



July 2018

CRIMINAL ALIEN STATISTICS

Information on
Incarcerations,
Arrests, Convictions,
Costs, and Removals

Accessible Version

GAO Highlights

Highlights of [GAO-18-433](#), a report to congressional requesters

Why GAO Did This Study

As of 2014, DHS estimated the total alien—a person who is not a citizen or national of the United States—population in the United States was about 27.1 million. Members of the alien population that have been arrested and convicted of crimes in the United States are referred to as criminal aliens. The costs associated with incarcerating criminal aliens are borne by the federal government, states, and localities. GAO was asked to update its March 2011 report on criminal alien statistics.

This report addresses, among other things, the (1) number and nationality of incarcerated criminal aliens, (2) number of criminal alien arrests and convictions, (3) estimated costs associated with incarcerating criminal aliens, and (4) experiences of criminal aliens after incarceration in federal prison.

GAO analyzed the most recent data available on criminal aliens, generally from fiscal years 2010 through 2016. Specifically, GAO analyzed data for criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016, and this group is the federal criminal alien population studied for this report. GAO also analyzed data for certain criminal aliens incarcerated in state prisons and local jails that received SCAAP funding from fiscal years 2010 through 2015, and this group is referred to as the state and local study population reviewed for this report. SCAAP data represents a portion of all criminal aliens incarcerated in state prisons and local jails. GAO used SCAAP data because there are no reliable data available on all criminal aliens incarcerated in every U.S. state prison and local jail.

View [GAO-18-433](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov.

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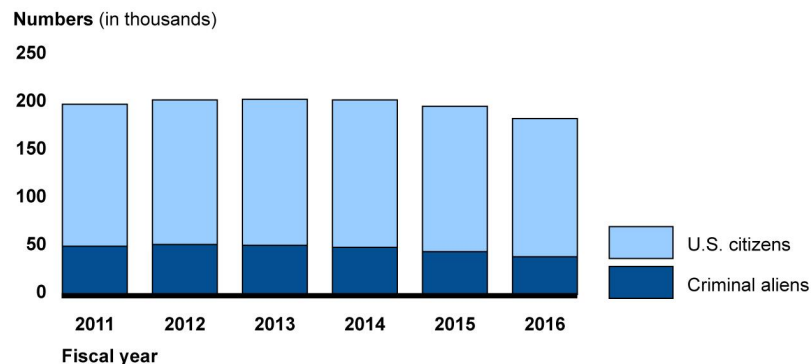
CRIMINAL ALIEN STATISTICS

Information on Incarcerations, Arrests, Convictions, Costs, and Removals

What GAO Found

From fiscal years 2011 through 2016, the criminal alien proportion of the total estimated federal inmate population generally decreased, from about 25 percent to 21 percent (as shown in the figure below). During this period, the estimated number of criminal aliens incarcerated in federal prisons decreased from about 50,400 to about 39,500, or 22 percent. Ninety-one percent of these criminal aliens were citizens of one of six countries, including Mexico, Honduras, El Salvador, Dominican Republic, Colombia, and Guatemala.

Estimated Number of Individuals, by Citizenship, Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016



Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

Based on data from the Department of Justice's (DOJ) State Criminal Alien Assistance Program (SCAAP), which reimburses states and localities for a portion of criminal alien incarceration costs, the number of SCAAP criminal alien incarcerations in state prisons and local jails that received SCAAP reimbursements also decreased from about 282,300 in fiscal year 2010 to about 169,300 in fiscal year 2015, or 40 percent. The decrease can be attributed to (1) general declines in the number of SCAAP criminal alien incarcerations in each of the participating state prisons and local jails that participated in SCAAP, and (2) a reduction in the number of states and localities that participated in SCAAP. Seventy-six percent of SCAAP criminal alien incarcerations in fiscal year 2015 were born in one of six countries, including Mexico, El Salvador, Honduras, Guatemala, Cuba, and Germany.

Based on a random sample of criminal aliens incarcerated in federal prisons during fiscal years 2011 through 2016 and based on a random sample of SCAAP criminal aliens incarcerated in state prisons and local jails during fiscal years 2010 through 2015, GAO estimated the following:

- The approximately 197,000 federal criminal aliens included in GAO's analysis were arrested/transferred about 1.4 million times for approximately 2 million offenses from over 43 years (from 1974 through 2017); 42 percent of the offenses that these criminal aliens were arrested for were related to immigration and 26 percent were related to drugs or traffic violations.

Highlights of GAO 18-433 (continued)

- The approximately 533,000 SCAAP criminal aliens included in GAO’s analysis were arrested/transferred about 3.5 million times for approximately 5.5 million offenses from over 53 years (from 1964 through 2017); 52 percent of the offenses that these SCAAP criminal aliens were arrested for were related to traffic violations, drug offenses, or immigration offenses.

GAO analyzed (a) DOJ data on criminal alien incarcerations, arrests, convictions, and costs; (b) conviction data from the five state prison systems with the largest number of SCAAP criminal alien incarcerations in fiscal year 2015; and (c) DHS data on removals.

For its arrest analyses, GAO selected generalizable random samples of (1) 500 criminal aliens from about 197,000 that were incarcerated in federal prisons from fiscal years 2011 through 2016 and (2) 500 SCAAP criminal aliens from about 533,000 that were incarcerated in state prisons and local jails from fiscal years 2010 through 2015. These samples included only those criminal aliens who had a Federal Bureau of Investigation (FBI) number—a unique identifier. This unique identifier allowed GAO to obtain arrest/transfer histories for these criminal aliens from FBI’s database, which includes data from law enforcement agencies across the nation.

While the samples selected for the arrest analyses allowed GAO to estimate and provide insights about the arrest history of the criminal aliens in the study populations, these findings are not generalizable to the arrest history of criminal aliens not included in these populations. These data did not allow GAO to distinguish between a new arrest and a transfer from one agency to another; therefore, these are collectively referred to as “arrests/transfers.” An arrest/transfer can be for multiple offenses. GAO’s arrest analyses have a margin of error of plus or minus 7 percentage points or fewer.

For GAO’s analyses of state conviction data, information obtained from the selected state prison systems is not generalizable to all state prison systems, but provides useful insights on why criminal aliens were incarcerated.

An arrest does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual is arrested. GAO’s analyses found that 92 percent of the criminal aliens incarcerated in federal prison from fiscal years 2011 through 2016 were convicted of primary offenses related to immigration or drugs—a primary offense is the one with the longest maximum sentence, as determined by the relevant agency. At the state level, SCAAP criminal aliens incarcerated in fiscal year 2015 in Arizona, California, Florida, New York, and Texas state prison systems were convicted of various primary offenses. While the most common primary offenses varied by each of the five states, they generally related to drug, homicide, or sex offenses.

GAO’s analyses found that the total annual estimated federal costs to incarcerate criminal aliens decreased from about \$1.56 billion to about \$1.42 billion from fiscal years 2010 through 2015. These costs included federal prison costs and reimbursements to state prison and local jail systems for a portion of their costs. GAO’s analyses also show that selected annual estimated operating costs of state prison systems to incarcerate SCAAP criminal aliens decreased from about \$1.17 billion to about \$1.11 billion from fiscal years 2010 through 2015. These selected costs included correctional officer salaries, medical care, food service, and utilities.

Of the approximately 165,700 criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016, about 157,400 or 95 percent were subsequently removed from the United States by the Department of Homeland Security (DHS). The majority (about 146,500) of the criminal aliens who completed a term of federal prison incarceration did not have a subsequent reincarceration in a federal prison. However, about 19,300 were subsequently reincarcerated in a federal prison at least once and about 5,500 were reincarcerated in a state prison or local jail system that received SCAAP funding. These experiences after federal prison incarceration are not mutually exclusive. For example, criminal aliens could have been removed from the United States by DHS after their incarceration in federal prison, then reentered the United States and subsequently become reincarcerated in either a federal or state prison or local jail.

Federal Prison Reincarcerations of Criminal Aliens, Fiscal Years 2011 through 2016

Number of federal prison reincarcerations	Number of criminal aliens	Percent
0	146,500	88.4
1	16,700	10.1
2	2,200	1.3
3	300	0.2
4 or more	<100	<0.1
Total^a	165,700	100

Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

^aNumbers may not sum to totals due to rounding. Percentages may not add to 100 due to rounding.

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Abbreviations

ACRIMe	Alien Criminal Response Information Management System
BJA	Bureau of Justice Assistance
BOP	Bureau of Prisons
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
IAR	Immigration Alien Response
ICE	Immigration and Customs Enforcement
NSD	National Security Division
NGI	Next Generation Identification
PCEPI	Personal Consumption Expenditures Price Index
SCAAP	State Criminal Alien Assistance Program
USCIS	U.S. Citizenship and Immigration Services

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July 17, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate

The Honorable Steve King
House of Representatives

The Honorable Pete Sessions
House of Representatives

In 2014, the Department of Homeland Security (DHS) estimated the total alien population in the United States was about 27.1 million. Of that number, DHS reported that about 12.1 million aliens were without lawful status or presence.¹ The Immigration and Nationality Act defines an alien as a person who is not a citizen or national of the United States.² Aliens, with or without lawful status, who have been arrested and convicted of crimes are known as criminal aliens.³ U.S. Immigration and Customs Enforcement (ICE), one of DHS's component agencies, is responsible for

¹According to DHS, the remaining approximately 15 million aliens includes lawful permanent residents (13.2 million), resident nonimmigrants (1.7 million), and individuals granted refugee or asylee status (0.1 million), as of 2014. Data on alien populations come from DHS's Office of Immigration Statistics, see DHS Office of Immigration Statistics, *Estimates of the Lawful Permanent Resident Population in the United States: January 2014* (Washington, D.C.: June 2017); *Estimates of the Size and Characteristics of the Resident Nonimmigrant Population in the United States: Fiscal Year 2014* (Washington, D.C.: December 2016); *Refugees and Asylees: 2014* (Washington, D.C.: April 2016); and *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2014* (Washington, D.C.: July 2017). DHS's *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2014* is the most recent report that DHS issued on this population.

²See 8 U.S.C. § 1101(a)(3), (a)(22). A "national of the United States" means a U.S. citizen, or a person who, though not a U.S. citizen, owes permanent allegiance to the United States, which can include individuals who were born in American Samoa or in the Commonwealth of the Northern Mariana Islands who have chosen to be U.S. nationals instead of U.S. citizens.

³For our report purposes, criminal aliens are aliens with or without lawful status convicted in the United States of crimes. According to DOJ officials, other entities may define criminal aliens differently, and some entities may report on foreign-born individuals—which could include aliens and U.S. citizens.

identifying, apprehending, detaining, litigating charges of removability against, and removing aliens, including criminal aliens, who are in the United States in violation of U.S. immigration law.⁴ The costs associated with incarcerating criminal aliens are borne by the federal government as well as states and localities.⁵ Aliens convicted in federal court and sentenced to a term of imprisonment are committed to the custody of the Department of Justice's (DOJ) Bureau of Prisons (BOP), and the federal government bears the total cost of incarcerating these criminal aliens. The federal government also reimburses states and localities for a portion of state and local incarceration costs for criminal alien populations that meet the criteria for reimbursement for DOJ's Bureau of Justice Assistance (BJA) State Criminal Alien Assistance Program (SCAAP).⁶

We most recently reported information on criminal alien statistics in 2011.⁷ You asked that we update and expand upon the information in that report. Specifically, this report provides information on the following:

⁴Under U.S. immigration law, an alien may be removable on statutory grounds of inadmissibility or deportability. See 8 U.S.C. §§ 1182, 1227, 1229a(c), (e)(2). An alien determined to be removable and not eligible for any requested relief or protection is to be removed pursuant to an administratively final order of removal. 8 C.F.R. § 1241.1.

⁵States and localities include the 50 states, the District of Columbia, counties and cities, and U.S. territories—American Samoa, Guam, Puerto Rico, Northern Mariana Islands, and the U.S. Virgin Islands.

⁶By statute, only the costs of incarceration for “undocumented criminal aliens” are eligible for reimbursement under SCAAP. This statute defines “undocumented criminal alien” for the purposes of SCAAP reimbursement as an alien who has been convicted of a felony or two or more misdemeanors and (1) entered the United States without inspection, (2) was the subject of removal proceedings at the time he or she was taken into custody, or (3) was admitted as a nonimmigrant and at the time he or she was taken into custody had failed to maintain the nonimmigrant status or to comply with the conditions of such status. See 8 U.S.C. § 1231(i)(3)(B). Generally, incarcerated criminal aliens for whom there is no record of admission or who failed to maintain nonimmigrant status after being admitted would be considered eligible for SCAAP reimbursement. An alien with some type of lawful class of admission, such as a permanent resident, at the time of their arrest would generally not meet the SCAAP definition of an undocumented criminal alien unless the alien was in removal proceedings at the time of arrest.

⁷GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: Mar. 24, 2011). In addition, GAO reported on criminal alien statistics in GAO, *Information on Criminal Aliens Incarcerated in Federal and State Prisons and Local Jails*, [GAO-05-337R](#) (Washington, D.C.: Apr. 7, 2005); and *Information on Certain Illegal Aliens Arrested in the United States*, [GAO-05-646R](#) (Washington, D.C.: May 9, 2005).

- What is the number and nationality of criminal aliens incarcerated in federal and state prisons and local jails in the United States over the last 6 years?
- What is known about criminal alien arrests and convictions?
- What is known about the costs of incarcerating criminal aliens in the United States?
- What is known about the removability from the United States of criminal aliens incarcerated in federal prison and the experiences of criminal aliens after incarceration in federal prison?

In addition, as you requested, we also describe what is known about certain individuals with international terrorism-related convictions. This information is provided in an appendix.

Table 1 summarizes key terms and definitions used in this report.

Table 1: Common Terms and Definitions Used in GAO’s Report

Term	Definition
Alien	Any person who is not a citizen or national of the United States.
Criminal alien	An alien, with or without lawful status, convicted in the United States of a crime.
State Criminal Alien Assistance Program (SCAAP) criminal alien ^a	A criminal alien—as defined above—incarcerated in a state prison or local jail and for whom a state or locality received federal reimbursement through SCAAP.
Primary offenses (for federal convictions)	When convicted of multiple federal offenses, the primary offense is the one with the longest maximum sentence as determined by the relevant federal agency.
Removability from the United States	Under U.S. immigration law, an alien may be removable on statutory grounds of inadmissibility or deportability. An alien determined to be removable and not eligible for any requested relief or protection is to be removed pursuant to an administrative final order of removal. ^b

Source: GAO. | GAO-18-433

^aSCAAP criminal aliens are a subset of all criminal aliens incarcerated in state prisons and local jails because (1) not all states and localities may choose to apply for SCAAP reimbursement and (2) criminal aliens with lawful immigration status who were not the subject of removal proceedings at the time they were taken into custody do not meet the statutory criteria for SCAAP reimbursement. See 8 U.S.C. § 1231(i)(3)(B). Further, to be eligible for reimbursement, the aliens must meet the following criteria: (1) had at least one felony or two misdemeanor convictions for violations of state or local law and (2) were incarcerated for at least 4 consecutive days during the reporting period. For our analyses, “state prisons and local jails” include those in U.S. territories, unless otherwise noted.

^bSee 8 U.S.C. §§ 1182, 1227, 1229a(c), (e)(2); see also 8. C.F.R. § 1241.1.

In general, we analyzed data separately for criminal aliens incarcerated in federal prisons and SCAAP criminal aliens incarcerated in state prisons

and local jails—which we refer to as our two study populations.⁸ The time periods we analyzed varied for our federal study population compared to our state and local study population because they reflect updates since we last reported on these issues in 2011 and because we used the most recent data available at the time of our analysis.⁹ Our federal study population generally includes criminal aliens incarcerated from fiscal years 2011 through 2016.¹⁰ Our state and local study population includes SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015.¹¹ Overall, our findings are not generalizable to criminal aliens not included in our federal and state and local study populations. However, they provide valuable insights into the criminal aliens incarcerated in the United States. For example, we used SCAAP data because there are no reliable population data on all criminal aliens incarcerated in every U.S. state prison and local jail.¹² SCAAP provides reliable data on certain criminal aliens incarcerated in state prisons and local jails but does not include (a) criminal aliens incarcerated

⁸For our analyses, “state prisons and local jails” include those in U.S. territories, unless otherwise noted.

⁹[GAO-11-187](#).

¹⁰We used both BOP snapshot (point in time) and inmate-level data to conduct our analyses, as described throughout this report. The BOP inmate-level data included about 198,000 criminal aliens incarcerated in federal prisons from 2011 through 2016. For some of our analyses, we used a smaller subset of the BOP inmate-level data as explained throughout the report. However, when analyzing federal costs to incarcerate criminal aliens in federal prisons, we used BOP snapshot data from fiscal years 2010 through 2015, as these years ensured there were no reporting gaps from our prior report and these were the most recent data available on federal costs for reimbursing states and localities.

¹¹We used both SCAAP jurisdiction-level and inmate-level data to conduct our analyses, as described throughout this report. For the SCAAP inmate-level data, we were not able to determine how many unique SCAAP criminal aliens were in the data set, since a SCAAP criminal alien could have more than one incarceration in the same fiscal year. As a result, when reporting on these data for certain analyses, we refer to SCAAP criminal alien incarcerations rather than SCAAP criminal aliens. However, we were able to determine that approximately 533,000 SCAAP inmate-level records had a unique Federal Bureau of Investigation (FBI) number, which we used for certain analyses. For some of our analyses, we used a smaller subset of the SCAAP inmate-level data as explained throughout the report.

¹²In addition to SCAAP data, DOJ’s Bureau of Justice Statistics collects data on noncitizens incarcerated in state prisons but these data do not include all states. For example, in 2016, the Bureau of Justice Statistics reported that certain states—including California, which has the highest number of SCAAP criminal aliens—did not report or were unable to report data on the number of noncitizens. U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2015*, (Washington, D.C., Dec. 2016).

in states or localities that did not apply for and receive federal reimbursement for costs of incarceration and (b) aliens with lawful immigration status who were not the subject of removal proceedings at the time they were taken into custody.¹³ Further, to be eligible for reimbursement, the aliens must meet the definition of “undocumented criminal alien” under the SCAAP statute and the following criteria: (1) had at least one felony or two misdemeanor convictions for violations of state or local law and (2) were incarcerated for at least 4 consecutive days during the reporting period.¹⁴ Thus, our state and local criminal alien data represent only a portion of the total population of criminal aliens incarcerated at the state and local level.

To determine the number and nationalities—based on country of citizenship or country of birth data—of incarcerated criminal aliens, we analyzed BOP data on criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 and SCAAP data on SCAAP criminal alien incarcerations in state prisons and local jails from fiscal years 2010 through 2015.¹⁵ BOP obtains country of citizenship data from presentence investigation reports, which may be based on documentation or be self-reported.¹⁶ SCAAP country of birth data are provided to DOJ by states and localities that participate in SCAAP.¹⁷

¹³SCAAP data represent the number of incarcerations, rather than number of SCAAP criminal aliens, since these aliens could have multiple SCAAP incarcerations in the same fiscal year.

¹⁴See 8 U.S.C. § 1231(i)(3)(B).

¹⁵Each year’s SCAAP program is based on SCAAP criminal aliens incarcerated during the prior fiscal year, July 1 through June 30. For example, the fiscal year 2016 SCAAP program will include SCAAP criminal aliens that were incarcerated in state prisons and local jails from July 1, 2014 to June 30, 2015. According to DOJ officials, private facilities are not eligible for SCAAP reimbursement, and states and localities are not eligible to apply on their behalf. For the BOP data, we used the average of 12 monthly snapshots to account for possible differences in incarceration numbers month to month for each fiscal year. In addition, we used inmate data to determine the number of unique inmates, versus a snapshot in time, which may include duplicates across fiscal years.

¹⁶A federal probation officer completes a presentence investigation report after conducting a presentence interview as well as an independent investigation of the offense and the defendant’s background. See 18 U.S.C. § 3552. BOP officials stated that BOP’s citizenship data could be updated over time as BOP obtains additional information from other sources, such as information from DHS. We did not independently verify citizenship data.

¹⁷We did not independently verify country of birth of SCAAP criminal aliens incarcerated in state prisons and local jails.

To determine the number and types of offenses for which criminal aliens were arrested and convicted, we analyzed various federal and state data. Specifically, for arrests, we matched a random sample of 500 criminal aliens from our federal study population and 500 SCAAP criminal aliens from the state and local study population to DOJ's FBI database that maintains data from reporting law enforcement agencies across the nation.¹⁸ While the samples we selected for our analyses allowed us to estimate and provide valuable insights about the arrest history of the approximately 197,000 criminal aliens in our federal study population and the approximately 533,000 SCAAP criminal aliens in our state and local study population, our analyses are not generalizable to the arrest history of criminal aliens not in these study populations. We analyzed the arrest histories of criminal aliens in our samples to estimate the number and types of offenses for which criminal aliens in our federal and state and local study populations were arrested/transferred. We defined an arrest/transfer as one of these actions occurring on the same day by the same arresting agency. The data did not allow us to distinguish between a new arrest and a transfer from one agency to another; therefore, we refer to these collectively as "arrests/transfers." The criminal aliens in our samples had arrests/transfers that ranged from 1964 through 2017.¹⁹ Because law enforcement entities send arrest information to the FBI on a

¹⁸For this analysis, we only included criminal aliens from each study population if they had an FBI number available. This is a unique identifier used by the FBI, as this was needed to match data across databases. As such, the study populations that we projected to for these analyses were smaller than the originating study populations. For example, our federal study population started with approximately 198,000 criminal aliens, about 197,000 of whom had FBI numbers. For this analysis, we therefore included approximately 197,000 criminal aliens in our federal study population. For our state and local study population, there were approximately 533,000 SCAAP records that had a unique FBI number in the SCAAP data set that were included in our study population. Some of the records in our samples of 500 criminal aliens from our federal study population and 500 SCAAP criminal aliens from the state and local study population had to be excluded for various reasons, including invalid FBI numbers. As a result, we analyzed data for 496 criminal aliens in our federal study population and 487 SCAAP criminal aliens in our state and local study population. All percentage estimates presented in this report for these analyses have a margin of error of plus or minus 7 percentage points or fewer. All estimates of the number of arrests/transfers or offenses have a relative error of plus or minus 14 percent of the estimate or less. The 7 percentage point margin of error and 14 percent relative error represent the upper bounds for the estimates included in this report. See appendix I for more details.

