arrested and booked (U.S. Marshals Service); suspects in matters referred and concluded by U.S. attorneys (Executive Office for the U.S. Attorneys); defendants supervised by pretrial services and defendants in cases filed and terminated in U.S. district court (Administrative Office of the U.S. Courts); offenders entering federal prison and in custody at yearend (Federal Bureau of Prisons, SENTRY database); and offenders on probation or under supervised release following a term of imprisonment (Administrative Office of the U.S. Courts).

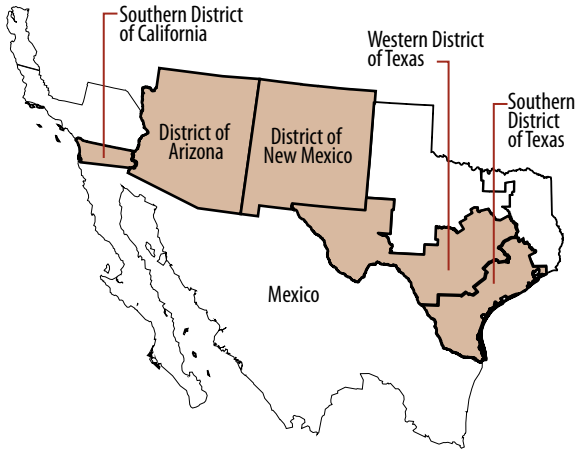
### U.S. Marshals Service

The U.S. Marshals Prisoner Tracking System (PTS) provides information on suspects arrested for federal offenses and booked by the U.S. Marshals Service following an arrest. Suspects may be counted more than once in a fiscal year if they are arrested and booked multiple times during the period. The PTS data tracks the law enforcement agency responsible for the arrest and the location of the arrest.

### Executive Office for U.S. Attorneys

The Executive Office for U.S. Attorneys' National LIONS (Legal Information Office Network System) database contains information on the investigation and prosecution of suspects in criminal matters received and concluded and criminal cases filed and terminated that were handled by U.S. attorneys. The five Southwest border districts include California Southern, Arizona, New Mexico, Texas Western, and Texas Southern (map 10). A matter is defined by LIONS as a referral in which an attorney spends one hour or more investigating the case. The lead charge is used to classify the most serious offense at referral and is defined as the substantive statute that is the primary basis of referral. The source for the number of federal prosecutors for 1992 to 2010 is the Executive Office for U.S. Attorneys, U.S. Attorneys' Annual Statistical Report (see www.justice.gov/usao/reading_room/foiamanuals.html#reports).

**MAP 10**
**Federal judicial districts along the U.S.-Mexico border**




Source: U.S. Marshals Service, Prisoner Tracking System (PTS), U.S. Department of Homeland Security, 2010 Yearbook of Immigration Statistics, fiscal year.

### Administrative Offices of U.S. Courts (AOUSC)

The AOUSC criminal master files contain information about the criminal proceedings against defendants whose cases were filed in U.S. district courts. This file includes information on cases involving felonies, as well as Class A and B Misdemeanors handled by U.S. district court judges rather than U.S. magistrates. The report uses these data to describe criminal immigration proceedings from case filing through disposition and sentencing. In cases terminated in U.S. district court, the most serious terminating offense is the offense charge that yields the maximum statutory penalty. The source for the number of federal judges (to compute the number of felony filings per judge) is AOUSC's Federal Court Management Statistics (see www.uscourts.gov/fcmstat/index.html). The number of petty misdemeanor cases disposed by U.S. magistrate were obtained from the AOUSC's Judicial Business of the U.S. Courts, Table M-1A (1994-1999) and Table M2 (2000-2010).

This report also uses AOUSC data from the Probation and Pretrial Services Automated Case Tracking System (PACTS), which contains information on defendants interviewed and supervised by pretrial services. These data are used to describe background characteristics of defendants arraigned and defendants detained prior to case disposition. In addition, post-conviction data from the AOUSC's Federal Probation Supervision Information System (FPSIS) are used to describe immigration offenders under post-conviction supervision in the community.

