



THE FEDERATION FOR AMERICAN IMMIGRATION REFORM

SCAAP Data Suggest Illegal Aliens Commit Crime at a Much Higher Rate Than Citizens & Lawful Immigrants

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INTRODUCTION

The election of Donald Trump as President of the United States has reignited a key debate about American immigration policy. Do illegal aliens commit crimes at a higher rate than native-born U.S. citizens and lawful immigrants? And, if so, how should that influence any proposed changes to our immigration system?

Advocates of open borders are fond of claiming that illegal aliens commit fewer crimes than native-born U.S. citizens. That makes perfect sense, they assert, because illegal aliens do not wish to be brought to the attention of law enforcement and risk deportation from the United States.

In fact, this report finds that in the states examined, illegal aliens are incarcerated up to five and a half times as frequently as citizens and legal immigrants.

In reality, however, this is a weak argument. Since the implementation of the 1965 version of the Immigration and Nationality Act, the enforcement of our immigration laws has been comparatively feeble. And the emergence of the “sanctuary city” movement in the 1980s meant that state and local police in many jurisdictions refused to cooperate with federal immigration authorities. As a result, for many decades, only those illegal aliens with particularly serious criminal convictions had any real fear of deportation.

coming to light. Peter Kirsanow is one of the few who has commented openly on this tendency. He states, “Unfortunately, almost every public official not named Jeff Sessions guards against disclosure of illegal-immigrant crime data more tenaciously than disclosure of nuclear launch codes.”⁴ Regardless of why this information is not collected, the end result is that there are a limited number of sources for obtaining data on crimes committed by known illegal aliens.

Finally, most researchers tend to ignore the few established sources that provide data on criminal acts by known illegal aliens. They point to all types of alleged, and typically baseless, “flaws” in this data, ranging from “limited sample size” to an inability to determine whether illegal aliens are being counted more than once. In actuality, however, the only real flaw, from the perspective of mainstream research organizations, is that examinations of data on criminal activity by known illegal aliens tend to establish that those who enter the U.S. in violation of our immigration laws also commit other crimes at a higher rate.

This should not be surprising to anyone. The simple fact that illegal aliens violated American immigration laws – and must continuously violate other federal, state and local laws in order to mask their ongoing illegal presence in this country – demonstrates a blatant lack of respect for the rule of law.

GETTING A REALISTIC PORTRAIT OF ILLEGAL ALIEN CRIME

How FAIR Researched This Issue

This report examines the rate at which illegal aliens are incarcerated in state and local correctional facilities after being convicted of a crime. To determine that rate:

- We analyzed incarceration data from the federal government’s State Criminal Alien Assistance Program (SCAAP) and compared it to the public records of state and local prisons.⁵
- Via SCAAP, state entities apply to U.S. Immigration and Customs Enforcement (ICE) to obtain reimbursement for the costs associated with incarcerating illegal aliens.
- Accordingly, the rate at which a state seeks reimbursement provides a good snapshot of the number of illegal aliens in its criminal justice system.

Taken together, these ten reporting states represent a statistically significant sample. Although the calculations in this report are specific to those states, they include 65 percent of the total illegal alien population in the U.S. Therefore, even if the majority of unlawfully-present foreigners in the states not covered were never arrested, the rate at which illegal aliens are incarcerated would not change appreciably.

This report does not cover illegal aliens who have been convicted of federal criminal charges and are serving time in a Federal Bureau of Prisons (BOP) facility. Therefore, it does not include those illegal aliens incarcerated for committing immigration-related crimes such as illegal re-entry, welfare fraud, or identity theft.

SUMMARY OF FINDINGS

Key Findings in Brief

- FAIR found that in all SCAAP-reporting states along the Southern Border, and in SCAAP-reporting interior states that are preferred destinations for unlawful migrants, illegal aliens are incarcerated at a much higher rate than citizens and lawfully-present aliens.⁷
- SCAAP data indicate that illegal aliens are typically at least three times as likely to be incarcerated than citizens and lawfully-present aliens.
- Since the SCAAP program only includes those illegal aliens who have, at some point, been convicted of a crime, the only reasonable conclusion is that illegal aliens must commit crimes at a higher rate than citizens or lawfully-present aliens in order to be incarcerated at such high rates.
- These findings stand in stark contrast to the narrative pushed by the open-borders lobby that illegal aliens are less likely to commit crimes compared to citizens or lawfully-present aliens

DETAILED ANALYSIS OF FINDINGS IN THREE STATES



In Arizona, a state where drug trafficking across the long and sparsely-protected border is widespread, nearly 3 percent of all illegal aliens end up finding themselves incarcerated in a state or local facility at some point during the year. In comparison, roughly 0.7 percent of citizens and lawfully-present immigrants in Arizona are incarcerated – meaning illegal aliens are more than 4 times as likely to be incarcerated.

New Jersey is a state with relatively low incarceration rates, but illegal aliens are 5.5 times more likely than U.S. citizens or lawfully-present aliens to be incarcerated.