¹⁹FBI officials provided all available records on the criminal aliens in our study populations in August and September 2017. Therefore, any additional arrest/transfer data that were added to these records through the end of the calendar year 2017 would not be included in our analysis.

voluntary basis, FBI data on arrest history may not include all arrests.²⁰ An arrest does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual is arrested. To determine the primary offenses for which the approximately 198,000 criminal aliens in our federal study population were convicted and incarcerated, we analyzed BOP conviction data for criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016. In addition, to determine the types of primary offenses for which SCAAP criminal aliens were convicted, we analyzed conviction data from five state prison systems—Arizona, California, Florida, New York, and Texas—from fiscal years 2010 through 2015. We selected these five state prison systems because they had the most SCAAP criminal alien incarcerations in fiscal year 2015. Collectively, these five state prison systems accounted for 64 percent of the SCAAP criminal alien incarcerations in state prisons during fiscal year 2015.²¹ They are also the same state prison systems that we analyzed in our 2011 report on criminal aliens.²² The information obtained from the selected state prison systems is not generalizable to all state prison systems, but provides useful insights about why SCAAP criminal aliens were incarcerated.

To determine the costs associated with incarcerating criminal aliens in the United States, we obtained and analyzed cost and inmate data from BOP, SCAAP, and states and localities. Specifically, we analyzed costs to (1) the federal government, (2) state prison systems, and (3) selected states and localities. To determine the annual costs to the federal government to incarcerate criminal aliens, for fiscal years 2010 through 2015, we calculated and combined: (1) the estimated costs to incarcerate criminal aliens in federal prisons and (2) the costs to reimburse states and localities for incarcerating SCAAP criminal aliens. To determine the estimated costs associated with incarcerating SCAAP criminal aliens in state prisons, we used a study by DOJ's Bureau of Justice Statistics that estimated state prison expenditures for medical care, food service, and

²⁰In the month of December 2017, the FBI reported that approximately 23,300 local, state, tribal, federal, and international partners submitted criminal and/or civil electronic submissions to the FBI.

²¹Our analysis included state prison systems that participated in SCAAP and did not include U.S. territories. State prison systems in Arkansas, West Virginia, Vermont, and the District of Columbia did not receive reimbursement for SCAAP criminal aliens incarcerated in fiscal year 2015.

²²[GAO-11-187](#).

utilities for all 50 state prison systems in 2001.²³ Applying relevant price deflators and SCAAP reimbursement data, we calculated these selected operating costs (medical care, food service, and utilities) for incarcerating SCAAP criminal aliens for each state prison system that sought SCAAP reimbursement from fiscal years 2010 through 2015. While our estimates provide insight into state expenditures to incarcerate SCAAP criminal aliens, our estimates may not represent actual costs if per capita prison expenditures for incarcerating criminal aliens grew at a different rate than the inflation factors that we used for each category. In addition to estimated operating costs for medical care, food service, and utilities, we also used data on correctional officer salaries from SCAAP. To determine the cost of incarcerating SCAAP criminal aliens in selected states and localities, we analyzed cost and SCAAP data for five state prison systems—Arizona, California, Florida, New York, and Texas—and five local jail systems—Maricopa County, Arizona; Orange County, California; Los Angeles County, California; Essex County, New Jersey; and Harris County, Texas. We selected these state prison and local jail systems because they had the most SCAAP criminal alien incarcerations in 2015.²⁴

To determine what is known about the removability from the United States of criminal aliens incarcerated in federal prison and the experiences of criminal aliens after incarceration in federal prison, we matched data from criminal aliens incarcerated in federal prison with other available data sources using various identifiers, including alien numbers and FBI numbers.²⁵ Specifically, to analyze the potential removability from the United States of criminal aliens at the time they were incarcerated in federal prison, we matched BOP data on criminal aliens incarcerated from fiscal years 2011 through 2016 with data from ICE’s Alien Criminal Response Information Management System (ACRIME). ICE specialists use ACRIME to provide an indication of an

²³Bureau of Justice Statistics, *State Prison Expenditures, 2001* (Washington, D.C.: June 2004). These were the most recent cost data available for our purposes. Data were not available on local jail systems.

²⁴We selected the top six local jail systems, which accounted for 19 percent of all SCAAP criminal alien incarcerations in local jails for fiscal year 2015. However, we could not estimate total costs for New York City, New York, as was done in the 2011 GAO report. Officials from this locality stated that they no longer apply for SCAAP funds, and they did not provide us an average daily cost per inmate, see [GAO-11-187](#).

²⁵An alien number, or alien registration number, is a unique number assigned to a noncitizen’s administrative file for tracking purposes.

individual's identity and potential removability to law enforcement partners, at the request of the law enforcement partner. Because a criminal alien's removability from the United States can change over time, we identified the ACRIME record with a date that was closest to the date the criminal alien first entered federal prison during our period of analysis and used this record for our analysis. To determine what is known about the experiences of criminal aliens after their incarceration in federal prison, we matched data from those criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 with DHS and DOJ data to determine if these criminal aliens were subsequently removed from the United States, reincarcerated, and/or received naturalized citizenship. We compared the dates the criminal alien completed a term of incarceration in federal prison with the dates of encounters with the federal government and/or law enforcement agencies to determine if those encounters took place after the criminal alien completed a term of incarceration in federal prison. For more details on our scope and methodology, see appendix I.

We determined that the data used in each of our analyses were sufficiently reliable for the purposes of this report by analyzing available documentation, such as related data dictionaries; interviewing officials knowledgeable about the data; conducting electronic tests to identify missing data and anomalies; and following up with officials, as appropriate.

We conducted this performance audit from August 2016 to July 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

SCAAP Overview and Reimbursement

SCAAP is intended to provide reimbursement to states and localities for a portion of the correctional officer salary costs associated with incarcerating criminal aliens who meet the definition of "undocumented criminal alien" under the SCAAP statute and the following criteria: (1) had at least one felony or two misdemeanor convictions for violations of state

or local law and (2) were incarcerated for at least 4 consecutive days during the reporting period.²⁶ Therefore, SCAAP is not intended to reimburse states and localities for all of the costs associated with incarcerating all criminal aliens.

When applying for SCAAP, states and localities must submit information to DOJ on their state prison or local jail system, such as correctional officer salary costs, as well as records for each criminal alien incarceration that include identifying information, such as the alien's name and date of birth. DOJ reviews the information provided by the states and localities to determine if any of the individual records are invalid for reimbursement because the individual was incarcerated for fewer than the required 4 days or the incarceration dates were outside the eligibility year, among other things. DOJ also sends the records to DHS, which provides information related to the individual's immigration or citizenship status. Specifically, DOJ uses the information provided by DHS to determine if each individual (1) met the definition of "undocumented criminal alien" (called SCAAP undocumented criminal alien), (2) lacked documentation to confirm the individual's immigration status (called SCAAP unknown criminal aliens), or (3) verified that the individual was a U.S. citizen or an alien who did not meet the definition of "undocumented criminal alien," and therefore was ineligible for reimbursement under SCAAP.²⁷ According to ICE officials, some of the SCAAP unknown criminal aliens may be in the United States without lawful status. However, if they have not come into contact with DHS authorities, ICE would not be able to verify their immigration status. For the fiscal year 2016 SCAAP program, which includes records for incarcerations during fiscal year 2015, DOJ determined that 20 percent of the incarcerations for which states or localities submitted a request for SCAAP reimbursement were ineligible for SCAAP reimbursement.²⁸

²⁶See 8 U.S.C. § 1231(i)(3)(B).

²⁷Within DHS, ICE and the U.S. Citizenship and Immigration Services (USCIS) both provide additional data to DOJ, including class of admission, which DOJ uses to help categorize valid records into ineligible, eligible SCAAP undocumented criminal aliens, and eligible SCAAP unknown criminal aliens.

²⁸SCAAP records do not represent the number of unique individuals incarcerated since these individuals could be incarcerated in multiple SCAAP states or localities during the same reporting period. As such, these records represent the number of incarcerations—which could include duplicate SCAAP criminal aliens.

The amount DOJ awards states and localities in SCAAP reimbursements depends on the extent to which DHS data can help verify the alien's status at the time of incarceration and the SCAAP budget, which is appropriated by Congress each year.²⁹ First, states and localities are eligible to receive reimbursement for 100 percent of the correctional officer salary costs they expended to incarcerate SCAAP undocumented criminal aliens and partial reimbursement for SCAAP unknown criminal aliens, subject to available appropriations. For SCAAP unknown criminal aliens, states are eligible for reimbursement for 85 percent of correctional officer salary costs, counties are eligible for 86 percent reimbursement of the same costs, and cities are eligible for 62 percent reimbursement.³⁰ Second, depending upon appropriations, the SCAAP program will reimburse a percentage of the states' and localities' eligible correctional officer salary costs.

²⁹Yearly appropriations for SCAAP are as follows (in thousands): fiscal year 2011: \$273,352; fiscal year 2012: \$240,000; fiscal year 2013: \$237,123; fiscal year 2014: \$180,000; fiscal year 2015: \$185,000; fiscal year 2016: \$210,000; and fiscal year 2017: \$210,000.

³⁰In 2011, we reported that DOJ's methodology for reimbursing states and localities for SCAAP unknown criminal aliens was based on an analysis that the former Immigration and Naturalization Service conducted in 2000, which analyzed the records of aliens submitted for SCAAP reimbursement in 1997 whose status was at that time unknown. Based upon this analysis, DOJ officials stated that the former Immigration and Naturalization Service determined that 65 percent of those SCAAP unknown criminal aliens submitted for SCAAP reimbursement by states did not have legal status, 60 percent submitted for reimbursement by cities did not have legal status, and 80 percent submitted for reimbursement by counties did not have legal status. See [GAO-11-187](#). Since then, DOJ has assessed its reimbursement methodology and, beginning in fiscal year 2011, made changes to how it reimburses states and localities for SCAAP unknown criminal aliens.

Arrest Histories and Removability from the United States

Individuals arrested by federal, state, and local law enforcement authorities are generally fingerprinted and their prints may be sent to the FBI.³¹ The FBI creates a unique identification number for each individual allowing, among other things, law enforcement to determine an individual's arrest history. The FBI shares these fingerprints with DHS, which enables the sharing of certain biographic, criminal history, and immigration information between the agencies. If there is a match in DHS's system, the FBI sends an inquiry, called an Immigration Alien Query, to ICE's ACRIME.³² ICE specialists working on ACRIME inquiries are to use an individual's biographic and/or biometric identifiers to search various criminal, customs, and immigration databases and determine what is known about an individual's citizenship status or potential removability from the United States. This determination, transmitted in the form of an Immigration Alien Response (IAR), is then sent back to the FBI and shared with the law enforcement authority from which the fingerprints originated.³³ The IAR is also shared with the appropriate ICE field office so that ICE can determine what enforcement action, if any, to take against the individual.³⁴

According to ICE officials, the IAR provides a good indication of an individual's potential removability from the United States at a specific point in time; however, ICE's response to these inquiries may not indicate

³¹According to FBI officials, the FBI receives fingerprints from federal, state, local, and tribal criminal justice law enforcement agencies and non-criminal justice agencies. These agencies provide fingerprints at their discretion during various points of the criminal justice lifecycle, potentially including during the arrest process and at the time of booking, and for other non-criminal justice purposes, such as at the time an individual files an application for employment. According to FBI officials, the FBI has agreements with 20 states through the National Fingerprint File Program, which allows for automatic file sharing. In addition, the FBI has agreements with some other states to facilitate electronic file sharing. However, some arrest information may not be provided to the FBI.

³²ACRIME is an information system used by ICE to receive and respond to inquiries from federal, state, and local law enforcement agencies about individuals arrested, subject to background checks, or otherwise encountered by those agencies. These inquiries can come directly from the entity or through a match across the FBI and DHS data systems. According to ICE officials, in fiscal year 2017, ICE provided approximately 1.52 million responses to about 13,000 entities.

³³ICE officials also reported that the IAR also fulfills ICE's statutory requirement to provide immigration status on request.

³⁴See 78 Fed. Reg. 10,623 (Feb. 14, 2013).

an individual's immigration status with certainty. According to ICE officials, immigration status can be difficult to determine because various agencies maintain information on immigration status in separate databases. ICE officials also stated that the IAR is intended to provide law enforcement agencies with enough information about aliens in their custody that the law enforcement entities can make an informed decision about how to handle the alien, including whether the alien may be removable from the United States. In addition, an individual's immigration status can change over time. For example, an alien with lawful permanent resident status who is convicted of certain crimes may be subject to removal from the United States, which could result in the loss of their lawful permanent resident status.

ICE may remove aliens, including criminal aliens, from the United States who are subject to a final order of removal or following an administrative removability review.³⁵ ICE may detain these aliens after DHS has encountered these individuals directly or ICE may issue an immigration detainer to federal, state, or local law enforcement agencies for an alien in federal, state, or local custody after the alien is arrested for a criminal offense and if the officer has probable cause to believe that the alien is removable from the United States.³⁶ For example, a criminal alien incarcerated in federal prison for whom ICE has issued a detainer may be transferred to ICE custody at the time they complete their term of incarceration in federal prison.³⁷ Individuals removed by ICE may be

³⁵Depending on the circumstance, removal orders may be issued by an immigration court, ICE, U.S. Customs and Border Protection, or federal courts.

³⁶The immigration detainer provides notification of ICE's intent to take custody of a removable alien in federal, state, or local custody after that alien is released from such custody. U.S. Immigration and Customs Enforcement, *Policy Number 10074.2: Issuance of Immigration Detainers by ICE Immigration Officers*. Effective April 2, 2017.

³⁷ICE and BOP coordinate to identify criminal aliens in federal prisons who may be removable, and ICE may initiate their removal proceedings before an immigration judge, through the Institutional Hearing Program—a coordinated effort between DHS and DOJ—to identify criminal aliens who are serving federal prison sentences and complete their removal proceedings while they are incarcerated. According to DOJ, this process may allow immigration removal cases to be adjudicated prior to an individual's release from federal prison. In addition, according to BOP officials, an ICE liaison has been working with BOP on a daily basis since November 2016 to assist with identifying foreign-born aliens in BOP custody; processing aliens for removal; transferring aliens who are removable from the custody of BOP to ICE, pursuant to an immigration detainer; and ensuring the Institutional Hearing Program is functioning effectively and efficiently.

subject to administrative or criminal consequences on subsequent reentry because of the prior removal.³⁸

In some circumstances, an alien may be released from ICE custody due to the decision of an immigration judge, DHS official, or as otherwise required by law. For example, ICE may have limited authority to detain an alien who is subject to a final order of removal for more than 180 days if the individual is unlikely to be able to be removed in the reasonably foreseeable future.³⁹

Criminal Alien Incarcerations Have Declined and Incarcerated Criminal Aliens Were Primarily Citizens from One of Six Countries

The Number of Criminal Aliens Incarcerated in Federal Prisons Decreased from Fiscal Years 2011 through 2016 and More Than 90 Percent Were Citizens from Six Countries

The estimated number of criminal aliens incarcerated in federal prisons decreased 22 percent, from about 50,400 in fiscal year 2011 to about 39,500 in fiscal year 2016—decreasing each year since fiscal year 2013. During this same time, the estimated number of total inmates incarcerated in federal prisons decreased 8 percent, from about 199,100 in fiscal year 2011 to about 184,000 in fiscal year 2016, as shown in figure 1.⁴⁰

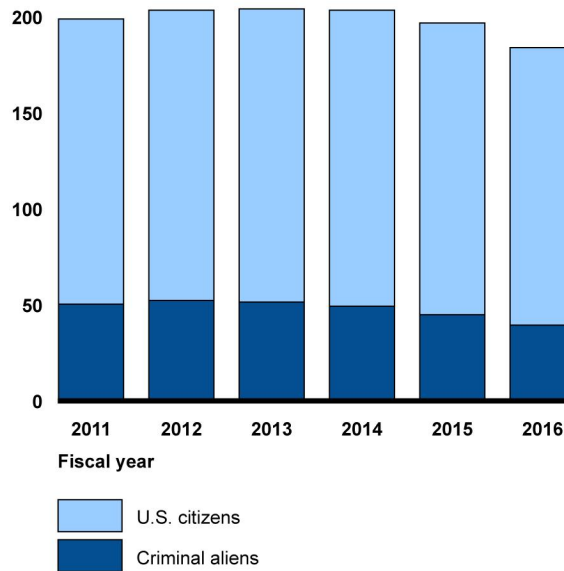
³⁸See, e.g., 8 U.S.C. § 1182(a)(6).

³⁹See *Zadvydas v. Davis*, 533 U.S. 678 (2001); but see *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

⁴⁰We estimated the number of inmates by calculating the average of BOP's 12 monthly snapshot data for each fiscal year. Snapshot data represent a point in time and may not include all inmates that were incarcerated in each year. Data do not include inmates in the witness security program and unsentenced inmates. BOP obtains country of citizenship data from various sources, including presentence investigation reports, which may be based on documentation, such as a birth certificate or immigration documents, or be self-reported. BOP officials stated that country of citizenship could be updated over time as BOP obtains additional information from other sources, such as information from DHS.

Figure 1: Estimated Number of Individuals, by Citizenship, Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016

Numbers (in thousands)
250



Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

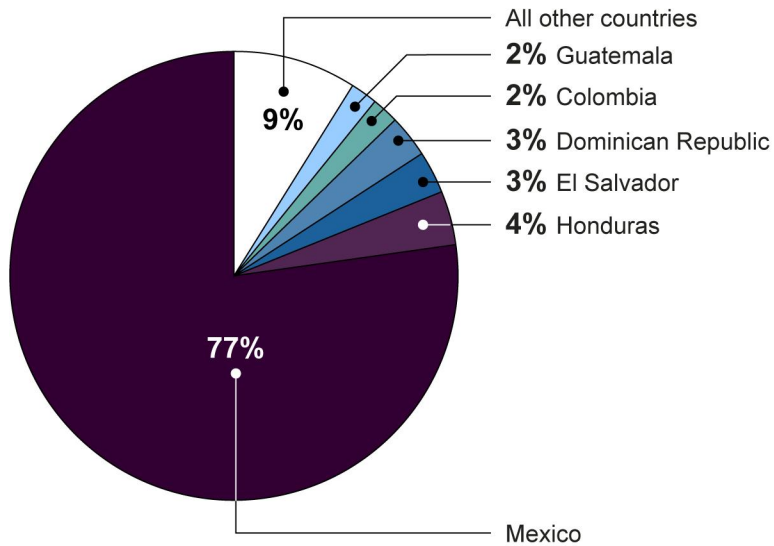
Note: We estimated the number of inmates by calculating the average of 12 monthly snapshot data for each fiscal year. Snapshot data represent a point in time and may not include all inmates that were incarcerated in each year. Data do not include inmates in the witness security program and unsentenced inmates. These data do not represent unique criminal aliens across the years, as criminal aliens may be incarcerated in more than one fiscal year. The figure above does not include inmates with missing or unknown citizenship data—which represent less than 0.1 percent of the total number of inmates in each fiscal year.

The criminal alien proportion of the total estimated federal inmate population also generally decreased from fiscal years 2011 through 2016.⁴¹ Specifically, criminal aliens accounted for 25 percent of the total federal inmate population in fiscal year 2011 and 21 percent in fiscal year 2016.

⁴¹The criminal alien proportion of all inmates in federal prisons increased slightly from 25 percent in fiscal year 2011 to 26 percent in fiscal year 2012, then decreased each fiscal year from 2013 through 2016.

From fiscal years 2011 through 2016, there were a total of about 198,000 unique criminal aliens that were incarcerated in federal prison.⁴² These criminal aliens accounted for 35 percent of the total number of unique inmates incarcerated from fiscal years 2011 through 2016. As shown in figure 2, 77 percent of the approximately 198,000 unique criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 were citizens of Mexico. Ninety-one percent were citizens of one of six countries, including Mexico.

Figure 2: Percentage of Criminal Aliens Incarcerated in Federal Prisons by Country of Citizenship, Fiscal Years 2011 through 2016



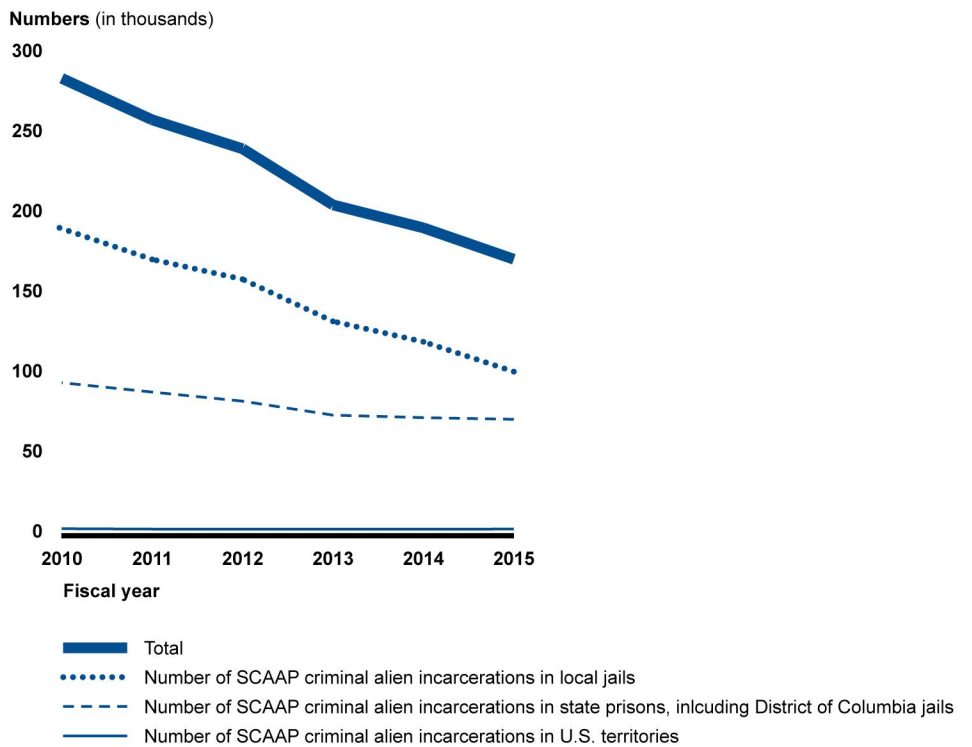
Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

⁴²The BOP inmate-level data are based on overall population data from fiscal years 2011 through 2016 and not snapshots of a point in time. Data do not include inmates in the witness security program and unsentenced inmates.