### Federal Bureau of Prisons

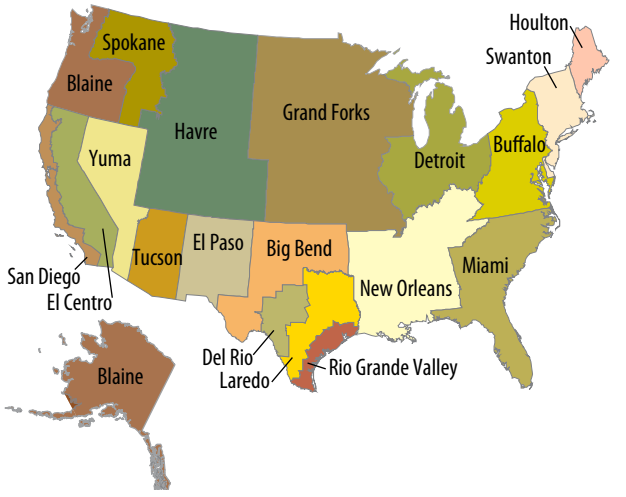
The Federal Bureau of Prisons' SENTRY database contains information on all sentenced offenders admitted into or released from federal prison during a fiscal year, and offenders in federal prison at the end of each fiscal year (September 30). The most serious offense at commitment is the offense with the longest associated sentence length. Immigration offenders returning to federal prison is a count of the number of federal immigration prisoners who returned to federal prison after first release from a U.S. district court commitment. Immigration prisoners released from federal prison for the first time between 1994 and 2009 were identified. The database was searched for a subsequent return to federal prison. Immigration prisoners released in 2007 is the most recent cohort that could be tracked for three years following release (through 2010). In addition, observation windows were included for 1-year, 2-year, 4-year, and 5-year return rates following first release. The return-to-prison rate increases with the length of the window used to follow-up on prisoners. The unit of analysis is the first release from federal prison and the return rates are computed based on the number of first releases.

### Other sources

This report uses the data published in other sources to describe immigration apprehensions, court outcomes, and removals and returns of persons unauthorized to be in the U.S. In the Yearbook of Immigration Statistics, DHS provides data on the number of aliens who are apprehended (see www.dhs.gov/xlibrary/assets/statistics/yearbook/2010/ois_yb_2010.pdf). Apprehension counts are events and not individuals. For example, if a person is apprehended more than once, each apprehension event is counted separately. An apprehension is defined by the Department of Homeland Security (DHS) as the arrest of a removable alien by DHS law enforcement. Not all apprehensions end in a federal criminal arrest. A federal criminal arrest is defined in this report as the federal arrest and booking of a suspect by the U.S. Marshals Service for an immigration offense defined under the U.S. criminal code. The U.S. Border Patrol divides their enforcement area into 20 border patrol sectors. These data are used to describe the operations and workload of the Border Patrol **(map 11)**.

The source for the number of U.S. Border Patrol officers from 1992 to 2010 is the DHS, U.S. Border Patrol Statistics (see www.cbp.gov/xp/cgov/border_security/border_patrol/usbp_statistics/). The Executive Office for Immigration Review (EOIR) provides the number of civil immigration court proceedings from 1996 to 2010 and selected outcomes described in this report (see *FY2010 Statistical Year Book* available at: http://www.justice.gov/eoir/statspub/fy10syb.pdf).

**MAP 11**
**U.S. Border Patrol Sectors**




Source: U.S. Department of Homeland Security. U.S. Customs and Border Protection.

### Selected federal criminal immigration statutes

Immigration offenses used in this report are defined according to the following federal criminal statutes:

#### *Smuggling, transporting, harboring*

- Title 8 U.S.C. § 1322: prohibits bringing into the United States an alien(s) subject to denial of admission due to lack of proper authorization or documentation
- Title 8 U.S.C. § 1323: prohibits unlawful bringing in and harboring certain aliens
- Title 8 U.S.C. § 1324: prohibits bringing and harboring certain aliens
- Title 8 U.S.C. § 1327: prohibits aiding or assisting aliensto enter the United States

#### *Unlawful entry and reentry*

- Title 8 U.S.C. § 1325: prohibits improper entry by an alien
- Title 8 U.S.C. § 1326: prohibits reentry of removed aliens

#### *Misuse of visas and other violations*

- Title 8 U.S.C. § 1546: prohibits fraud and misuse of visas, permits, and other documents
- Title 8 U.S.C. §§ 1252-1253: involves order of removal of aliens and penalties related to removal
- Title 8 U.S.C. §§ 1321: prohibits persons from failing to prevent the unauthorized entry of aliens



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