Even in Texas – a state with an allegedly “lower” number of illegal aliens committing crimes, unlawfully-present aliens remain 60 percent more likely to be incarcerated than citizens and lawfully-present immigrants. The slightly lower incarceration rate compared to other states is likely due to the increased federal law enforcement presence at and near the state’s border with Mexico, as well as a deterrent effect that stems from Texas’ willingness to prosecute illegal aliens and turn them over to federal law enforcement. As discussed in greater detail below, in recent years, the Lone Star State has dealt with more than 273,000 crimes committed by 175,000 illegal aliens.

As noted above, these alarming numbers do not include those illegal aliens currently serving sentences on federal criminal charges, as reported by the Federal Bureau of Prisons (BOP).⁸ Offenses committed by illegal aliens that may result in a federal prison sentence include crimes ranging from document fraud to alien smuggling, drug trafficking and murder.

The open-borders lobby maintains that sensational cases simply create a mistaken impression that illegal aliens are committing crimes at a higher rate than their lawfully-present peers or U.S. citizens. But the anecdotal evidence appears to line up with the statistical evidence provided by SCAAP.

These vignettes received the most media coverage, but they represent only a small fraction of the thousands of crimes committed by illegal aliens across the United States every year.

In Texas alone between June 2011 and July 2018, more than 175,000 illegal aliens were booked into state and local jails. Within this time period, they were charged with more than 273,000 criminal offenses. These crimes included 505 homicide charges, 30,408 assaults, 5,396 burglaries, 34,555 drug offenses, and 365 kidnapping charges.¹⁸ By simply doing the math based on this data alone, then comparing it with the number of illegal aliens residing in the state of Texas, it becomes clear that illegal aliens are incarcerated at a higher rate than U.S. citizens or lawfully-present aliens.

Some Minor Limitations Inherent in SCAAP Reporting

Nevertheless, SCAAP data are subject to a few very minor limitations: There is a slim possibility that a small percentage of criminal illegal aliens may be counted twice in the same reporting period. However, this possibility is remote and would not appear to have a significant statistical impact on rates of incarceration in the illegal alien population. Here's why:

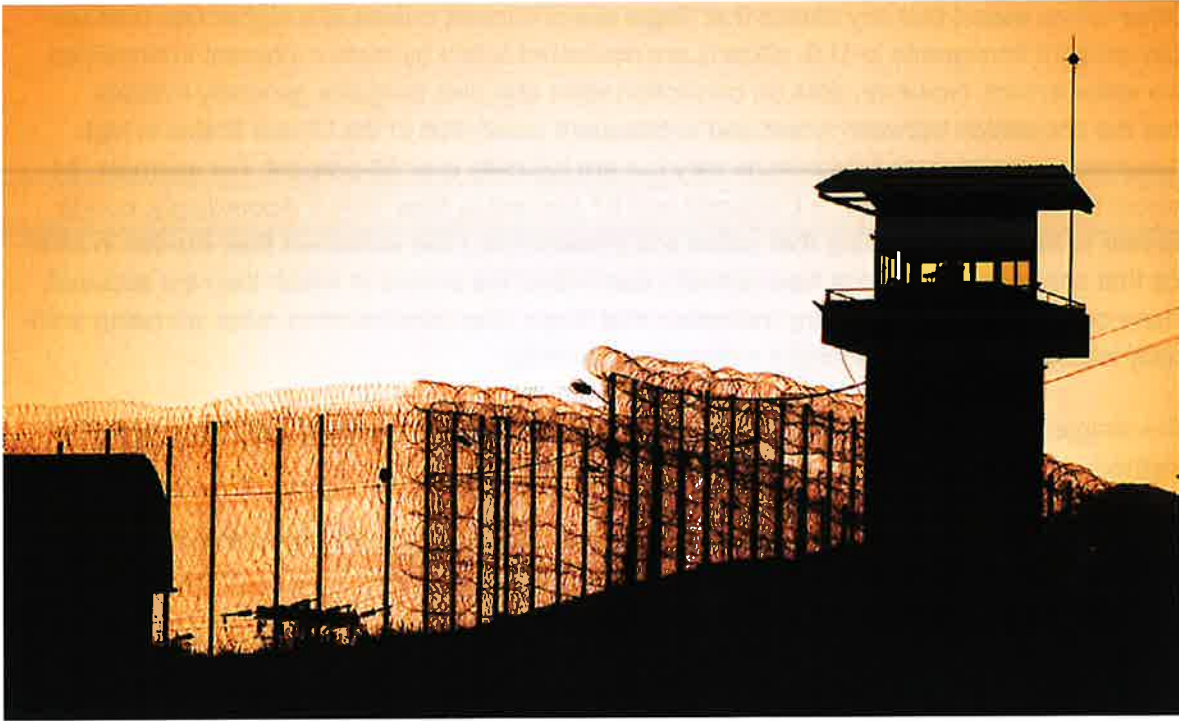
- Those who resist the usage of SCAAP reporting as a reliable data-set on illegal aliens and crime often claim that criminal aliens are counted twice or more in a single SCAAP report.
- Even if this was correct (and there is no evidence to suggest it is), that assertion would be nothing other than a convenient red herring, useful for distracting the public from the truth.
- The average illegal alien reported in SCAAP is incarcerated for a mean term of six-and-a-half months. (Note: Figure derived from SCAAP reporting data.)