SCAAP Criminal Alien Incarcerations Decreased 40 Percent from Fiscal Years 2010 through 2015; More Than 75 Percent Were Born in One of Six Countries

From fiscal years 2010 through 2015, the total number of SCAAP criminal alien incarcerations in state prisons and local jails decreased 40 percent from about 282,300 in fiscal year 2010 to about 169,300 in fiscal year 2015—decreasing each year—as shown in figure 3.⁴³

Figure 3: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations from Fiscal Years 2010 through 2015



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

Note: SCAAP data represent the number of incarcerations, rather than number of SCAAP criminal aliens since these aliens could have multiple SCAAP incarcerations in the same fiscal year. The decrease in the number of SCAAP criminal alien incarcerations can be partially attributed to fewer

⁴³SCAAP data represent the number of incarcerations, rather than number of SCAAP criminal aliens, since aliens could have multiple SCAAP incarcerations in the same fiscal year. As stated previously, SCAAP criminal aliens represent a portion of the total population of criminal aliens incarcerated in state prisons and local jails.

SCAAP incarcerations. Of the 710 states and localities that participated in SCAAP each of the 6 fiscal years, 80 percent had fewer SCAAP criminal alien incarcerations in fiscal year 2015 compared to fiscal year 2010, and 75 percent had fewer SCAAP criminal alien inmate days in fiscal year 2015 compared to fiscal year 2010. The decrease in the number of SCAAP criminal alien incarcerations can also be partially attributed to general declines in the number of states and localities participating in SCAAP. The number of states and localities participating in SCAAP decreased 13 percent—from 929 in fiscal year 2010 to 811 in fiscal year 2015.

From fiscal years 2010 through 2015, the number of SCAAP criminal alien incarcerations in state prisons and local jails decreased by 25 and 48 percent, respectively.⁴⁴ The decrease in the number of SCAAP criminal alien incarcerations can be partially attributed to fewer SCAAP incarcerations. Of the 710 states and localities that participated in SCAAP each of the 6 fiscal years, 80 percent had fewer SCAAP criminal alien incarcerations in fiscal year 2015 compared to fiscal year 2010, and 75 percent had fewer SCAAP criminal alien inmate days in fiscal year 2015 compared to fiscal year 2010. Further, the decrease can also be partially attributed to general declines in the number of states and localities participating in SCAAP. The number of states and localities participating in SCAAP decreased 13 percent—from 929 in fiscal year 2010 to 811 in fiscal year 2015.⁴⁵

Of the total number of inmate days for all inmates in state prisons and local jails that received SCAAP reimbursements, SCAAP criminal alien incarcerations accounted for 5 percent of all inmate days from fiscal years 2010 through 2015. Of the total number of inmate days for all inmates in U.S. territories that received SCAAP reimbursements, SCAAP criminal alien incarcerations accounted for 3 percent of all days from fiscal years 2010 through 2015.

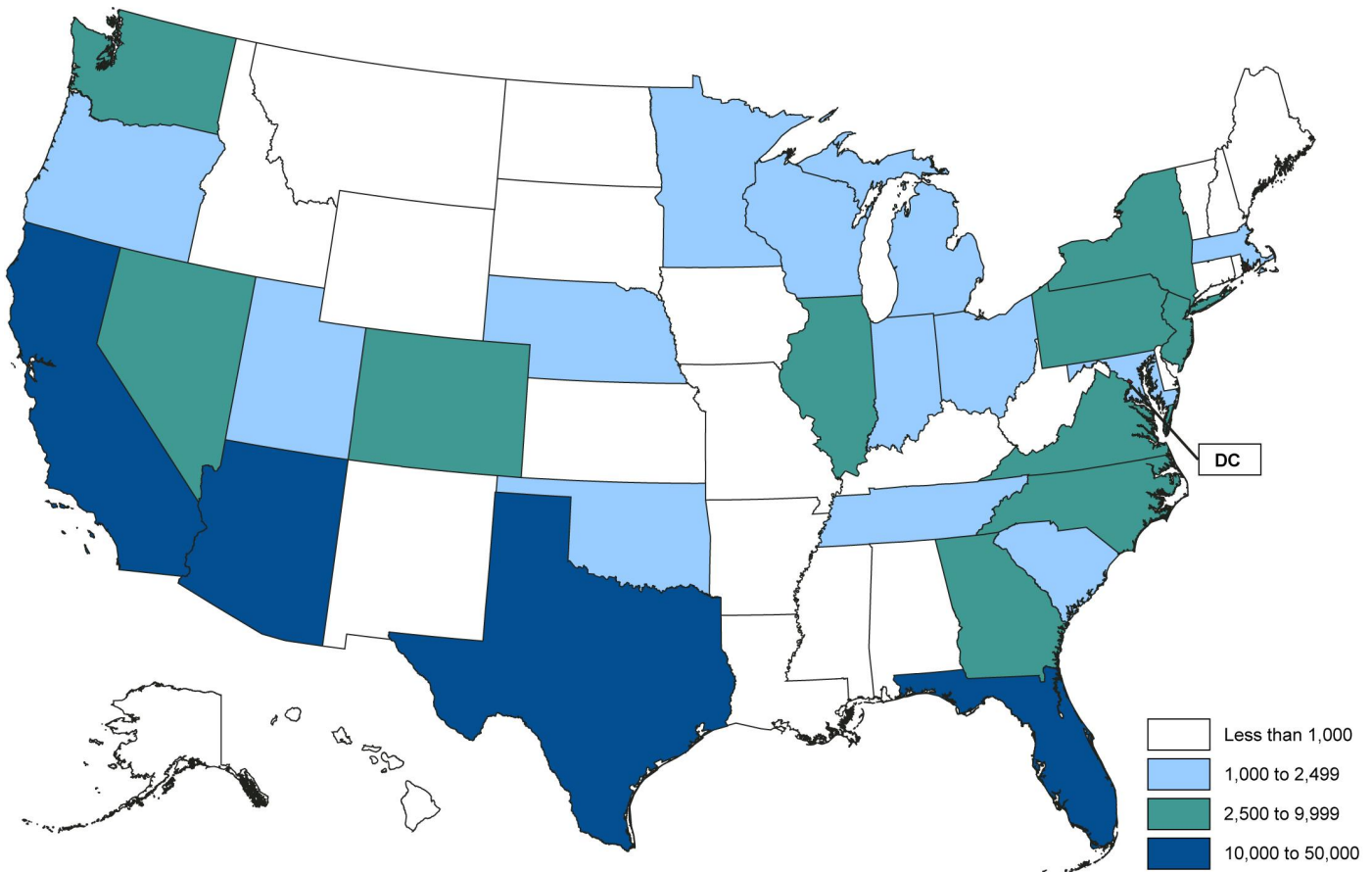
Further, of the approximately 169,300 SCAAP criminal alien incarcerations in state prisons and local jails nationwide in fiscal year

⁴⁴During our selected time period, the following state prison systems did not participate in SCAAP: West Virginia in fiscal year 2010; West Virginia and the District of Columbia in fiscal years 2011 and 2012; Missouri, Tennessee, Wyoming, West Virginia, and the District of Columbia in fiscal year 2013; West Virginia and the District of Columbia in fiscal year 2014; and Arkansas, West Virginia, Vermont, and the District of Columbia in fiscal year 2015. For all 6 years, every state had at least one state prison or local jail system that participated in SCAAP except for the District of Columbia, Vermont, and Wyoming. In addition, not all of the same localities applied in both 2011 and 2015.

⁴⁵Between 46 and 50 state prison systems—including the District of Columbia—participated in SCAAP from fiscal years 2010 through 2015. During this same time period, between 875 to 760 local jail systems participated in SCAAP each fiscal year and between 4 and 5 U.S. territories participated in SCAAP each fiscal year. 710 jurisdictions participated in SCAAP in all 6 fiscal years.

2015, 66 percent occurred in seven states—California, Texas, Florida, Arizona, New Jersey, New York, and Illinois. In fiscal year 2015, SCAAP criminal aliens accounted for 4 to 10 percent of all inmate days in each of these seven states. See figure 4 for the number of SCAAP criminal aliens in each state in fiscal year 2015.⁴⁶

Figure 4: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations in Each State, Fiscal Year 2015



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

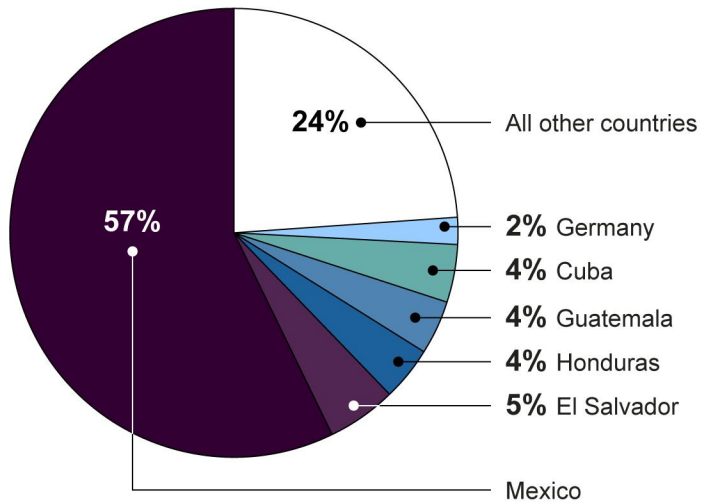
Note: The above figure includes SCAAP criminal alien incarcerations in state prisons and local jails in each of the states. U.S. territories that received SCAAP reimbursements are not included in the above figure. Vermont and the District of Columbia did not have a state prison or local jail system that applied for reimbursement for criminal aliens incarcerated in fiscal year 2015. SCAAP data represent

⁴⁶See appendix II for data on SCAAP criminal alien incarcerations in state prisons and local jails by state for fiscal years 2010 through 2015.

the number of incarcerations, rather than number of SCAAP criminal aliens, since these aliens could have multiple SCAAP incarcerations in the same fiscal year.

As shown in figure 5, 57 percent of the SCAAP criminal aliens incarcerated in state prisons and local jails in fiscal year 2015 were born in Mexico. Seventy-six percent were born in one of six countries, including Mexico.⁴⁷

Figure 5: Percentage of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations by Country of Birth, Fiscal Year 2015



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

Note: SCAAP data do not represent the number of unique SCAAP criminal aliens since these aliens could have multiple SCAAP incarcerations during the reporting period.

⁴⁷We did not include about 2,700 incarcerations where the country of birth of the SCAAP criminal alien was unknown. SCAAP country of birth data are provided to DOJ by states and localities. We did not independently verify country of birth of SCAAP criminal aliens. SCAAP data do not represent the number of unique SCAAP criminal aliens since these aliens could have multiple SCAAP incarcerations during the reporting period.

Federal, State, and Local Arrests of Criminal Aliens Were Mostly Related to Immigration and Drug Offenses, As Were Federal Convictions

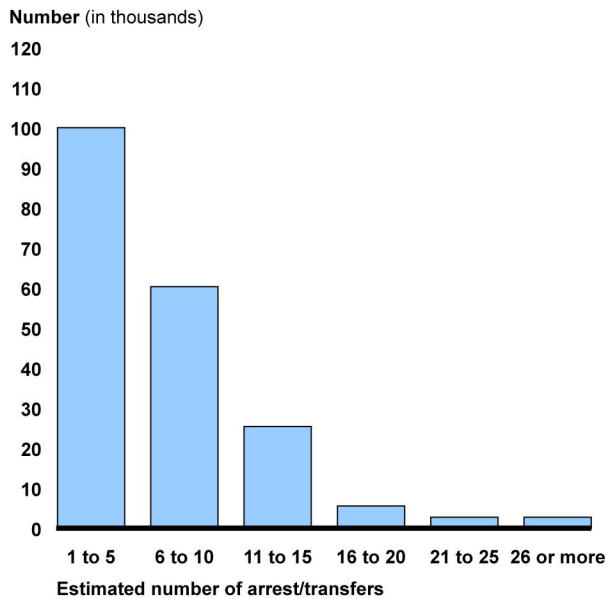
About Half of Criminal Aliens in Our Study Populations Had One to Five Arrests or Transfers and Most Had at Least One Immigration Offense

Federal criminal alien population. Based on our random sample of 500 criminal aliens incarcerated in federal prisons during fiscal years 2011 through 2016, we estimated that the about 197,000 criminal aliens in our federal study population were arrested/transferred about 1.4 million times from 1974 through 2017, averaging about 7 arrests/transfers per criminal alien.⁴⁸ We estimated that 81 percent of these arrests/transfers occurred from 2000 through 2017. An arrest does not necessarily result in prosecution or a conviction of all, or any, of these offenses.

⁴⁸These dates, 1974 through 2017, represent the dates of the oldest and newest arrest/transfer records in our FBI dataset. Since the data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another, we are reporting on arrests and transfers together. For this analysis, we only included criminal aliens in the study population if they had an FBI number available, as this was needed to match data across databases. Of the approximately 198,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016, about 197,000 had FBI numbers. As such, for this analysis, we drew a random sample of 500 criminal aliens from our federal study population of about 197,000 criminal aliens. Some of the records in our sample of 500 criminal aliens had to be excluded for various reasons. As a result, we analyzed data for 496 criminal aliens. While our analyses allowed us to estimate and provide valuable insights about the arrest history of the approximately 197,000 criminal aliens in our federal study population, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Because our sample is drawn from our federal study population and does not include the SCAAP criminal aliens from our state and local study population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#). Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. All percentage estimates presented in this report have a margin of error of plus or minus 7 percentage points or fewer. All estimates of the number of arrests/transfers or offenses have a relative error of plus or minus 14 percent of the estimate or less. See appendix I for more details on the margin of error for these estimates. See appendix III for the breakdown of arrests/transfers by federal arresting agencies and state and local arresting agencies.

As shown in figure 6, about 100,000 (51 percent) of the criminal aliens in our federal study population had one to five arrests/transfers in their arrest history record since 1974.⁴⁹

Figure 6: Estimated Number of Arrests/Transfers from 1974 through 2017 per Criminal Alien Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number



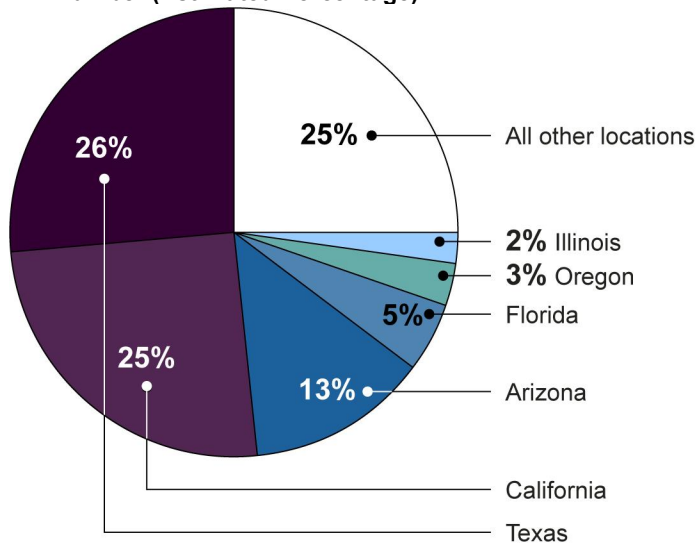
Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 5 percentage points or fewer.

As shown in figure 7, we estimated that 65 percent of criminal aliens in our federal study population were arrested/transferred in one of three states—Texas, California, and Arizona.

⁴⁹We estimated that about 9,900 (5 percent) of the approximately 197,000 criminal aliens in our federal study population had one arrest/transfer since 1974.

Figure 7: Location of Arrests/Transfers from 1974 through 2017 for Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number (Estimated Percentage)



Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 5 percentage points or fewer. Percentages may not add to 100 due to rounding.

We estimated that the approximately 197,000 criminal aliens in our federal study population were arrested/transferred for a total of about 2 million offenses, averaging about 10 offenses per criminal alien.⁵⁰ A single arrest can be for multiple offenses, and being arrested for one or more offenses does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual was arrested. Of the approximately 2 million offenses, we estimated that 42 percent were related to immigration and 26 percent were related to drugs or traffic violations, as shown below in table 2. Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

Table 2: Estimated Number and Percent of Attempted or Committed Offenses for Which Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number Were Arrested/Transferred from 1974 through 2017

Arrest offense	Estimated number	Estimated percent
Immigration ^a	874,400	42.4
Drugs	336,600	16.3
Traffic violations	204,400	9.9
Obstruction of justice	141,300	6.8
Assault	108,400	5.3
Miscellaneous	74,200	3.6
Larceny/theft	70,300	3.4
Fraud, forgery, and counterfeiting	62,300	3.0
Burglary	44,900	2.2
Weapons violations	44,500	2.2
Motor vehicle theft	19,500	0.9
Sex offenses	13,500	0.7
Disorderly conduct	12,300	0.6
Stolen property	14,300	0.7

⁵⁰These include offenses associated with arrests or transfers by federal arresting agencies and state and local arresting agencies. For our analysis, (a) multiple counts of the same offense were counted once, (b) duplicate offenses on the same day may be counted more than once if the person was transferred to another agency on the same day and that agency submitted the same offense to the FBI, and (c) duplicate offenses on the same day submitted by the same agency may be counted more than once if there was not enough information to determine that two offenses were the same. Because we selected samples from both our federal study population and our state and local study population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#). See appendix I for information on the margin of error for these estimates and a complete description of each of the offense categories.

Arrest offense	Estimated number	Estimated percent
Property damage	17,500	0.8
Robbery	13,500	0.7
Homicide	6,000	0.3
Kidnapping	5,600	0.3
Arson	400	< 0.1
Terrorism	400	< 0.1
Total^b	2,064,100	100

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

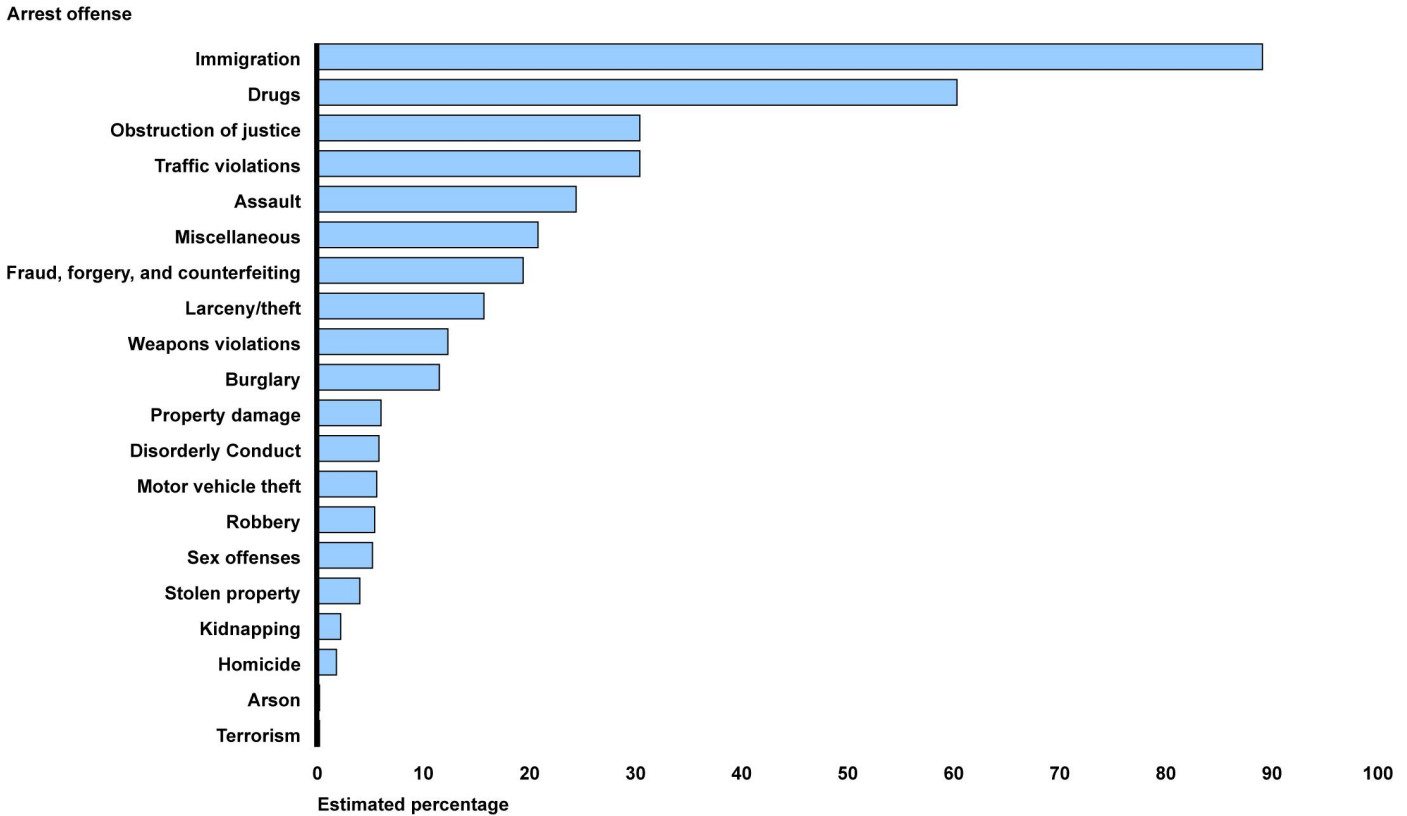
Note: These include offenses associated with arrests or transfers by federal arresting agencies and state and local arresting agencies. Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that criminal aliens were arrested or transferred for; they do not represent the number of times that criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 3 percentage points or fewer.

^aOffenses included in our immigration category include both criminal immigration offenses (about 369,200) and civil immigration violations— administrative grounds of removability (about 494,600). For the remaining immigration offenses, the data did not allow us to distinguish whether the offense was criminal or civil.

^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

We estimated that 89 percent of the approximately 197,000 criminal aliens in our federal study population were arrested/transferred at least once for an immigration offense and that 60 percent were arrested/transferred at least once for a drug offense. Figure 8 shows the estimated percentage of criminal aliens arrested/transferred at least once by offense category—which may include an attempt or conspiracy to commit the offense.

Figure 8: Estimated Percentage of Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number that were Arrested/Transferred At Least Once from 1974 through 2017 by Offense Category, Attempted or Committed



Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 5 percentage points or fewer.

SCAAP criminal alien population. Based on our random sample of 500 SCAAP criminal aliens incarcerated in state prisons and local jails, we estimated that our state and local study population of about 533,000 SCAAP criminal aliens were arrested/transferred about 3.5 million times from 1964 through 2017, averaging about 7 arrests/transfers per SCAAP

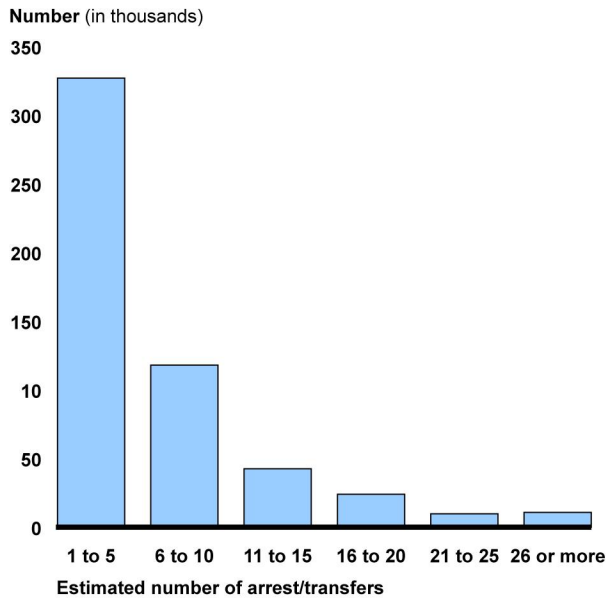
criminal alien.⁵¹ We estimated that 85 percent of these arrests/transfers occurred from 2000 through 2017. An arrest does not necessarily result in prosecution or a conviction of all, or any, of these offenses.

As shown in figure 9, about 327,000 (61 percent) of the SCAAP criminal aliens in our state and local study population had one to five arrests/transfers in their arrest history record since 1964.⁵²

⁵¹These dates, 1964 through 2017, represent the dates of the oldest and newest arrest/transfer records in our FBI dataset. For this analysis, we only included SCAAP criminal aliens in the study population if they had an FBI number available, as this was needed to match data across databases. We determined that approximately 533,000 inmate-level records of SCAAP criminal aliens incarcerated between fiscal years 2010 through 2015 had a unique FBI number. As such, for this analysis, we drew a random sample of 500 criminal aliens from our state and local study population of approximately 533,000 SCAAP criminal aliens with a unique FBI number. Some of the records in our sample of 500 SCAAP criminal aliens had to be excluded for various reasons, including invalid FBI numbers. As a result, we analyzed data for 487 SCAAP criminal aliens. While our analyses allowed us to estimate and provide valuable insights about the arrest history of the about 533,000 SCAAP criminal aliens in our state and local study population, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Because our sample is drawn from our state and local study population and does not include criminal aliens from our federal study population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#). Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. See appendix I for more details on the margin of error for these estimates. See appendix III for the breakdown of arrests/transfers by federal arresting agencies and state and local arresting agencies. As stated previously, SCAAP criminal aliens represent a portion of the total population of criminal aliens incarcerated in state prisons and local jails.

⁵²We estimated that about 41,600 (8 percent) of the approximately 533,000 SCAAP criminal aliens in our state and local study population had one arrest/transfer since 1964.

Figure 9: Estimated Number of Arrests/Transfers from 1964 through 2017 per State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number

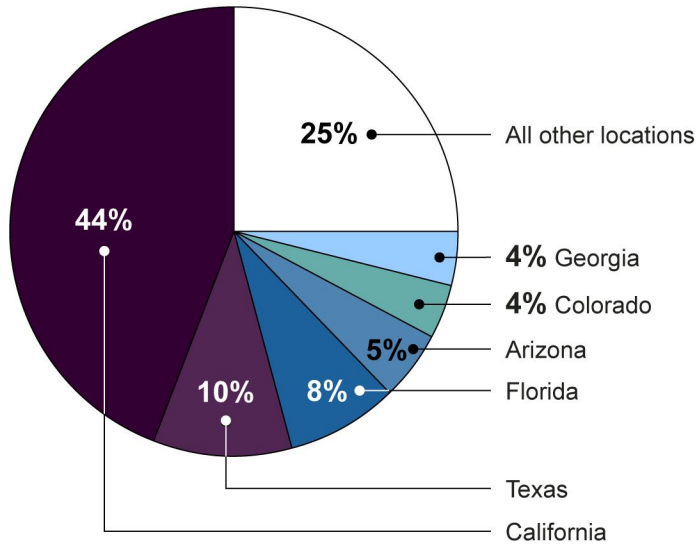


Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 5 percentage points or fewer.

As shown in figure 10, we estimated that 62 percent of the SCAAP criminal aliens in our state and local study population were arrested/transferred in one of three states—California, Texas, and Florida.

Figure 10: Location of Arrests/Transfers from 1964 through 2017 for State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number (Estimated Percentage)



Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 6 percentage points or fewer. Percentages may not add to 100 due to rounding.

We estimated that the approximately 533,000 SCAAP criminal aliens in our state and local study population were arrested/transferred for a total of about 5.5 million offenses averaging about 10 offenses per SCAAP

criminal alien.⁵³ A single arrest can be for multiple offenses, and being arrested for one or more offenses does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual was arrested. Of the approximately 5.5 million offenses, we estimated that 52 percent were related to traffic violations, drug offenses, or immigration offenses, as shown below in table 3. Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

Table 3: Estimated Number and Percent of Attempted or Committed Offenses for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number were Arrested/Transferred from 1964 through 2017

Arrest offense	Estimated number	Estimated percent
Traffic violations	1,226,000	22.4
Immigration ^a	852,000	15.6
Drugs	761,200	13.9
Obstruction of justice	665,000	12.2
Assault	397,000	7.3
Larceny/theft	276,700	5.1
Miscellaneous	257,000	4.7
Fraud, forgery, and counterfeiting	200,100	3.7
Burglary	175,000	3.2
Weapons violations	124,700	2.3
Sex offenses	120,300	2.2
Disorderly conduct	90,800	1.7
Motor vehicle theft	90,800	1.7
Stolen property	75,500	1.4
Robbery	54,700	1.0

⁵³These include offenses associated with arrests or transfers by federal arresting agencies and state and local arresting agencies. See appendix III for the breakdown of offenses for arrests/transfers by federal arresting agencies and state and local arresting agencies. For our analysis, (a) multiple counts of the same offense were counted once, (b) duplicate offenses on the same day may be counted more than once if the person was transferred to another agency on the same day and that agency submitted the same offense to the FBI, and (c) duplicate offenses on the same day submitted by the same agency may be counted more than once if there was not enough information to determine that two offenses were the same. Because we selected samples from both our federal study population and our state and local study population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#). See appendix I for information on the margin of error for these estimates and a complete description of each of the offense categories.

Arrest offense	Estimated number	Estimated percent
Property damage	50,300	0.9
Homicide	27,300	0.5
Kidnapping	18,600	0.3
Arson	3,300	0.1
Terrorism	1,100	<0.1
Total^b	5,467,200	100

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

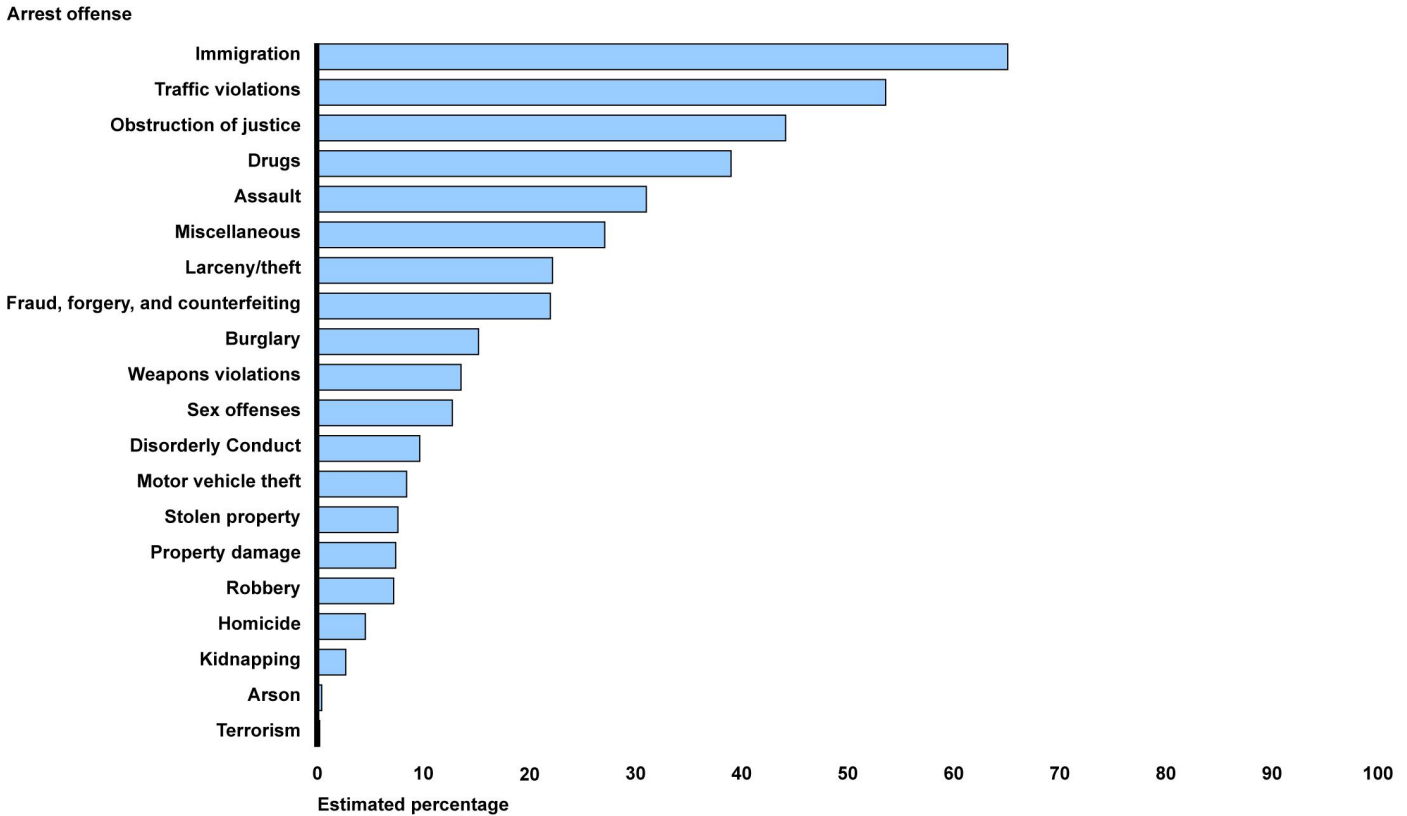
Note: These include offenses associated with arrests or transfers by federal arresting agencies and state and local arresting agencies. Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that SCAAP criminal aliens were arrested or transferred for; they do not represent the number of times that SCAAP criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 3 percentage points or fewer.

^aOffenses included in our immigration category included both criminal immigration offenses (about 229,700) and civil immigration violations— administrative grounds of removability (about 616,800). For the remaining immigration offenses, the data did not allow us to distinguish whether the offense was criminal or civil.

^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

We estimated that 65 percent of the approximately 533,000 SCAAP criminal aliens in our state and local study population were arrested/transferred at least once for an immigration offense and 54 percent were arrested/transferred at least once for a traffic offense. Figure 11 shows the percentage of SCAAP criminal aliens arrested/transferred at least once by offense category—which may include an attempt or conspiracy to commit the offense.

Figure 11: Estimated Percentage of State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number that were Arrested/Transferred At Least Once from 1964 through 2017 by Offense Category, Attempted or Committed



Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

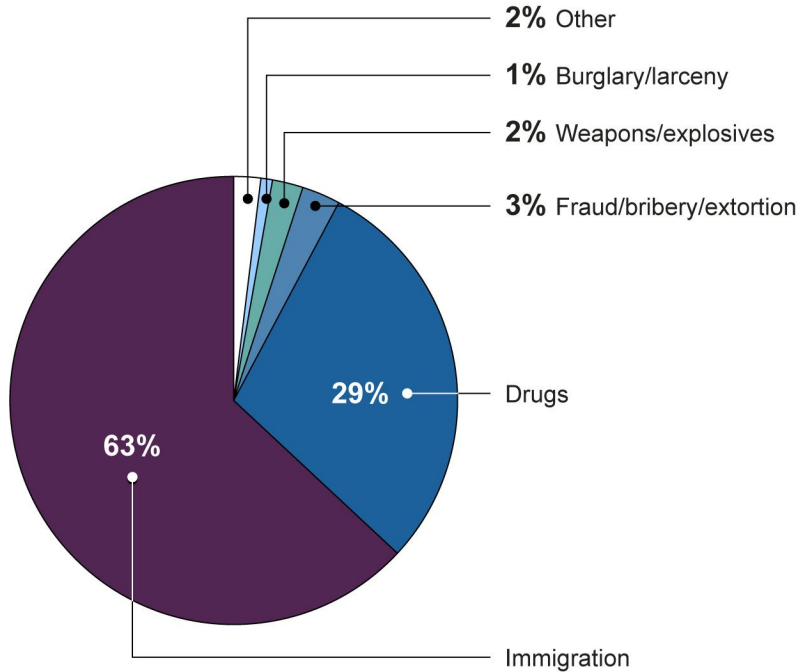
Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers collectively. All estimates in this figure have a margin of error of +/- 5 percentage points or fewer.

Immigration and Drug Offenses Accounted for the Majority of Federal Convictions of Criminal Aliens, While Selected State Convictions of Criminal Aliens Varied

Because an arrest does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual is arrested, we also analyzed BOP conviction data on criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016. As shown in figure 12, the approximately 198,000 unique criminal aliens in our federal study population that were incarcerated from fiscal years 2011 through 2016 had more than 218,700 primary offenses for which they were convicted. According to BOP data, 92 percent of primary offenses for which these criminal aliens were convicted were related to immigration (63 percent) or drugs (29 percent).⁵⁴

⁵⁴If a criminal alien was incarcerated more than once during this time period, each primary offense will be included in these data. As such, there could be more than one primary offense per unique criminal alien. See appendix I for a complete description of each of the offense categories. Offenses may include any attempt or conspiracy to commit the respective offense. BOP data do not include inmates in the witness security program and unsentenced inmates.

Figure 12: Primary Offense Category, Attempted or Committed, for Which the Approximately 198,000 Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 Were Convicted



Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

Note: "Other" includes sex offenses, homicide/aggravated assault, court/corrections, robbery, counterfeit/embezzlement, continuing criminal enterprises, national security, and miscellaneous. If an alien was incarcerated more than once during this time period, each primary offense for which the alien was convicted will be included in these data. As such, there could be more than one primary offense per unique criminal alien. Offenses for which criminal aliens were convicted may include an attempt or conspiracy to commit the respective offense.

In addition to analyzing BOP conviction data for the approximately 198,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016, we also analyzed U.S. Sentencing Commission data on federal convictions during the same time period to further our understanding of criminal alien convictions. Criminal aliens with convictions in the U.S. Sentencing Commission data may have also been included in our federal study population if they were convicted in federal court and sentenced in fiscal years 2011 through 2016 and also incarcerated in federal prison during this same time period. Specifically, according to U.S. Sentencing Commission data, 91 percent of the approximately 28,000 primary offenses for which criminal aliens were convicted in federal courts and sentenced in fiscal year 2016 were for immigration (66 percent) or drugs (25 percent)—and illegal reentry accounted for 91 percent of the immigration offenses. See appendix IV for

additional details on current trends in U.S. Sentencing Commission data on federal convictions. In addition, appendix V provides information on individuals—including U.S. citizens and criminal aliens—convicted as a result of international terrorism investigations.

Since there are no reliable data on criminal aliens incarcerated in all state prisons and local jails, we analyzed conviction data from the five state prison systems that had the largest number of SCAAP criminal alien incarcerations in fiscal year 2015. Primary offenses for which SCAAP criminal aliens incarcerated in fiscal year 2015 were convicted varied across these selected state prison systems:

- Arizona: Drug offenses accounted for 47 percent of the more than 6,300 primary offenses for which SCAAP criminal aliens were convicted
- California: Homicide and sex offenses accounted for about 53 percent of the more than 18,600 primary offenses for which SCAAP criminal aliens were convicted
- Florida: Homicide and sex offenses accounted for 45 percent of the nearly 6,300 primary offenses for which SCAAP criminal aliens were convicted
- New York: Homicide and sex offenses accounted for 49 percent of the nearly 3,400 primary offenses for which SCAAP criminal aliens were convicted
- Texas: Sex, drug, and assault offenses accounted for 52 percent of the nearly 9,600 primary offenses for which SCAAP criminal aliens were convicted

For more information on convictions of SCAAP criminal aliens in these five state prison systems, see appendix VI.

Estimated Federal and State Costs for Incarcerating Criminal Aliens Decreased from Fiscal Years 2010 through 2015

Federal Costs to Incarcerate Criminal Aliens and Federal Reimbursements to States and Localities Decreased from Fiscal Years 2010 through 2015

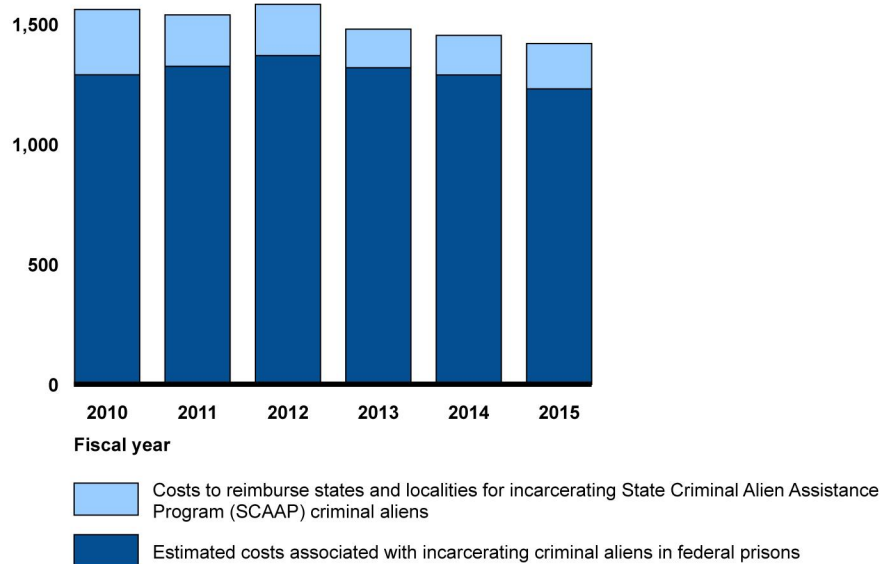
As previously stated, the federal government incurs costs to incarcerate criminal aliens in federal prisons and to reimburse states and localities for incarcerating SCAAP criminal aliens.⁵⁵ From fiscal years 2010 through 2015, these estimated annual total costs decreased 9 percent from about \$1.56 billion to about \$1.42 billion, as shown in figure 13.⁵⁶

⁵⁵As stated previously, SCAAP criminal aliens represent a portion of the total population of criminal aliens incarcerated in state prisons and local jails.

⁵⁶During this period, costs decreased at an average rate of 1.8 percent per year. Costs associated with incarcerating criminal aliens in federal prisons were estimated based on the average of the 12 monthly population snapshots for each type of BOP institution, and BOP per capita costs. We used the average of the 12 monthly snapshots to account for possible differences in incarceration numbers month to month for each fiscal year. Costs to reimburse states and localities are based on actual costs each year. For data in fiscal year 2016 dollars, see appendix VII.

Figure 13: Federal Costs to Incarcerate Criminal Aliens from Fiscal Years 2010 through 2015

Dollars (in millions)
2,000



Source: GAO analysis of Bureau of Prisons and Bureau of Justice Assistance data. | GAO-18-433

Note: Costs to reimburse states and localities are based on actual SCAAP reimbursements each year. Costs associated with incarcerating criminal aliens in federal prisons were estimated based on the average of the 12 monthly population snapshot data for each type of Bureau of Prisons institution and Bureau of Prisons per capita costs.