As such, the math behind the “double-counting” claims simply does not add up: If illegal aliens did, indeed, commit crimes at a rate the same, or lower, than that of citizens and lawfully-present immigrants – and the same criminal aliens were simply being counted multiple times – then each reported offender would have to be incarcerated more than 3 times per year. (In addition, such an overly criminal sub-group of illegal aliens would still skew the overall illegal alien rate of criminality dramatically upward, a point never addressed by those who claim that conclusions based on SCAAP data are simply the result of over-counting errors.)

Our examination of SCAAP data strongly suggests that there is no reason to believe any statistically significant repeat counting of criminal illegal aliens [occurs].

It is possible that two separate agencies (e.g. a county sheriff's office and a state corrections department) in the same state may, on occasion, submit two claims for the same alien in a single reporting period. However, this circumstance would be limited to the very rare situations that involve the following:

- An illegal alien is arrested.
- He/she is found to have SCAAP-qualifying criminal convictions sustained in another jurisdiction.
- The pre-trial detention agency submits a SCAAP claim.



CONCLUSION

When making immigration policy, it is important that we be honest about the facts. In this case, the available facts appear to show that illegal aliens commit crimes at a much higher rate than the rest of the population. But, as noted above, much of the research on illegal aliens and crimes is marked by a deliberate attempt to ignore such data.

Uninformed or ideologically motivated critics may look at SCAAP data and claim that it includes both aliens who have been incarcerated pre-trial and those who have been incarcerated post-trial. Such critics insist that conclusions drawn from SCAAP data will inevitably be inaccurate because some illegal aliens detained pre-trial will inevitably be released prior to the filing of any criminal charges; successfully petition for criminal charges to be dismissed; or be acquitted of the crimes for which they were arrested.

However, participating jurisdictions may only submit SCAAP reimbursement requests for illegal aliens who have already been convicted of either a felony crime or multiple misdemeanor crimes. That means illegal aliens held in pre-trial detention, for whom SCAAP reimbursement is sought, were arrested with a pre-existing criminal history. Accordingly, the assertion that SCAAP data include individuals without criminal convictions is utterly false.

ENDNOTES

1 Perry Stein, "'Undocumented and Unafraid': DACA Recipients Storm the U.S. Capitol," The Washington Post, November 9, 2017, https://www.washingtonpost.com/local/wv/2017/11/09/4d9ae0bc-c558-11e7-aae0-cb18a8c29c65_story.html?utm_term=.eb30e568b55f.

2 Peter Kirsanow, "Illegal Immigrants and Crime," National Review, February 8, 2018, <https://www.nationalreview.com/corner/illegal-immigrant-crime-rates/>.

3 John Burnett, "Illegal Immigration Does Not Increase Violent Crime, 4 Studies Show," NPR, May 2, 2018, <https://www.npr.org/2018/05/02/607652253/studies-say-illegal-immigration-does-not-increase-violent-crime>.

4 Peter Kirsanow, "Illegal Immigration and Crime," National Review, January 20, 2018, <https://www.nationalreview.com/corner/crime-illegal-immigration/>.

5 SCAAP is governed by Section 241(i) of the Immigration and Nationality Act, 8 U.S.C. 1231(i), as amended, and Title II, Subtitle C, Section 20301, Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322.

6 Bureau of Justice Assistance, "State Criminal Alien Assistance Program (SCAAP)," Accessed July 2018, https://www.bja.gov/ProgramDetails.aspx?Program_ID=86#horizontalTab1.

7 The states for which data were analyzed were chosen because: 1) They are the jurisdictions for which the most complete data are currently available; 2) based on the conclusions drawn in FAIR's 2017 study The Fiscal Burden of Illegal Immigration on United States Taxpayers, these are among the states with the highest illegal alien populations in the United States; 3) many of the other states for which SCAAP data are available have too few illegal aliens, or too few reporting jurisdictions for reliable conclusions to be drawn.

8 "Alien Incarceration Report Fiscal Year 2018, Quarter 1," Center for Immigration Studies, June 6, 2018, https://cis.org/sites/default/files/2018-06/Alien_Incarceration_Report_2018_Q1.pdf.

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10 Fred Barbash and Lindsey Bever, "Justice Department issues arrest warrant after jury acquits Mexican immigrant in 'sanctuary city' killing," The Washington Post, December 1, 2017, https://www.washingtonpost.com/news/morning-mix/wp/2017/12/01/kate-steinle-case-trump-infuriated-as-jury-acquits-illegal-immigrant-charged-in-san-francisco-killing/?noredirect=on&utm_term=.c8f5aba5ba69.

11 Mark Matthews, Lisa Fernandez, Andrew Blankstein, and Associated Press, "Gun Used in Pier 14 Shooting Belonged to Federal Agent: Sources," NBC Bay Area, Updated July 8, 2015,



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