Most of the costs to the federal government were associated with incarcerating criminal aliens in federal prisons, which accounted for 83 to 89 percent of total costs from fiscal years 2010 through 2015. The estimated cost associated with incarcerating criminal aliens in federal prisons increased from fiscal years 2010 through 2012, and then decreased each year from fiscal years 2012 through 2015. These changes in costs correspond with the changes in the number of criminal aliens incarcerated in federal prison—which also increased from fiscal years 2010 through 2012 and decreased each year thereafter through

2015—while the average daily cost to incarcerate inmates in a federal prison increased each year, as reported by BOP.⁵⁷

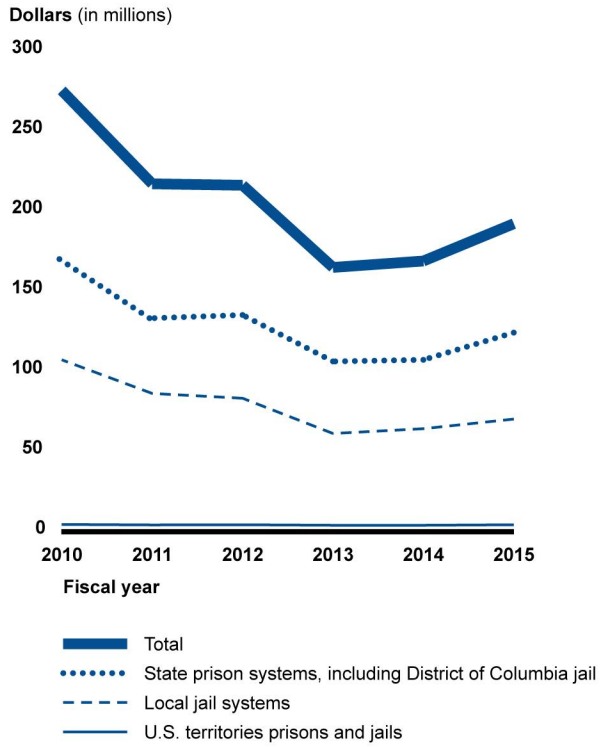
As shown in figure 14, the cost to the federal government to reimburse states and localities for incarcerating SCAAP criminal aliens decreased by 31 percent from fiscal years 2010 through 2015, from about \$272 million to about \$189 million. This decrease reflects lower yearly congressional appropriations.⁵⁸ SCAAP reimbursements associated with incarcerating SCAAP criminal aliens in state prisons comprised over 60 percent of SCAAP reimbursements from fiscal years 2010 through 2015, while reimbursements to local jail systems and U.S. territories' prisons and jails comprised the remainder.⁵⁹

⁵⁷The average daily cost to incarcerate inmates in federal prison increased 13 percent, from \$77.49 in fiscal year 2010 to \$87.61 in fiscal year 2015. The average daily cost varies by federal prison facility type. As we reported previously, the number of criminal aliens incarcerated in federal prison increased from fiscal years 2011 to 2012 and then decreased each year since fiscal year 2013.

⁵⁸While the cost to the federal government to reimburse states and localities for incarcerating SCAAP criminal aliens decreased between fiscal years 2010 and 2015, the change in cost varied from year to year. For example, costs decreased by 41 percent from fiscal years 2010 through 2013 before increasing by 17 percent from fiscal years 2013 through 2015. The amount that states and localities were reimbursed is lower than the SCAAP appropriation amount in each fiscal year because some funds were allocated for management and administration, peer review, or other authorized purposes.

⁵⁹For costs in fiscal year 2016 dollars, see appendix VII. The following state prison systems did not receive SCAAP reimbursement: West Virginia in fiscal year 2010; West Virginia and the District of Columbia in fiscal years 2011 and 2012; Missouri, Tennessee, Wyoming, West Virginia, and the District of Columbia in fiscal year 2013; West Virginia and the District of Columbia in fiscal year 2014; and Arkansas, West Virginia, Vermont, and the District of Columbia in fiscal year 2015.

Figure 14: State Criminal Alien Assistance Program (SCAAP) Reimbursements to States and Localities from Fiscal Years 2010 through 2015



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

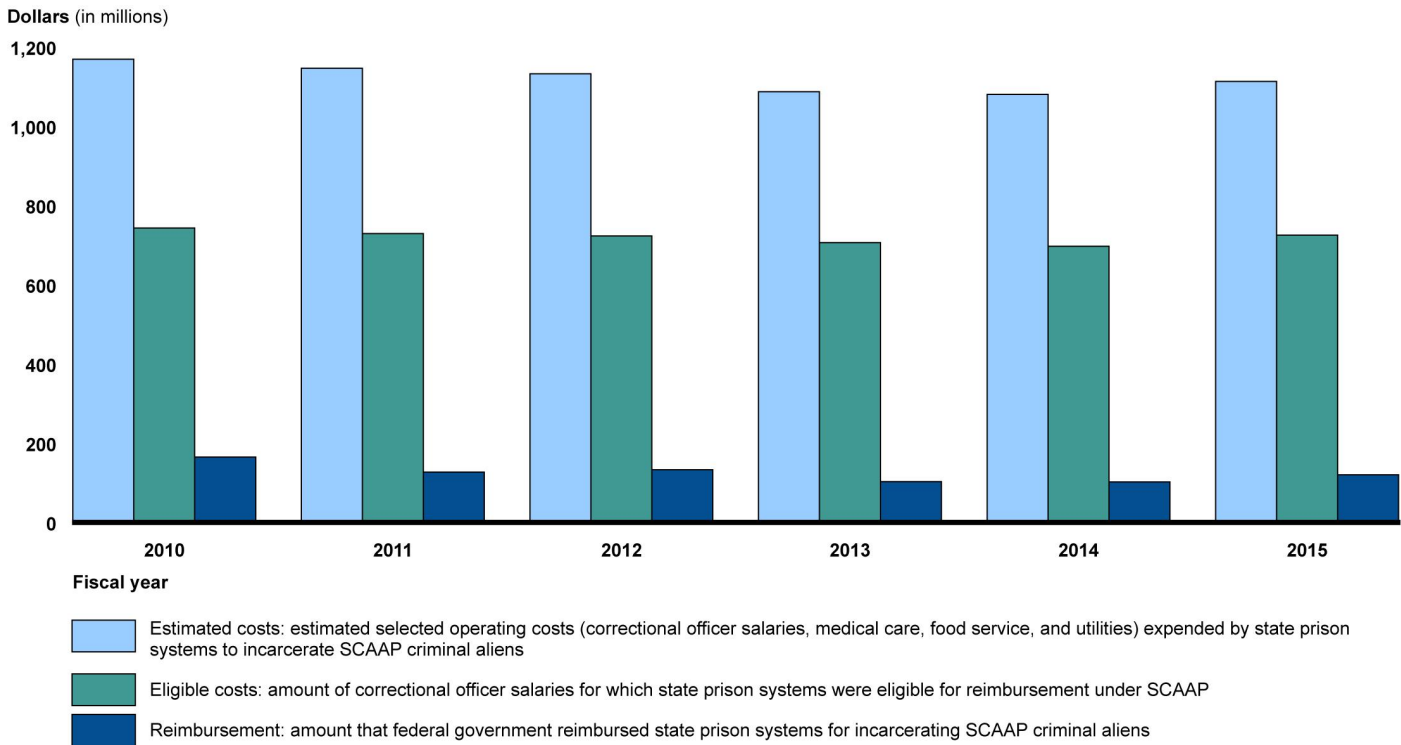
Estimated State Selected Operating Costs to Incarcerate SCAAP Criminal Aliens Decreased from Fiscal Years 2010 through 2015; the Federal Government Reimbursed a Portion of These Costs

We estimated that selected annual estimated operating costs—correctional officer salaries, medical care, food service, and utilities—of state prison systems to incarcerate SCAAP criminal aliens decreased 5 percent from fiscal years 2010 through 2015, from about \$1.17 billion to about \$1.11 billion, as shown in figure 15.⁶⁰ These changes in costs correspond with a general decrease in the number of SCAAP criminal alien inmate days each year, even though the estimated selected operating costs per inmate generally increased each year.⁶¹

⁶⁰Medical, food and utility expenditures are estimated by using Bureau of Justice Statistics 2001 state prison expenditures by category and adjusting them using the annual Personal Consumption Expenditures Price Index (PCEPI) for each category and the total number of criminal aliens in a given year; per capita expenditures are assumed to grow at the rate of the PCEPI. Correctional officer salaries are based on SCAAP data. While the estimates provide insight into state expenditures to incarcerate SCAAP criminal aliens and make use of actual data on the number of SCAAP criminal aliens and actual 2001 expenditures by state for the selected categories, estimated operating costs might not represent actual expenditures. For instance if per capita prison expenditures are growing at a different rate than the PCEPI, either because of changes in the prison population in the amount consumed or changes in the composition of the services utilized within a category, these costs are not captured by the growth of the PCEPI. For example, based on data we reported in 2017, from fiscal years 2014 to 2015 per capita BOP obligations for health care increased by 9 percent, more than the national medical costs per capita of 5 percent. This is also more than the increase of .6 percent of the PCEPI for medical expenditures during the same period. BOP officials noted that various factors affected the inmate health care costs, including inmates entering with poorer health, aging inmates, rising pharmaceutical prices and outside medical services. All of these factors might not apply to the criminal alien prison population; however it points to the fact that there are various factors affecting medical expenditures in prisons that might not be captured by our estimates. See GAO, *Bureau of Prisons: Better Planning and Evaluation Needed to Understand and Control Rising Inmate Health Care Costs*, [GAO-17-379](#) (Washington, D.C.: June 29, 2017).

⁶¹We estimated—based on annual selected operating costs—that the average daily costs per inmate for state prison systems that received SCAAP reimbursements increased 9 percent, from \$43.93 in fiscal year 2010 to \$47.69 in fiscal year 2015. These operating costs vary from state to state. The total number of inmate days associated with SCAAP criminal alien incarcerations in state prisons decreased 16 percent, from about 23.7 million in fiscal year 2010 to 19.9 million in fiscal year 2015.

Figure 15: Estimated Selected Operating Costs to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in All 50 State Prison Systems from Fiscal Years 2010 through 2015



Source: GAO analysis of Bureau of Justice Statistics and Bureau of Justice Assistance data. | GAO-18-433

Note: SCAAP reimbursement figures may not equal the actual SCAAP awarded amount due to rounding. Our analysis includes those state prison systems—including the District of Columbia jail—that received SCAAP reimbursement in the associated fiscal year the SCAAP criminal aliens were incarcerated. Not all 50 state prison systems received reimbursement each fiscal year and as a result, not all state prison systems may be included in our estimates for each fiscal year.

We also estimated that the total amount that state prison systems expended totaled about \$6.7 billion over the 6 years.⁶² Of this approximately \$6.7 billion, state prison systems were eligible to be reimbursed for about \$4.3 billion in correctional officer salaries under SCAAP—the only costs eligible for reimbursement under SCAAP. Based on available appropriations for SCAAP, the amount that the federal government reimbursed state prison systems for incarcerating SCAAP

⁶²These selected estimated operating costs might not represent actual costs of incarceration. Our estimates do not incorporate other expenditures and actual data from selected state prison systems indicated that their costs tended to be higher than our estimated costs using selected operating costs. For costs in fiscal year 2016 dollars, see appendix VII.

criminal aliens was about \$750 million of the approximately \$4.3 billion they were eligible to receive, or 17 percent from fiscal years 2010 through 2015. During the same time, we estimated that the federal government's reimbursement, which is for a portion of correctional officer salaries, accounted for 9 percent to 14 percent of these state prison systems' estimated selected operating costs. These selected operating costs might not represent the actual cost of incarceration because our estimates do not incorporate other expenditures beyond the four operating costs. For example, our average daily cost data from selected state prison systems indicate that overall state costs could be higher. See appendix VIII for the estimated costs—based on these average daily costs—and federal reimbursements to selected state prison and local jail systems in fiscal year 2015.

Certain Criminal Aliens in Federal Prison Had an Order of Removal or Were Previously Removed from the United States and the Majority Were Removed after Their Incarceration

At the Time of Their Incarceration in Federal Prison, Most Criminal Aliens Who ICE Reviewed Had an Order of Removal or Had Been Previously Removed

To determine the potential removability from the United States of criminal aliens at the time of their incarceration in federal prison, we focused our analysis on those criminal aliens for whom ICE reviewed potential removability using its ACRIME system within 60 days of the date the alien entered federal prison.⁶³ According to ICE officials, their response to these inquiries provides a good indication of an individual's potential removability from the United States at a specific point in time. However, as previously noted, ICE's response may not indicate an individual's immigration status with certainty and an individual's immigration status

⁶³As previously discussed, ICE specialists use its ACRIME system to respond to law enforcement partner inquiries by searching various criminal, customs, and immigration databases to determine what is known about an individual's identity and potential removability from the United States. We used ACRIME data for this analysis because it provided readily available information about a criminal alien's potential removability as of a particular date. Although ACRIME is used as a mechanism to share information across agencies, ICE and BOP coordinate in various ways to manage criminal aliens in federal prison. For example, according to BOP officials, an ICE liaison has been working with BOP on a daily basis since November 2016 to assist with identifying foreign-born aliens in BOP custody; processing aliens for removal; transferring aliens who are removable from the custody of BOP to ICE, pursuant to an immigration detainer; and ensuring the Institutional Hearing Program is functioning effectively and efficiently. As previously stated, ICE initiates removal proceedings before an immigration judge, through the Institutional Hearing Program, which may allow immigration removal cases to be adjudicated prior to an individual's release from federal prison.

and removability from the United States can change over time.⁶⁴ Of the approximately 198,000 criminal aliens incarcerated in federal prison from fiscal years 2011 through 2016, ICE reviewed the potential removability of about 72,600 criminal aliens using its ACRIME system within 60 days of their incarceration in response to an inquiry from a law enforcement partner.⁶⁵ The results of ICE inquiries related to these 72,600 criminal aliens are as follows:

- **Order of removal or previously removed.** About 55,700, or 77 percent, appeared to have a pending order of removal or were previously removed by ICE with no subsequent record of a legal reentry, as indicated by ICE's review of records.⁶⁶
- **In removal proceedings.** About 5,000, or 7 percent, were in removal proceedings at the time of their incarceration, as indicated by ICE's review of records. In other words, they appeared to have a removal case in process in immigration court.⁶⁷
- **Subject to removal.** About 11,800, or 16 percent, may have been subject to removal at the time of their incarceration, as indicated by ICE's review of records. For those aliens who may have been subject to removal:
 - About 7,100 criminal aliens may have had some lawful presence or status in the United States, such as being granted a visitor visa, permanent residence, temporary protected status, a border

⁶⁴In some cases, ICE generated multiple ACRIME responses with different potential removability determinations for the same criminal alien on the same day. ICE officials stated that there are a variety of reasons that ICE specialists might make different potential removability determinations for the same individual on the same day. For instance, analysts are to use the totality of information available in the databases they search, and different analysts may come to different conclusions about the same underlying data. Additionally, available information about an individual's removability from the United States might change, even within the same day.

⁶⁵We excluded about 300 records for which ICE specialists made multiple, different potential removability determinations on the same day within 60 days of the date the alien entered federal prison from this analysis.

⁶⁶See 8 C.F.R. § 1241.8 (stating that "[a]n alien who illegally reenters the United States after having been removed, or having departed voluntarily, while under an order of . . . removal shall be removed from the United States by reinstating the prior order.").

⁶⁷ICE's review of records may indicate that a criminal alien is in removal proceedings. However, ICE does not oversee immigration court proceedings and, as such, may not have complete information about the status of an alien whose case is pending in immigration court.

crossing card, or other such authorization to be present in or remain in the United States. If convicted of a felony offense or otherwise in violation of the conditions of their admission, these criminal aliens may be subject to removal from the United States for violating immigration law.

- About 4,700 criminal aliens did not have a record of admission or a record of other authorized presence in the United States.
- ICE did not have enough information to make an assessment for about 100, or less than 1 percent of the 72,600 criminal aliens it reviewed.⁶⁸

Ninety-Five Percent of Criminal Aliens Were Removed by ICE after Their Incarceration in Federal Prison

Of the 198,000 criminal aliens incarcerated in federal prison from fiscal years 2011 through 2016, approximately 165,700 individuals completed a term of incarceration in federal prison from fiscal years 2011 through 2016.⁶⁹ We determined that the approximately 165,700 criminal aliens

⁶⁸In these cases, either ICE's records did not have enough information to make an assessment of the identity and potential removability of these criminal aliens or ICE could not find a match for these criminal aliens in the databases searched.

⁶⁹Criminal aliens that did not complete a term of incarceration, as of the end of fiscal year 2016, remained in federal prison and are not included in our analyses. Approximately 280 criminal aliens died while incarcerated in federal prison. These aliens are also not included in our analyses of alien experiences after incarceration in federal prison. Further, approximately 260 criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 either (1) did not have FBI or alien numbers in BOP's records or (2) had duplicate alien numbers in BOP's records. These criminal aliens are also excluded from our analyses of alien experiences after incarceration in federal prison because we could not match their identifiers with data from other agencies.

who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 may have experienced one or more of the following:⁷⁰

ICE removal. ICE removed about 157,400 of the approximately 165,700 criminal aliens who completed a term of incarceration in federal prison—or 95 percent—at least once after their incarceration in federal prison, as of June 2017.⁷¹ ICE data indicate that the remaining 5 percent of criminal aliens were not removed by ICE after they completed their term of incarceration in federal prison. For the criminal aliens that ICE did not remove, some did not have an order of removal, some had an order of removal but were not removed by ICE, and some were released from ICE custody, among other potential outcomes, according to ICE data as of June 2017.⁷²

The approximately 157,400 criminal aliens ICE removed after their federal prison incarcerations represent a portion of the approximately 1.1 million

⁷⁰These outcomes are not mutually exclusive since criminal aliens could have experienced some, none, or all of these after their incarceration in federal prison. For example, an alien could have been removed by ICE after their incarceration in federal prison, then reentered the United States and subsequently become reincarcerated in either federal or state prison or local jail. We matched BOP data on criminal aliens who completed a term of incarceration in federal prison with data from ICE, BJA, and USCIS to determine if these criminal aliens (1) were removed by ICE, (2) were reincarcerated in federal prison or a state prison system or local jail that participated in SCAAP, and/or (3) became naturalized U.S. citizens after their term of incarceration in federal prison. Some criminal aliens may not have had any subsequent encounters with law enforcement after they completed a term of incarceration in federal prison; as a result, there would be no data on these criminal aliens' experiences after their federal prison incarceration.

⁷¹ICE provided the most recent removal date in its records for each criminal alien who completed a term of incarceration in federal prison from fiscal years 2011 to 2016, as of June 2017. Some aliens may have been removed multiple times between fiscal year 2011 and June 2017, and an alien removed multiple times would only appear in the data with their most recent removal date. ICE matched on BOP data using FBI numbers and/or alien numbers as unique identifiers.

⁷²A criminal alien may be released from ICE custody if there is no significant likelihood that they could be removed in the reasonably foreseeable future—for example, some countries will not accept the repatriation of criminal aliens from the United States. ICE has limited authority to indefinitely detain a criminal alien who has a final order of removal. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); but see *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). Data are available for those criminal aliens ICE encountered after their federal prison incarceration.

ICE criminal alien removals from fiscal years 2011 through 2016.⁷³ ICE's criminal alien removals also include criminal aliens removed after incarcerations in state prisons or local jails, criminal aliens apprehended at or near the border by U.S. Customs and Border Protection and transferred to ICE for removal, and other criminal aliens that ICE apprehends and removes.

We also found that about 3,100 of the approximately 157,400 criminal aliens removed from the United States by ICE after their incarceration in federal prison had a subsequent encounter with ICE in the United States. In other words, these individuals were removed from the United States by ICE after their federal prison incarceration, reentered the United States, and had a subsequent encounter with ICE, as of June 2017.⁷⁴

Federal reincarceration. About 19,300 of the approximately 165,700 criminal aliens (12 percent) who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 were subsequently incarcerated in federal prison at least once, as of the end of fiscal year 2016, as shown in table 4.

⁷³For more information about ICE removals from fiscal years 2011 through 2016, see appendix IX. ICE defines a criminal alien as an alien convicted of a crime, either within or outside of the United States. The 1.1 million ICE criminal alien removals from fiscal years 2011 through 2016 are those aliens who meet ICE's definition of a criminal alien. In all other places in this report, a criminal alien is defined as an alien convicted of a crime while in the United States.

⁷⁴Subsequent encounters with ICE include ICE arrests, ICE releases, and admissions to ICE detention facilities, also known as book-ins. ICE provided the most recent date in its records for each type of encounter for each criminal alien who completed a term of incarceration in federal prison, as of June 2017. Some aliens may have had more than one ICE arrest, book-in, removal, or release. As a result, the available data does not allow us to report on the sequence of all criminal alien encounters with ICE after their incarceration in federal prison.

Table 4: Federal Prison Reincarcerations of Criminal Aliens, Fiscal Years 2011 through 2016

Number of federal prison reincarcerations	Number of criminal aliens	Percent
0	146,500	88.4
1	16,700	10.1
2	2,200	1.3
3	300	0.2
4 or more	<100	<0.1
Total^a	165,700	100

Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

^aNumbers may not sum to totals due to rounding. Percentages may not add to 100 due to rounding. The remaining 88 percent of criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 were not reincarcerated in federal prison, as of the end of fiscal year 2016.

State or local reincarceration. We identified about 5,500 of the approximately 165,700 criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 who were subsequently incarcerated in a state prison or local jail system that participated in SCAAP.⁷⁵ We did not identify any of the remaining approximately 160,200 criminal aliens who completed a term of incarceration in federal prison in the SCAAP data we reviewed through fiscal year 2015.⁷⁶

Naturalization. We identified 16 of the about 165,700 criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 who subsequently became naturalized U.S. citizens, as of

⁷⁵This number only includes criminal aliens who were subsequently incarcerated (on the same day as or after the day they completed their term of incarceration in federal prison) in a state prison or local jail that applied for SCAAP reimbursement from fiscal years 2010 through 2015.

⁷⁶This analysis includes those criminal aliens for whom we were able to confirm a subsequent incarceration in a state prison or local jail that requested SCAAP reimbursement after their federal prison incarceration. Approximately 533,000 SCAAP-eligible unique inmate-level records we analyzed contained an FBI number, which we used to match SCAAP data with BOP's data on criminal aliens. Due to data limitations, we could not match to the remaining SCAAP records or to incarceration records for jurisdictions that did not receive SCAAP reimbursement.

June 2017.⁷⁷ To be eligible for naturalization, an applicant must generally have 5 years of continuous residence after being lawfully admitted as a permanent resident. Additionally, for the 5 years immediately preceding the application for naturalization, an applicant cannot have been incarcerated for more than 180 days, have been convicted of one or more crimes involving moral turpitude, or have been convicted of a number of other crimes. Certain crimes are permanent bars to naturalization.⁷⁸ Of the 16 individuals we identified who became naturalized citizens after their incarceration in federal prison, 7 had been convicted of drug offenses. The remaining 9 individuals had various primary conviction offenses, including: burglary/larceny (3 individuals), fraud/bribery/extortion (2 individuals), immigration (2 individuals), counterfeit/embezzlement (1 individual), and court/corrections (1 individual).

U.S. Citizenship and Immigration Services (USCIS), a component agency within DHS, determined that all 16 of the individuals we identified who received naturalized citizenship after their incarceration in federal prison (1) demonstrated good moral character for the statutory period, (2) completed and resolved all background checks with appropriate law enforcement agencies, and (3) did not demonstrate national security concerns, public safety concerns, or other grounds of inadmissibility.

Agency Comments and Third-Party Views

We provided a draft of this report to DHS and DOJ for their review and comment. We also provided a draft of relevant portions of this report to the U.S. Sentencing Commission, Arizona Department of Corrections, California Department of Corrections and Rehabilitation, Florida Department of Corrections, New York State Department of Corrections and Community Supervision, Texas Department of Criminal Justice, Essex County Department of Corrections, Los Angeles County Sheriff's Department, Maricopa County Sheriff's Office, Orange County Sheriff's

⁷⁷To identify these aliens, we matched BOP and USCIS data using multiple identifiers—alien number, name, and date of birth. We determined that these 16 aliens matched on all identifiers we analyzed. The 16 aliens that we matched represent a minimum number of those who naturalized after their federal prison incarceration during this time period.

⁷⁸Certain convictions, such as convictions for offenses entered on or after November 29, 1990, that fall under the definition of aggravated felony under 8 U.S.C. § 1101(a)(43), act as a permanent bar to good moral character and, as a result, naturalization, regardless of when the conviction occurred.

Department, New York City Mayor's Office of Criminal Justice, and Harris County Sheriff's Office for their review and comment. In its comments, which are reprinted in Appendix X, DOJ noted that we appropriately qualify the data presented on SCAAP, but expressed concern that the SCAAP data may be misinterpreted or misunderstood by readers of our report. We believe that throughout the report, we have appropriately caveated the data we present on SCAAP and the costs associated with the program and therefore have made no changes based on DOJ's comments in their letter. DHS, DOJ, the U.S. Sentencing Commission, Texas Department of Criminal Justice, California Department of Corrections and Rehabilitation, and New York City Mayor's Office of Criminal Justice also provided technical comments, which we incorporated, as appropriate. Arizona Department of Corrections, Florida Department of Corrections, New York State Department of Corrections and Community Supervision, Essex County Department of Corrections, Los Angeles County Sheriff's Department, Maricopa County Sheriff's Office, Orange County Sheriff's Department, and Harris County Sheriff's Office did not have comments.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Attorney General, the Secretary of Homeland Security, and interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or goodwing@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix XI.



Gretta L. Goodwin
Director, Homeland Security and Justice Issues

Appendix I: Objectives, Scope, and Methodology

This appendix provides additional details on our objectives, scope, and methodology. Specifically, our objectives were to provide information on the following:

- the number and nationality of criminal aliens incarcerated in federal and state prisons and local jails in the United States over the last 6 years;
- criminal alien arrests and convictions;
- the costs of incarcerating criminal aliens in the United States; and
- the removability from the United States of criminal aliens incarcerated in federal prison and experiences of criminal aliens after incarceration in federal prison.

In general, we analyzed data separately for criminal aliens incarcerated in federal prisons and State Criminal Alien Assistance Program (SCAAP) criminal aliens incarcerated in state prisons and local jails—which we refer to as our two study populations.¹ The time periods we analyzed varied for our federal study population compared to our state and local study population because they reflect updates since we last reported on these issues in 2011 and because we used the most recent data available at the time of our analysis.² Our federal study population generally includes criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016.³ For our federal study population, we used both snapshot (point in time) and inmate-level data from the Department of Justice’s (DOJ) Bureau of Prisons (BOP) to conduct our analyses, as described throughout this report. The BOP inmate-level data

¹For our analyses, “state prisons and local jails” include those in U.S. territories, unless otherwise noted.

²GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: Mar. 24, 2011).

³However, when analyzing federal costs to incarcerate criminal aliens in federal prisons, we used BOP snapshot data from fiscal years 2010 through 2015, as this ensured there were no reporting gaps from our prior report and these were the most recent data available on federal costs for reimbursing states and localities.

included about 198,000 criminal aliens incarcerated in federal prisons from 2011 through 2016.⁴ Our state and local study population includes SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015. For our state and local study population, we used DOJ Bureau of Justice Assistance (BJA) SCAAP jurisdiction-level and inmate-level data to conduct our analyses, as described throughout this report.⁵ For the SCAAP inmate-level data, we were not able to determine how many unique SCAAP criminal aliens were in the data set, since a SCAAP criminal alien could have more than one incarceration in the same fiscal year. As a result, when reporting on these data for certain analyses, we refer to SCAAP criminal alien incarcerations rather than SCAAP criminal aliens. However, we were able to determine that approximately 533,000 SCAAP inmate-level records that had a unique Federal Bureau of Investigation (FBI) number, which we used for certain analyses. Overall, our findings are not generalizable to criminal aliens not included in our federal and state and local study populations. However, they provide valuable insights into the criminal aliens incarcerated in the United States. For example, we used SCAAP data because there are no reliable population data on all criminal aliens incarcerated in every U.S. state prison and local jail.⁶ SCAAP provides reliable data on certain criminal aliens incarcerated in state prisons and local jails but does not include (a) aliens incarcerated in states or localities that did not apply for and receive federal reimbursement for costs of incarceration and (b) aliens with lawful immigration status who were not the subject of removal proceedings at the time they were taken into custody. Further, to be eligible for reimbursement, the aliens must meet the definition of “undocumented criminal alien” under the SCAAP statute and the following criteria: (1) had at least one felony or two misdemeanor convictions for violations of state or local law and (2) were incarcerated for at least 4 consecutive days during the reporting period.⁷

⁴For some of our analyses, we use a smaller subset of the BOP inmate-level data as explained throughout the report.

⁵For some of our analyses, we used a smaller subset of the SCAAP inmate-level data as explained throughout the report.

⁶In addition to SCAAP data, DOJ’s Bureau of Justice Statistics collects data on noncitizens incarcerated in state prisons but these data do not include all states. For example, in 2016, the Bureau of Justice Statistics reported that certain states—including California, which has the highest number of SCAAP criminal aliens—did not report or were unable to report data on the number of noncitizens. U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2015*, (Washington, D.C., Dec. 2016).

⁷See 8 U.S.C. § 1231(i)(3)(B).

Thus, our state and local criminal alien data represent only a portion of the total population of criminal aliens incarcerated at the state and local level.

Number and Nationality of Criminal Aliens

To determine the number and nationalities—based on country of citizenship or country of birth data—of incarcerated criminal aliens, we analyzed BOP data on criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 and SCAAP data on SCAAP criminal alien incarcerations in state prisons and local jails from fiscal years 2010 through 2015.⁸ Specifically, we analyzed BOP snapshot and inmate-level data from BOP’s inmate tracking database, the SENTRY Inmate Management System. To estimate the number and proportion of aliens incarcerated in federal prisons compared to the total inmate population at a point in time each fiscal year, we analyzed BOP data and calculated the average of its 12 monthly population snapshots.⁹ In addition, we analyzed BOP inmate-level data to determine the number of unique criminal aliens that were incarcerated in federal prisons during this time frame and the country of citizenship of these aliens.¹⁰ BOP obtains country of citizenship data from presentence investigation reports, which may be based on documentation or be self-reported.¹¹

⁸We did not examine the extent to which policy changes may have affected the number of individuals incarcerated in prisons and jails. Each year’s SCAAP program is based on SCAAP criminal aliens incarcerated during the prior fiscal year, July 1 through June 30. For example, the fiscal year 2016 SCAAP program will include SCAAP criminal aliens that were incarcerated in state prisons and local jails from July 1, 2014 to June 30, 2015. According to DOJ officials, private facilities are not eligible for SCAAP reimbursement, and states and localities are not eligible to apply on their behalf.

⁹We determined the average of 12 monthly snapshots to account for possible differences in incarceration numbers month to month for each fiscal year. BOP snapshot data do not include inmates in the witness security program and unsentenced inmates. Snapshot data represent a point in time and may not include all inmates that were incarcerated in each month.

¹⁰BOP data do not include inmates in the witness security program and unsentenced inmates.

¹¹A federal probation officer completes a presentence investigation report after conducting a presentence interview as well as an independent investigation of the offense and the defendant’s background. See 18 U.S.C. § 3552. BOP officials stated that BOP’s citizenship data could be updated over time as BOP obtains additional information from other sources, such as information from DHS. We did not independently verify citizenship data.

For state prisons and local jails, we analyzed SCAAP jurisdiction-level data from SCAAP for fiscal years 2011 through 2016—which includes inmates incarcerated from fiscal years 2010 through 2015—to determine the number of SCAAP criminal alien incarcerations.¹² We compared the number of SCAAP inmate days to the number of total inmate days in these state prisons and local jails to determine the proportion of inmate days that were attributed to SCAAP criminal aliens. In addition, we analyzed SCAAP inmate-level records to determine the country of birth of SCAAP criminal aliens for the most recent fiscal year in which data were available—2015. SCAAP country of birth data are provided to DOJ by states and localities that participate in SCAAP.¹³

Criminal Alien Arrests and Convictions

To determine the number and types of offenses for which criminal aliens were arrested and convicted, we analyzed various federal, state, and local data.¹⁴ Specifically, for arrests, we selected a generalizable random sample of 500 criminal aliens from our federal study population of about 197,000 criminal aliens and a generalizable random sample of 500 SCAAP criminal aliens from the state and local study population of about 533,000 SCAAP criminal aliens. We then matched these 1,000 selected criminal aliens to DOJ's FBI Next Generation Identification (NGI) database.¹⁵ The NGI database maintains data from reporting law

¹²SCAAP data represent the number of incarcerations, rather than number of SCAAP criminal aliens, since these aliens could have multiple SCAAP incarcerations in the same fiscal year.

¹³We did not independently verify country of birth of SCAAP criminal aliens.

¹⁴We did not examine the extent to which policy changes may have affected the number of individuals arrested or convicted of crimes.

¹⁵For this analysis, we only included criminal aliens from each study population if they had an FBI number available. This is a unique identifier used by the FBI, as this was needed to match data across databases. As such, the study populations that we projected to for these analyses were smaller than the originating study populations. For example, our federal study population started with approximately 198,000 criminal aliens and about 197,000 had FBI numbers. For this analysis, we included approximately 197,000 criminal aliens in our federal study population. For our state and local study population, there were approximately 533,000 SCAAP records that had a unique FBI number in the SCAAP data set that were included in our study population. Some of the records in our samples of 500 criminal aliens from our federal study population and 500 SCAAP criminal aliens from the state and local study population had to be excluded for various reasons, including invalid FBI numbers. As a result, we analyzed data for 496 criminal aliens in our federal study population and 487 SCAAP criminal aliens in our state and local study population.

enforcement agencies across the nation.¹⁶ The FBI record we obtained for each criminal alien contained the FBI number, name, dates of arrest, the arresting agency, location of the arrest, and a description of each arrest offense.¹⁷ To ensure the data were appropriate for our purposes we, among other things, categorized arresting agencies into federal arresting agencies, such as U.S. Immigration and Customs Enforcement (ICE); state and local arresting agencies, such as state police departments; and non-arresting agencies, such as prisons and jails. While the samples we selected for our analyses allowed us to estimate and provide valuable insights about the arrest history of the approximately 197,000 criminal aliens in our federal study population and the approximately 533,000 SCAAP criminal aliens in our state and local study population, our analyses are not generalizable to the arrest history of criminal aliens not in these study populations.

We subsequently used these data to estimate the number and types of offenses for which criminal aliens in our study populations were arrested/transferred. We defined an arrest/transfer as one of these actions occurring on the same day by the same arresting agency. Because the data did not allow us to distinguish a new arrest from a transfer between one arresting agency and another, we refer to these collectively as “arrests/transfers.” We analyzed FBI records for both our samples to estimate the following for our federal and state and local study populations: (a) number of arrests/transfers and (b) number and types of arrest offenses. Because law enforcement entities send arrest information to the FBI on a voluntary basis, FBI data on arrest history may not include all arrests. In the month of December 2017, the FBI reported that approximately 23,300 local, state, tribal, federal, and international partners submitted criminal and/or civil electronic submissions to NGI. The criminal aliens in our samples had arrests/transfers that ranged from

¹⁶The FBI replaced its Integrated Automated Fingerprint Identification System—a national, computerized system for storing, comparing, and exchanging fingerprint data in a digital format—with NGI. NGI is to include fingerprint data from Integrated Automated Fingerprint Identification System and biographic data, and is to also provide new functionality and improve existing capabilities by incorporating advancements in biometrics.

¹⁷We took steps to ensure that the matches made using the FBI number generally resulted in quality matches of the same individuals across data systems. For example, we reviewed name matches across the records.

1964 through 2017.¹⁸ We categorized arrest offenses—which includes attempts or conspiracies to commit each of the respective offenses—as shown in table 5.

Table 5: Arrest Offense Categories, Attempted and Committed

Offense category	Category includes
Arson	Arson, reckless burning, and possession of arson materials
Assault	Assault, battery, assault with a deadly weapon, endangerment, and threats
Burglary	Breaking and entering, burglary, and possession of burglary tools
Disorderly Conduct	Disturbing the peace, fighting, intoxication, public nuisance, and disorderly conduct
Drugs	Use/under the influence, possession, possession with intent to distribute, sales, manufacturing, transporting, and possession of drug paraphernalia
Fraud, forgery, and counterfeiting	Deceptive practices or identification, fraud, giving false information, altering or forging documents, and counterfeiting or possession of counterfeit materials or tools
Homicide	Murder, manslaughter, and homicide
Immigration	Illegal entry, illegal reentry, false claim to U.S. citizenship, alien smuggling, and removal proceedings; offenses include both criminal offenses and civil immigration violations
Kidnapping	False imprisonment, kidnapping, and taking hostages
Larceny/theft	Grand and petty larceny and theft, shoplifting, embezzlement, and money laundering
Motor vehicle theft	Auto theft, carjacking, and taking a vehicle without consent
Obstruction of justice	Escaping, evading, being a fugitive of justice, failing to appear, failing to register as a sex offender, resisting arrest, and interfering with or obstructing an officer or justice proceedings
Property damage	Destruction of property, vandalism, and criminal or malicious mischief
Robbery	Armed robbery, robbery of a dwelling, robbery of a bank, and unarmed robbery
Sex offenses	Lewd and lascivious acts, rape, sexual assault, indecent exposure, prostitution, and molestation
Stolen Property	Buying, selling, receiving, or possessing stolen property
Terrorism	Terrorism-related offenses
Traffic violations	Driving under the influence, hit and run, no proof of insurance, no driver's license, and moving violations such as speeding and failure to stop
Weapons violations	Possession of a weapon, discharging a weapon, altering a weapon, and carrying a concealed weapon
Miscellaneous	Any other offense not listed above, which may include trespassing, gang participation, child cruelty, and alcohol-related offenses, as well as offenses for which not enough information were available (i.e., "arrest by a law enforcement officer")

¹⁸FBI officials provided all available records on the criminal aliens in our study populations in August and September 2017. Therefore, any additional arrest/transfer data that were added to these records through the end of the calendar year 2017 would not be included in our analysis.

Source: GAO. | GAO-18-433

Note: Offenses include an attempt or conspiracy to commit the respective offense. We developed the criminal offense categories based on our prior work that used the FBI's classification for offense codes as our guidance. See [GAO-11-187](#).

Because our estimates regarding criminal alien arrests/transfers and offenses are based on a random sample, each estimate we report has a measurable margin of error due to sampling. For this report, the margins of error are calculated based on a 95 percent confidence level.¹⁹ All percentage estimates presented in this report for these analyses have a margin of error of plus or minus 7 percentage points or fewer. All estimates of the number of arrests/transfers or offenses have a relative error of plus or minus 14 percent of the estimate or less. The 7 percentage point margin of error and 14 percent relative error represent upper bounds for the estimates included in this report.

Since an arrest does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual is arrested, we also analyzed conviction data. To determine the primary offenses for which the approximately 198,000 criminal aliens in our federal study population were convicted and incarcerated, we analyzed BOP inmate-level data on convictions from BOP's SENTRY database for all criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016. Table 6 describes the BOP primary offense categories for convictions.

¹⁹The margin of error surrounding an estimate is expressed as (1) a number of percentage points higher or lower than the percentage estimate, (2) a percent higher or lower than the estimated number, or (3) the entire range the margin of error covers, which is referred to as a confidence interval. Margins of error are calculated based on a certain confidence level.

Table 6: Bureau of Prisons Primary Offense Categories, Attempted and Committed

Primary offense category	Category includes
Burglary/larceny	Burglary; violations of certain customs laws; racketeering; theft; theft of government property and funds; motor vehicle theft; robbery; Interstate Commerce Act violations; stalking; theft involving intellectual property
Continuing criminal enterprise	Continuing criminal enterprise
Counterfeit/embezzlement	Counterfeiting money, postage, and similar offenses; embezzlement; violations of anti-trust laws; violations of certain elections laws; violations of certain banking and insurances laws
Court/corrections	Escaping; bail/bond jumping; criminal contempt; mutiny/riot in a federal penal facility; contraband in prison; perjury; obstructing justice
Drugs	Simple possession of a controlled substance; manufacturing, distributing, or possessing with intent to manufacture or distribute a controlled substance; importing narcotics; obtaining a controlled substance by fraud; distribution to a minor; investment of illicit drug profits; maintaining drug-involved premises
Fraud/bribery/extortion	Bribery; extortion; forgery; various types of fraud offenses, including tax fraud
Homicide/aggravated assault	Homicide; death or injury caused by explosives; assault; assaulting a federal officer; kidnapping; threats against the President; terrorism; domestic violence; drive-by shooting; violence against maritime navigation and similar offenses; criminal street gangs
Immigration	Illegal reentry; illegal entry; alien smuggling; impersonation; passport fraud
National security	War crimes; espionage; sedition; treason; biological weapons; desertion; impersonating foreign diplomats, consuls, or officers
Robbery	Robbery offenses, including bank robbery
Sex offenses	Child sexual abuse; mailing obscene matter; sexual abuse; rape; prostitution; incest; failure to register as a sex offender; sexual abuse resulting in death; possession of child pornography
Weapons/explosives	Carrying a deadly weapon; arson; participation in nuclear and weapons of mass destruction threats to the United States; engaging in the business of importing, manufacturing or dealing in explosives without a license and related offenses; firearms offenses
Miscellaneous	Discharging pollution; destruction of energy facilities; liquor law violations; disorderly conduct; vagrancy; damage to religious property and similar offenses; violations of food and drug laws; violations of fishing and gaming laws

Source: GAO analysis of Bureau of Prisons data. | GAO-18-433

Note: Offenses include an attempt or conspiracy to commit the respective offense.

In addition, we analyzed aggregated U.S. Sentencing Commission data on the approximately 201,300 federal convictions of criminal aliens from fiscal years 2011 through 2016.²⁰ These criminal aliens may have also been included in our federal study population if they were convicted in federal court and sentenced in fiscal years 2011 through 2016 and also incarcerated between these same fiscal years. Table 7 describes the primary offense categories for federal convictions used by the U.S. Sentencing Commission, which we combined into 15 larger categories for our purposes.²¹

²⁰The U.S. Sentencing Commission data are limited to felony and Class A misdemeanor cases for offenders who are convicted and sentenced in the federal court system. These data do not include state cases, federal petty offenses, federal cases which result in all charges being dismissed or acquitted, federal death penalty cases, federal juvenile cases, or federal witness protection cases. They also do not include convicted offenders for whom no sentences were yet issued, offenders sentenced but for whom no sentencing documents were submitted to the Commission, and offenders sentenced prior to the enactment of the Sentencing Reform Act of 1984. See Pub. L. No. 98-473, ch. II, 98 Stat. 1837, 1987-2001 (1984). According to U.S. Sentencing Commission officials, data do include a small number of individuals that may have been fined or given probation instead of a federal prison sentence. Convictions that did not have information on offender's citizenship status were excluded. From fiscal years 2011 through 2016, 2 percent of the nearly 456,000 convictions were excluded for this reason. Information on the citizenship status of offenders is obtained from their presentence investigation report.

²¹For our reporting purposes, we consolidated certain U.S. Sentencing Commission categories into the following categories: Drugs includes drugs - trafficking, drugs - communication facility, and drugs - simple possession; Economic crimes includes larceny, fraud, embezzlement, forgery/counterfeiting, tax, and antitrust; Sex offenses includes sexual abuse and child pornography; Money laundering/ racketeering/ extortion includes money laundering and racketeering/extortion; Homicide includes murder and manslaughter; and the "other" category includes bribery, gambling/lottery, civil rights, prison offenses, environmental/wildlife, national defense, food and drug, and other miscellaneous offenses.

Table 7: Primary Offense Categories, as Reported by the U.S. Sentencing Commission

Primary offense category	Category includes
Administration of Justice offenses	Commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of witness, perjury or subornation of perjury, misprision of a felony, and accessory after the fact
Antitrust	Bid-rigging, price-fixing, and market allocation agreement
Arson	Arson, including damage by explosives
Assault	Attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault, and conspiracy that includes assault with attempt to murder
Auto theft	Auto theft (including parts), receipt/possession of stolen auto or parts, and altered identification numbers/trafficking in altered (auto)
Bribery	Payment to obtain office, bribe involving officials, bribery - bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan
Burglary/breaking & entering	Post office burglary, burglary of [Drug Enforcement Administration] DEA premises (pharmacy), burglary of other structure, bank burglary, and burglary of a residence
Child pornography	The sale, distribution, transportation, shipment, receipt, or possession of materials involving the sexual exploitation of minors
Civil rights	Interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc. - eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude, and slave trade; intercept communication or eavesdropping; and conspiracy to deprive individual of civil rights
Drugs—communication facility	Use of a communication facility in a drug trafficking offense
Drugs—simple possession	Distribution of a small amount of marijuana and simple possession
Drugs—trafficking	Drug distribution/manufacture; drug distribution/manufacture - conspiracy, continuing criminal enterprise, drug distribution; employee under 21, drug distribution near school; drug import/export; drug distribution to person under 21; establish/rent drug operation, and distributing, importing; exporting listed chemicals
Environmental/wildlife	Waste discharge, specially protected fish, wildlife, and plants
Embezzlement	Embezzlement - property, embezzlement from labor unions, embezzlement - mail/post office, embezzlement from benefit plans, and bank embezzlement
Firearms	Unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc., in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime
Food and drug	False information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.
Fraud	Odometer laws and regulations, insider trading, and fraud and deceit
Forgery/counterfeiting	Counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations)
Gambling/lottery	Engaging in a gambling business, transmission of wagering information, obstruction to facilitate gambling, and interstate transportation of wagering paraphernalia

Appendix I: Objectives, Scope, and Methodology

Primary offense category	Category includes
Immigration	Trafficking in U.S. passports; trafficking in entry documents; failure to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; unlawful alien; fraudulently acquiring entry documents; and unlawfully entering the United States
Kidnapping/hostage taking	Ransom taking and hostage/kidnapping
Larceny	Bank larceny, theft from benefit plans, other theft - mail/post office, receipt/possession of stolen property (not auto), other theft - property, larceny/theft/mail/post office, larceny/theft roperty (not auto), and theft from labor union
Manslaughter	Involuntary and voluntary manslaughter
Money laundering	Laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report, and failure to report monetary transactions
Murder	First degree murder, felony with death resulting, second degree murder, conspiracy to murder (with death resulting)
National defense	Evasion of export controls and exportation of arms, etc., without license
Prison offenses	Contraband in prisons, riots in federal facilities, and escape
Racketeering/extortion	Extortionate extension of credit, blackmail, extortion by force or threat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering, and violent crimes in aid of racketeering
Robbery	Bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery, and carjacking
Sexual abuse	Sexual abuse of a minor; transportation of minor for sex; sexual abuse of a ward; criminal sexual abuse; abusive sexual contact
Tax	Receipt/trafficking in smuggled property, aid, etc., in tax fraud; fraud - tax returns, statements, etc.; fraud, false statement - perjury; failure to file or pay; tax evasion; evading import duties (smuggling); failure to collect or account for taxes; regulatory offenses - taxes; failure to deposit taxes in trust account; non-payment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements
Other miscellaneous offenses	Illegal use of regulatory number - drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices on federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; recordkeeping violation - explosives; possession of other weapon - on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense - aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses - labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault, or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories

Source: U.S. Sentencing Commission. | GAO-18-433

Note: The U.S. Sentencing Commission categorizes offenses into the major categories above. For our reporting purposes, we consolidated certain U.S. Sentencing Commission categories into the following categories: Drugs includes drugs - trafficking, drugs - communication facility, and drugs - simple possession; Economic crimes includes larceny, fraud, embezzlement, forgery/counterfeiting, tax, and antitrust; Sex offenses includes sexual abuse and child pornography; Money laundering/ racketeering/ extortion includes money laundering and racketeering/extortion; Homicide includes

murder and manslaughter; and the “other” category includes bribery, gambling/lottery, civil rights, prison offenses, environmental/wildlife, national defense, food and drug, and other miscellaneous offenses.

In addition, to determine the types of primary offenses for which SCAAP criminal aliens were convicted, we analyzed conviction data from five state prison systems—Arizona, California, Florida, New York, and Texas—for the most recent fiscal year in which data were available (2015). We selected these five state prison systems because they had the most SCAAP criminal alien incarcerations in state prisons in fiscal year 2015. Collectively, these five state prison systems accounted for 64 percent of the SCAAP criminal alien incarcerations in state prisons during fiscal year 2015.²² They are also the same prison systems that we analyzed in our 2011 report on criminal aliens.²³ The information obtained from the selected state prison systems is not generalizable to all state prison systems, but provides useful insights about why SCAAP criminal aliens were incarcerated.²⁴ For these state prison systems, we analyzed the conviction data for the SCAAP criminal aliens incarcerated in fiscal year 2015.²⁵ Table 8 describes the primary offense categories for state convictions.²⁶

²²Our analysis included state prison systems that participated in SCAAP and did not include U.S. territories. State prison systems in Arkansas, West Virginia, Vermont, and the District of Columbia did not receive reimbursement for SCAAP criminal aliens incarcerated in fiscal year 2015.

²³[GAO-11-187](#).

²⁴We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes in each state. Further, because policies may vary by state, we presented data on each state separately.

²⁵Each state’s definition of a primary offense for which an individual could be convicted is detailed later in this report.

²⁶Each state categorized the primary offenses according to the categories, except for New York. We categorized New York’s offenses and obtained their concurrence on our categorization.

Table 8: State Primary Offense Categories, Attempted and Committed

Primary offense category	Category includes
Arson	Arson, reckless burning, and possession of arson materials
Assault	Assault, battery, assault with a deadly weapon, endangerment, and threats
Burglary	Breaking and entering, burglary, and possession of burglary tools
Disorderly Conduct	Disturbing the peace, fighting, intoxication, public nuisance, and disorderly conduct
Drugs	Use/under the influence, possession, possession with intent to distribute, sales, manufacturing, transporting, and possession of drug paraphernalia
Fraud, forgery, and counterfeiting	Deceptive practices or identification, fraud, giving false information, altering or forging documents, and counterfeiting or possession of counterfeit materials or tools
Homicide	Murder, manslaughter, and homicide
Immigration	Illegal entry, illegal reentry, false claim to U.S. citizenship, alien smuggling, and removal proceedings
Kidnapping	False imprisonment, kidnapping, and taking hostages
Larceny/theft	Grand and petty larceny and theft, shoplifting, embezzlement, and money laundering
Motor vehicle theft	Auto theft, carjacking, and taking a vehicle without consent
Obstruction of justice	Escaping, evading, being a fugitive of justice, failing to appear, failing to register as a sex offender, resisting arrest, and interfering with or obstructing an officer or justice proceedings
Property damage	Destruction of property, vandalism, and criminal or malicious mischief
Robbery	Armed robbery, robbery of a dwelling, robbery of a bank, and unarmed robbery
Sex offenses	Lewd and lascivious acts, rape, sexual assault, indecent exposure, prostitution, and molestation
Stolen Property	Buying, selling, receiving, or possessing stolen property
Terrorism	Terrorism-related offenses
Traffic violations	Driving under the influence, hit and run, no proof of insurance, no driver's license, and moving violations such as speeding and failure to stop
Weapons violations	Possession of a weapon, discharging a weapon, altering a weapon, and carrying a concealed weapon
Miscellaneous	Any other offense not listed above, as determined by each state

Source: GAO. | GAO-18-433

Note: Offenses include an attempt or conspiracy to commit the respective offense. We developed the criminal offense categories based on our prior work that used the FBI's classification for offense codes as our guidance.

Finally, to determine what is known about certain individuals with international terrorism-related convictions, we analyzed Department of

Homeland Security (DHS), DOJ, and U.S. Sentencing Commission data on individuals on the DOJ's National Security Division (NSD) list of individuals with public and unsealed federal convictions resulting from international terrorism-related investigations from March 19, 2010 through December 31, 2016.²⁷ We report on this analysis in appendix V. We collected data on alienage or citizenship status, country of birth, naturalization date, and extradition status, as available, from BOP, U.S. Sentencing Commission, U.S. Citizenship and Immigration Services (USCIS), and ICE, using identifiers that we matched across agencies.²⁸ For example, USCIS records would not typically contain information about the citizenship status of individuals who are U.S. citizens and were born in the United States, but would contain information about naturalized citizens or aliens who had applied for a benefit with USCIS. We considered the totality of data available from BOP's SENTRY database, the U.S. Sentencing Commission, USCIS's Central Index System, and ICE's Enforcement Integrated Database to determine (a) the alienage or citizenship status of individuals at the time of their conviction and (b) the country of birth for each individual on the NSD list with a conviction from March 19, 2010 through 2016 for whom data was available.²⁹ Specifically:

- We identified those individuals that the U.S. Sentencing Commission indicated were aliens that had been extradited to the United States for prosecution as extradited aliens.

²⁷Specifically, we analyzed all convictions resulting from international terrorism investigations after March 18, 2010—the last date we analyzed for our 2011 report—through December 31, 2016—the most recent data available for our audit.

²⁸The NSD list includes names of individuals convicted as a result of international terrorism-related investigations and does not include additional identifiers for these individuals. We obtained and matched identifiers iteratively across BOP, U.S. Sentencing Commission, USCIS, and ICE data using the names on the NSD list as a starting point. The identifiers that we matched on included: name, date of birth, country of birth, FBI number, and/or alien registration number.

²⁹According to USCIS, the Central Index System contains information on the status of applicants/petitioners seeking immigration benefits, to include: lawful permanent residents, naturalized citizens, U.S. border crossers, aliens who have been issued employment authorization documents, individuals who petitioned for benefits on behalf of family members, and other individuals subject to the provisions of the Immigration and Nationality Act. According to ICE, the Enforcement Integrated Database maintains information related to the investigation, arrest, booking, detention, and removal of persons encountered during immigration and criminal law enforcement investigations and operations conducted by certain Department of Homeland Security components, namely ICE and U.S. Customs and Border Protection.

- We identified those individuals for whom USCIS provided a date of naturalization as naturalized citizens, and compared their date of naturalization with the date that they were charged with an international terrorism-related crime to determine if they naturalized before being charged. We used USCIS data to identify the country of birth for these individuals.
- We determined that those other individuals for whom USCIS and ICE had a record that indicated they were citizens of a country other than the United States were aliens and used USCIS and U.S. Sentencing Commission data to identify their country of birth.
- We reviewed the data for the remaining individuals and determined that those individuals U.S. Sentencing Commission and/or BOP identified as U.S.-born or as U.S. citizens were U.S. citizens.
- We identified individuals for whom we could not determine a country of birth or country of citizenship using the totality of information available as unknown.

According to DOJ, the list includes both individuals convicted of crimes that DOJ considers to be directly related to international terrorism and individuals convicted of a variety of other crimes where the investigation, at the time of charging, appeared to involve an identified link to international terrorism. We did not independently verify these individuals' links to terrorism.

Criminal Alien Incarceration Costs

To determine the costs associated with incarcerating the criminal aliens in the United States, we obtained and analyzed cost and inmate data from BOP, data on SCAAP reimbursements for incarcerating SCAAP criminal aliens, and cost and inmate data from states and localities. Specifically, we analyzed costs to (1) the federal government, (2) state prison systems, and (3) selected states and localities. We calculated the total annual cost to the federal government, for fiscal years 2010 through 2015, to incarcerate criminal aliens, by combining: (1) the estimated costs to incarcerate criminal aliens in federal prisons and (2) the costs to reimburse states and localities for incarcerating SCAAP criminal aliens. Specifically, we used the average of the BOP's 12 monthly snapshot population data from SENTRY for each type of BOP institution for each fiscal year, and multiplied these population data by BOP per capita costs for each facility type to determine the total federal cost to incarcerate criminal aliens in federal prisons. In addition, we used SCAAP reimbursement data for SCAAP fiscal years 2011 through 2016 to

determine the cost to the federal government to reimburse states and localities for incarcerating SCAAP criminal aliens in state prisons and local jails.³⁰

For all 50 state prison systems, we estimated selected operating costs associated with incarcerating SCAAP criminal aliens from fiscal years 2010 through 2015 using Bureau of Justice Statistics and SCAAP reimbursement data as well as inflation factors.³¹ These selected operating costs include correctional officer salaries, medical care, food service, and utilities. The salaries for correctional officers were obtained for each year from SCAAP data. The other three categories were calculated using Bureau of Justice Statistics' 2001 state prison expenditure data, the total number of inmate days in a given year by state as reported through SCAAP, and annual IHS Global Insight price deflators for the corresponding categories.³² We multiplied the estimated selected operating costs per inmate by the number of SCAAP inmate days to determine the total costs for incarcerating SCAAP criminal aliens for each state prison system. While our estimates provide insight into state expenditures to incarcerate SCAAP criminal aliens, our estimates may not represent actual costs if per capita prison expenditures for incarcerating criminal aliens grew at a different rate than the inflation factors that we used for each category. In addition to using estimated operating costs for medical care, food service, and utilities, we also used data on correctional officer salaries from SCAAP. Further, our estimation may not include all related incarceration costs and therefore may not reflect actual costs. For example, using actual average daily cost data for a selected set of state prison systems, we found that in 2015 costs using these average daily costs were higher than the estimated costs using

³⁰Each year's SCAAP program is based on SCAAP criminal aliens incarcerated during the prior fiscal year, July 1 through June 30. For example, the fiscal year 2016 SCAAP program will include SCAAP criminal aliens that were incarcerated in state prisons and local jails between July 1, 2014 and June 30, 2015.

³¹Bureau of Justice Statistics data was obtained from a Bureau of Justice Statistics study that estimated state prison expenditures for medical care, food service, and utilities for all 50 state prison systems in 2001. Bureau of Justice Statistics, *State Prison Expenditures, 2001* (Washington, D.C.: June 2004). These were the most recent cost data available for our purposes. Data were not available on local jail systems.

³²IHS Global Insight is a firm that provides comprehensive economic and financial information on countries, regions, and industries.

inflation factors.³³ Our analysis includes those state prison systems that received SCAAP reimbursement in the associated fiscal year. As a result, not all 50 state prison systems may be included in each fiscal year.³⁴ Our analysis also includes the District of Columbia. Moreover, we used the GDP deflator to present criminal alien costs in fiscal year 2016 dollars.

To estimate the costs associated with incarcerating SCAAP criminal aliens in selected state prison and local jail systems, we obtained and analyzed cost and inmate data from five state prison systems (Arizona, California, Florida, New York, and Texas) and five local jail systems (Maricopa County, Arizona; Orange County, California; Los Angeles County, California; Essex County, New Jersey; and Harris County, Texas)—those with the highest number of SCAAP criminal alien incarcerations. Specifically, we estimated the amount that each of these state prison and local jail systems expended to incarcerate SCAAP criminal aliens based on average daily cost data and the number of SCAAP criminal alien inmate days.³⁵ For fiscal year 2015 these five state prison systems and the six local jail systems accounted for 64 percent and 19 percent of SCAAP criminal alien incarcerations in state prisons and local jails, respectively. However, we did not include cost estimates for one of the top six local jail systems, New York City, New York. Officials from this locality stated that they no longer apply for SCAAP funds, and they did not provide us an average daily cost per inmate. These state prison and local jail systems are the same, with the exception of Essex County, New Jersey, as those we selected in our April 2005 and March 2011 reports.³⁶ While our analysis provides insights into the costs associated with incarcerating SCAAP criminal aliens in these state prison

³³In addition to the costs for incarcerating criminal aliens, there are other costs associated with criminal aliens, such as the costs necessary to identify, apprehend, detain, process through immigration court, and remove an individual from the country.

³⁴The following state prison systems did not receive SCAAP reimbursement: West Virginia in fiscal year 2010; West Virginia and the District of Columbia in fiscal years 2011 and 2012; Missouri, Tennessee, Wyoming, West Virginia, and the District of Columbia in fiscal year 2013; West Virginia and the District of Columbia in fiscal year 2014; and Arkansas, West Virginia, Vermont, and the District of Columbia in fiscal year 2015.

³⁵Since, the costs from state prison and local jail systems correspond to each jurisdiction's unique fiscal year, which is different than the federal fiscal year (October 1 through September 30) we used a weighted average cost. Therefore, state and local fiscal year costs were weighted by the number of months that overlapped with the federal fiscal year.

³⁶[GAO-11-187](#) and GAO, *Information on Criminal Aliens Incarcerated in Federal and State Prisons and Local Jails*, [GAO-05-337R](#) (Washington, D.C.: Apr. 7, 2005).

and local jail systems and we are able to use the actual average daily costs provided by each entity, along with actual SCAAP criminal alien prison population data, the results of this analysis are not generalizable to other state prison and local jail systems. Also, given that these estimated costs are based on average daily cost for the general prison population, they may not represent actual costs if expenditures on the criminal alien prison population differ from the average daily costs; moreover, state prison and local jail systems might not include all prison expenditures in the provided average daily costs and what is included might differ across state prison and local systems.

Criminal Alien Removability from the United States and Experiences of Aliens after Incarceration in Federal Prison

To determine what is known about the removability from the United States of criminal aliens incarcerated in federal prison and the experiences of criminal aliens after their incarceration in federal prison, we matched data from criminal aliens incarcerated in federal prison with other available data sources using various identifiers, including alien numbers and FBI numbers. We reviewed the quality of the matches using date of birth and/or name data, where available. We also reviewed ICE's Enforcement and Removal Operations reports from fiscal years 2015 and 2016, which included information about the number of ICE removals of aliens in the United States from fiscal years 2011 through 2016, and the proportion of such removals that were criminal aliens compared to non-criminal aliens. We report on this analysis in appendix IX.

Specifically, to analyze the potential removability from the United States of criminal aliens at the time they were incarcerated in federal prison, we matched BOP data on criminal aliens incarcerated from fiscal years 2011 through 2016 with data from ICE's Alien Criminal Response Information Management System (ACRIME). ICE specialists use ACRIME to provide an indication of an individual's identity and potential removability to law enforcement partners, at the request of the law enforcement partner. We used FBI numbers and/or alien numbers as unique identifiers to match these data. We then verified that the matches appeared reasonable by comparing names and dates of birth of those individuals who matched using the unique identifiers. To determine each criminal alien's potential removability from the United States at the time they entered federal prison, we identified the ACRIME record for each criminal alien, as available, that was created closest to the date the criminal alien first

entered federal prison and used this record for our analysis. We restricted our analysis to those ACRIME records that were generated within 60 days of the date the criminal alien entered federal prison because a criminal alien's removability from the United States can change over time, including while the alien is incarcerated.

To determine what is known about the experience of criminal aliens after their incarceration in federal prison, we matched data from those criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 with DHS and DOJ data. We used this information to determine if these criminal aliens were subsequently removed from the United States, reincarcerated, and/or received naturalized citizenship. We compared criminal aliens' federal incarceration completion date with the dates of federal government and/or law enforcement agency encounters to determine if those encounters took place after the alien's completion of their term of incarceration in federal prison. Specifically, we matched FBI and/or alien numbers, as available, of criminal aliens who completed a term of incarceration in federal prison from fiscal years 2011 through 2016 with:

- ICE Enforcement Integrated Database data from fiscal year 2011 through June 2017 to determine if the alien was removed by ICE after completion of their term of incarceration in federal prison;³⁷
- BOP SENTRY data from fiscal years 2011 through 2016 to determine if a criminal alien was reincarcerated in federal prison after completion of their term of incarceration in federal prison;
- BJA SCAAP data from fiscal years 2010 through 2015, to determine if a criminal alien was subsequently incarcerated in a state prison or local jail system participating in SCAAP after completion of their term of incarceration in federal prison; and
- USCIS Central Index System data from fiscal year 2011 through July 2017 to determine if a criminal alien received naturalized citizenship after completion of their term of incarceration in federal prison.

We determined that the data used in each of our analyses were sufficiently reliable for the purposes of this report by analyzing available documentation, such as related data dictionaries; interviewing officials

³⁷ICE provided the most recent removal date in its records for each criminal alien, as of June 2017. Some aliens may have been removed multiple times between fiscal year 2011 and June 2017. An alien removed multiple times would only appear in the data with their most recent removal date.

knowledgeable about the data; conducting electronic tests to identify missing data and anomalies; and following up with officials, as appropriate.

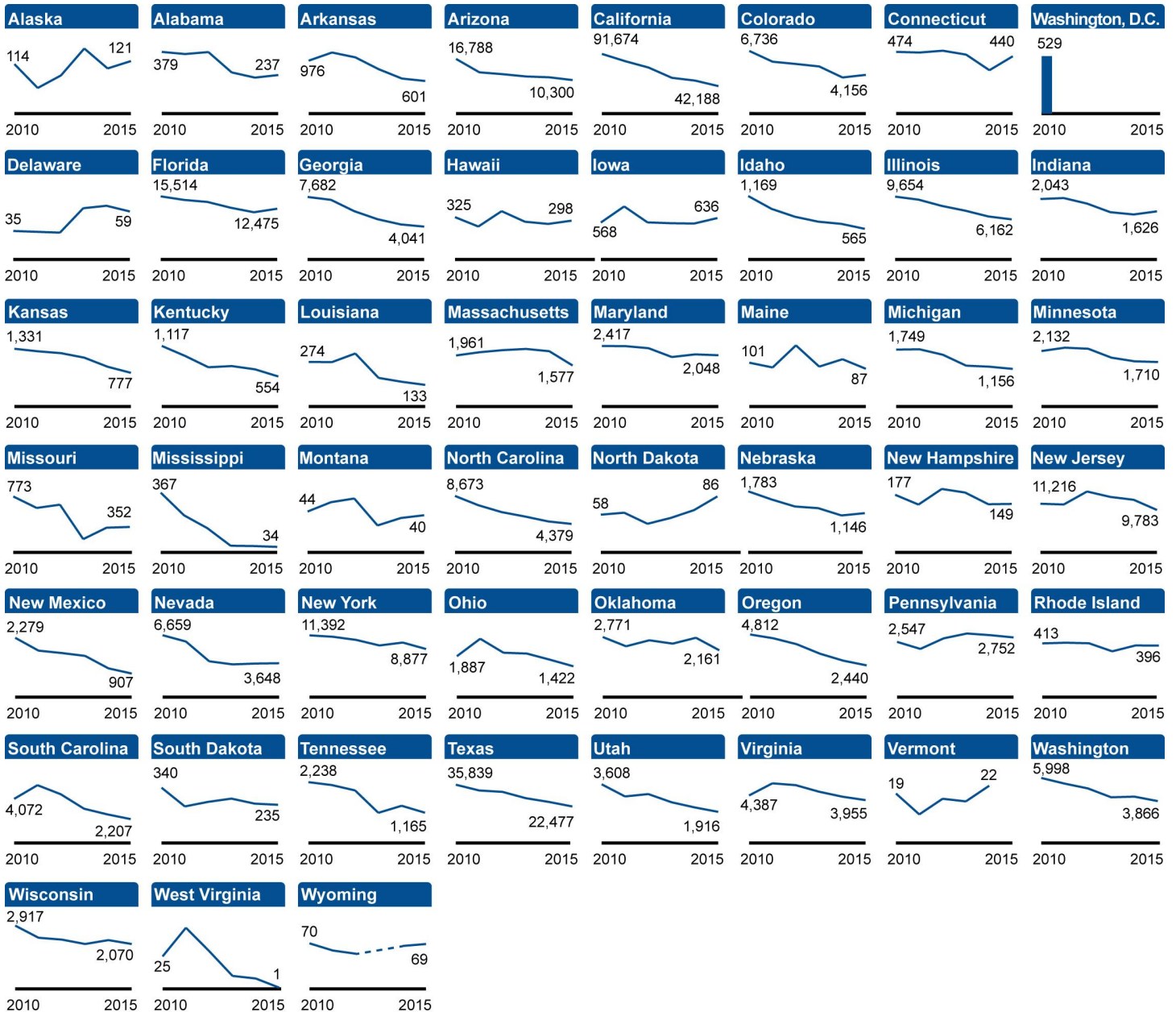
We conducted this performance audit from August 2016 to July 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: State Criminal Alien Assistance Program Criminal Alien Incarcerations in State Prisons and Local Jails

Figure 16 shows the number of State Criminal Alien Assistance Program (SCAAP) criminal alien incarcerations in state prisons and local jails in each of the 50 states and District of Columbia from fiscal years 2010 through 2015. Criminal alien incarcerations are included in the figure below if the state or locality received SCAAP reimbursement. Therefore, these data represent only a portion of all criminal alien incarcerations in state prisons and local jails.

**Appendix II: State Criminal Alien Assistance
Program Criminal Alien Incarcerations in State
Prisons and Local Jails**

Figure 16: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations by State from Fiscal Years 2010 through 2015



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

Note: The above figure includes SCAAP criminal alien incarcerations in state prisons and local jails in each of the 50 states and District of Columbia. Because of differences in the number of incarcerations by state, each state may be on a different scale. The following states did not have a state or locality that applied for SCAAP in certain fiscal years: District of Columbia (2011 through 2015), Vermont

**Appendix II: State Criminal Alien Assistance
Program Criminal Alien Incarcerations in State
Prisons and Local Jails**

(2015), and Wyoming (2013). In addition, U.S. territories that received SCAAP reimbursements are not included in the above figure. SCAAP data represent the number of incarcerations, rather than number of SCAAP criminal aliens since these aliens could have multiple SCAAP incarcerations in the same fiscal year. As stated previously, SCAAP criminal aliens represent a portion of the total population of criminal aliens incarcerated in state prisons and local jails.

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

This appendix provides additional details on arrests/transfers of criminal aliens in our federal study population and State Criminal Alien Assistance Program (SCAAP) criminal aliens in our state and local study population. The data did not allow us to determine the difference between a new arrest and a transfer from one arresting agency to another; as a result, we refer to these collectively as “arrests/transfers”. To determine the arrest history of criminal aliens incarcerated in federal and state prisons and local jails, we pulled a random sample of 500 criminal aliens from our federal study population and 500 SCAAP criminal aliens from our state and local study population, and, using data from the Federal Bureau of Investigation (FBI), estimated arrest data for each of our study populations.¹ Specifically, we break down the estimated number of arrests/transfer and estimated number of arrest offenses by those made by (1) federal arresting agencies and (2) state and local arresting agencies. While the samples we selected for our analyses allowed us to estimate and provide valuable insights about the arrest history of the approximately 197,000 criminal aliens in our federal study population and the approximately 533,000 SCAAP criminal aliens in our state and local study population, our analyses are not generalizable to the arrest history of criminal aliens not in these study populations.

Federal criminal alien population. Based on our random sample of criminal aliens incarcerated in federal prisons during fiscal years 2011 through 2016, we estimated that our federal study population of about 197,000 criminal aliens accounted for about 761,300 arrests/transfers by federal arresting agencies. This same population accounted for about

¹For these analyses, we only included criminal aliens in the study population if they had an FBI number available, as this was needed to match data across databases. As a result, the study populations that we projected to for these analyses were smaller than the originating study populations. For example, our federal study population started with approximately 198,000 criminal aliens and about 197,000 had FBI numbers. Therefore, for this analysis, we included approximately 197,000 criminal aliens in our federal study population.

589,800 arrests/transfers state or local arresting agencies from 1974 through 2017.² We estimated that 91 percent of the arrests/transfers by federal arresting agencies and 67 percent of the arrests/transfers by state and local arresting agencies occurred from 2000 through 2017.

We estimated that the approximately 197,000 criminal aliens in our federal study population were arrested/transferred by federal arresting agencies for a total of about 1 million offenses.³ A single arrest can be for multiple offenses, and being arrested for one or more offenses does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual was arrested. Of the approximately 1 million offenses, we estimated that 81 percent were related to immigration, as shown below in table 9.⁴ Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

²These dates, 1974 through 2017, represent the dates of the oldest and newest records in our FBI dataset. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. Because our sample populations are separate for our federal criminal alien population and SCAAP criminal alien population, results cannot be compared to the results we presented in our 2011 report. See GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: Mar. 24, 2011). All percentage estimates presented in this report have a margin of error of plus or minus 7 percentage points or fewer. All estimates of the number of arrests/transfers or offenses have a relative error of plus or minus 14 percent of the estimate or less. See appendix I for more details on the margin of error for these estimates.

³For our analysis, (a) multiple counts of the same offense were counted once, (b) duplicate offenses on the same day may be counted more than once if the person was transferred to another agency on the same day and that agency submitted the same offense to the FBI, and (c) duplicate offenses on the same day submitted by the same agency may be counted more than once if there was not enough information to determine that two offenses were the same. Because we selected samples from both our federal study population and our state and local study population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#).

⁴See appendix I for a complete description of each of the offense categories.

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

Table 9: Estimated Number and Percent of Attempted or Committed Offenses for Which Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number Were Arrested/Transferred by Federal Arresting Agencies from 1974 through 2017

Arrest offense	Estimated number	Estimated percent
Immigration ^a	863,700	81.0
Drugs	133,400	12.5
Obstruction of justice	25,400	2.4
Fraud, forgery, and counterfeiting	12,300	1.2
Weapons violations	7,500	0.7
Miscellaneous	6,400	0.6
Larceny/theft	4,000	0.4
Traffic violations	4,000	0.4
Assault	3,200	0.3
Robbery	2,000	0.2
Kidnapping	1,200	0.1
Motor vehicle theft	1,200	0.1
Sex offenses	1,200	0.1
Burglary	800	0.1
Property damage	800	0.1
Terrorism	400	< 0.1
Arson	--	--
Disorderly Conduct	--	--
Homicide	--	--
Stolen Property	--	--
Total^b	1,067,400	100

Legend:-- = no estimated offenses

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that criminal aliens were arrested or transferred for; they do not represent the number of times that criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 3 percentage points or fewer.

^aOffenses included in our immigration category include both criminal immigration offenses and civil immigration violations— administrative grounds of removability.

^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

We estimated that the approximately 197,000 criminal aliens in our federal study population were arrested/transferred by state and local

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

arresting agencies for a total of about 996,700 offenses. Of these offenses, we estimated that 41 percent were related to drugs or traffic violations, as shown below in table 10. Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

Table 10: Estimated Number and Percent of Attempted or Committed Offenses for Which Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number Were Arrested/Transferred by State and Local Arresting Agencies from 1979 through 2017

Arrest offense	Estimated number	Estimated percent
Drugs	203,200	20.4
Traffic violations	200,500	20.1
Obstruction of justice	115,900	11.6
Assault	105,200	10.6
Miscellaneous	67,900	6.8
Larceny/theft	66,300	6.7
Fraud, forgery, and counterfeiting	50,000	5.0
Burglary	44,100	4.4
Weapons violations	37,000	3.7
Motor vehicle theft	18,300	1.8
Property damage	16,700	1.7
Stolen property	14,300	1.4
Disorderly Conduct	12,300	1.2
Sex offenses	12,300	1.2
Robbery	11,500	1.2
Immigration ^a	10,700	1.1
Homicide	6,000	0.6
Kidnapping	4,400	< 0.1
Arson	400	< 0.1
Terrorism	--	--
Total^b	996,700	100

Legend: -- = no estimated offenses

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 197,000 criminal aliens incarcerated in federal prisons from fiscal years 2011 through 2016 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that criminal aliens were arrested or transferred for; they do not represent the number of times that criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 4 percentage points or fewer.

^aOffenses included in our immigration category include both criminal immigration offenses and civil immigration violations— administrative grounds of removability.

^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

SCAAP criminal alien population. Based on our random sample of SCAAP criminal aliens incarcerated in state prisons and local jails during fiscal years 2010 through 2015, we estimated that our state and local study population of about 533,000 SCAAP criminal aliens accounted for about 760,100 arrests/transfers by federal arresting agencies. This same population accounted for about 2.7 million arrests/transfers by state or local arresting agencies from 1964 through 2017.⁵ We estimated that 92 percent of the arrests/transfers by federal arresting agencies and 83 percent of the arrests/transfers by state and local arresting agencies occurred from 2000 through 2017.

We estimated that the approximately 533,000 SCAAP criminal aliens in our state and local study population were arrested/transferred by federal arresting agencies for a total of about 904,500 offenses, attempted or committed.⁶ A single arrest can be for multiple offenses and being arrested for one or more offenses does not necessarily result in prosecution or a conviction of all, or any, of the offenses for which an individual was arrested. Of the approximately 904,500 offenses, we estimated that about 94 percent were related to immigration offenses, as shown below in table 11.⁷ Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

⁵These dates, 1964 through 2017, represent the dates of the oldest and newest records in our FBI dataset. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. We were unable to determine the difference between a new arrest and a transfer from one arresting agency to another; as such, we are reporting on arrests and transfers. Because our sample populations are separate for our federal criminal alien population and SCAAP criminal alien population, results cannot be compared to the results we presented in our 2011 report, see [GAO-11-187](#). See appendix I for more details on the margin of error for these estimates. As stated previously, SCAAP criminal aliens represent a portion of the total population of criminal aliens incarcerated in state prisons and local jails.

⁶For our analysis, (a) multiple counts of the same offense were counted once, (b) duplicate offenses on the same day may be counted more than once if the person was transferred to another agency on the same day and that agency submitted the same offense to the FBI, and (c) duplicate offenses on the same day submitted by the same agency may be counted more than once if there was not enough information to determine that two offenses were the same.

⁷See appendix I for a complete description of each of the offense categories.

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

Table 11: Estimated Number and Percent of Attempted or Committed Offenses for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number Were Arrested/Transferred by Federal Arresting Agencies from 1972 through 2017

Arrest offense	Estimated number	Estimated percent
Immigration ^a	846,500	93.6
Drugs	27,300	3.0
Fraud, forgery, and counterfeiting	9,800	1.1
Obstruction of justice	6,600	0.7
Homicide	3,300	0.4
Miscellaneous	3,300	0.4
Assault	2,200	0.2
Weapons violations	2,200	0.2
Kidnapping	1,100	0.1
Sex offenses	1,100	0.1
Traffic violations	1,100	0.1
Arson	--	--
Burglary	--	--
Disorderly Conduct	--	--
Larceny/theft	--	--
Motor vehicle theft	--	--
Property damage	--	--
Robbery	--	--
Terrorism	--	--
Total^b	904,500	100

Legend:-- = no estimated offenses

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that SCAAP criminal aliens were arrested or transferred for; they do not represent the number of times that SCAAP criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 3 percentage points or fewer.

^aOffenses included in our immigration category include both criminal immigration offenses and civil immigration violations— administrative grounds of removability.

^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

We estimated that the approximately 533,000 SCAAP criminal aliens in our state and local study population were arrested/transferred by state and local arresting agencies for a total of about 4.6 million offenses. Of these offenses, we estimated that 43 percent were related to traffic violations or to drug offenses, as shown below in table 12. Each offense category in the table may include an attempt or conspiracy to commit the respective offense.

Table 12: Estimated Number and Percent of Attempted or Committed Offenses for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number Were Arrested/Transferred by State and Local Arresting Agencies from 1972 through 2017

Arrest offense	Estimated number	Estimated percent
Traffic violations	1,224,900	26.9
Drugs	733,800	16.1
Obstruction of justice	658,400	14.4
Assault	394,800	8.7
Larceny/theft	276,700	6.1
Miscellaneous	253,700	5.6
Fraud, forgery, and counterfeiting	190,300	4.2
Burglary	175,000	3.8
Weapons violations	122,500	2.7
Sex offenses	119,200	2.6
Disorderly Conduct	91,000	2.0
Motor vehicle theft	90,800	2.0
Stolen property	75,500	1.7
Robbery	54,700	1.2
Property damage	50,300	1.1
Homicide	24,100	0.5
Kidnapping	17,500	0.4
Immigration ^a	5,500	0.1
Arson	3,300	0.1
Terrorism	1,100	< 0.1
Total^b	4,562,700	100

Source: GAO analysis of Federal Bureau of Investigation (FBI) data. | GAO-18-433

Note: Offenses may include an attempt or conspiracy to commit the respective offense. While our analyses allowed us to estimate and provide valuable insights about the arrest history of our study population, which consisted of about 533,000 SCAAP criminal aliens incarcerated in state prisons and local jails from fiscal years 2010 through 2015 with an FBI number, our analyses are not intended to infer conclusions about the arrest history of criminal aliens not in this study population. Law enforcement entities send arrest information to the FBI on a voluntary basis; as a result, FBI data on arrest history may not include all arrests. The numbers in the table above represent the number of offenses we estimated that SCAAP criminal aliens were arrested or transferred for; they do not

Appendix III: Arrests/Transfers of Criminal Aliens by Type of Arresting Agency

represent the number of times that SCAAP criminal aliens were arrested or transferred for each offense. All estimates in this table have a margin of error of +/- 4 percentage points or fewer.

^aOffenses included in our immigration category include both criminal immigration offenses and civil immigration violations— administrative grounds of removability.

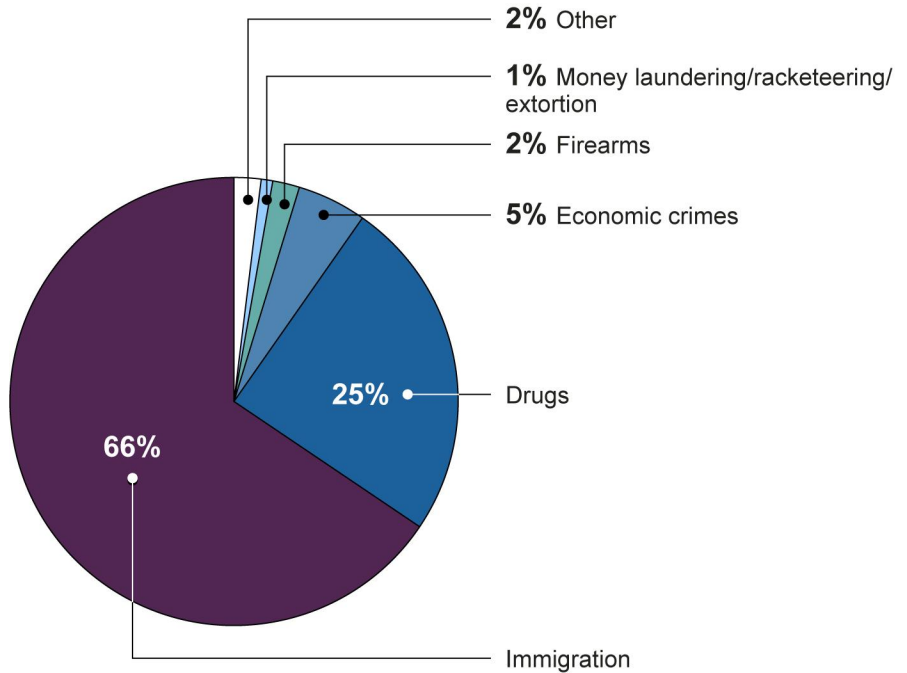
^bNumbers may not sum to totals because of rounding. Percentages may not sum to 100 due to rounding.

Appendix IV: Federal Convictions, Fiscal Years 2011 through 2016

This appendix provides additional details on federal convictions of U.S. citizens and criminal aliens. In fiscal year 2016, immigration (66 percent) or drug offenses (25 percent) accounted for 91 percent of the approximately 28,000 primary offenses for which criminal aliens were convicted and sentenced, based upon U.S. Sentencing Commission data, as shown in figure 17.¹ These data are consistent with trends from fiscal years 2011 through 2016. These criminal aliens may also be in our study population of criminal aliens incarcerated in federal prisons if they were convicted in federal court and sentenced during fiscal years 2011 through 2016, and were also incarcerated in a federal prison during this same time period.

¹These were the most recent data available for our review. The U.S. Sentencing Commission is an independent agency in the judicial branch of government. The Commission's data are limited to felony and Class A misdemeanor cases for offenders who are convicted and sentenced in the federal court system. These data do not include state cases, federal petty offenses, federal cases which result in all charges being dismissed or acquitted, federal death penalty cases, federal juvenile cases, or federal witness protection cases. They also do not include convicted offenders for whom no sentences were yet issued, offenders sentenced but for whom no sentencing documents were submitted to the Commission, and offenders sentenced prior to the enactment of the Sentencing Reform Act of 1984. See Pub. L. No. 98-473, ch. II, 98 Stat. 1837, 1987-2001 (1984). According to U.S. Sentencing Commission officials, data do include a small number of individuals that may have been fined or given probation instead of a federal prison sentence. Convictions that did not have information on offender's citizenship status were excluded. Information on the citizenship status of offenders is obtained from their presentence investigation report. The U.S. Sentencing Commission data on non-U.S. citizens includes data on "resident aliens", "illegal aliens", "extradited aliens" and "non-U.S. citizens, alien status unknown". For the purposes of this report, we refer to these individuals as criminal aliens. Data on primary offenses for which individuals may be convicted include attempts, conspiracies, and intents to commit crimes. For example, the U.S. Sentencing Commission's offense category of assault includes attempt to commit murder and assault with intent to murder; while the murder offense category includes a conspiracy to murder when there is a resulting death. See appendix I for a complete description of each of the offense categories.

Figure 17: Primary Offense Category for Which Criminal Aliens Were Convicted in Federal Court and Sentenced in Fiscal Year 2016



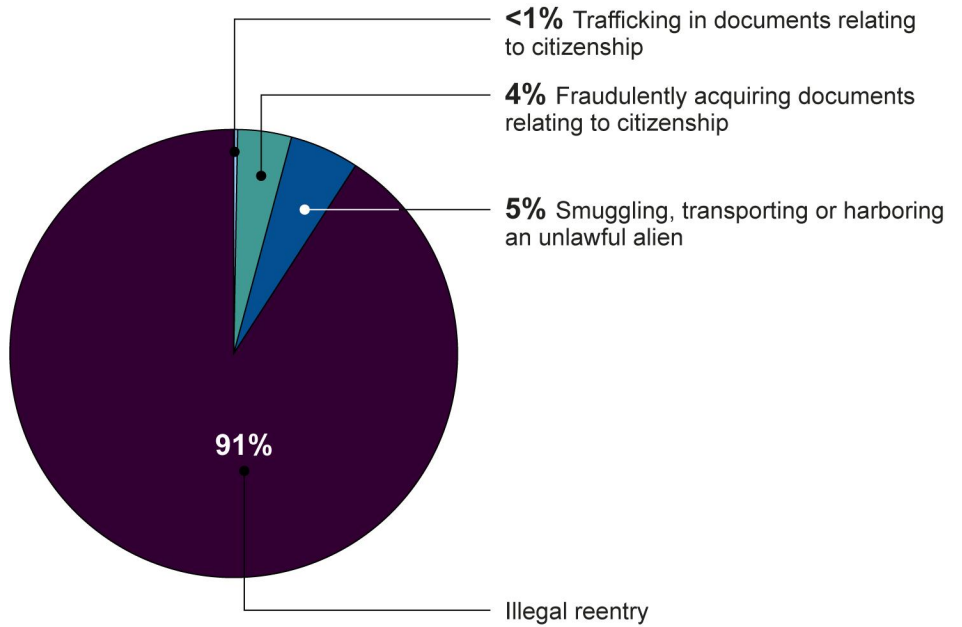
Source: GAO analysis of U.S Sentencing Commission data. | GAO-18-433

Note: "Other" includes administration of justice offenses, sex offenses, assault, robbery, homicide, auto theft, kidnapping/hostage taking, arson, burglary, and other miscellaneous offenses.

Of selected immigration offenses for which convicted criminal aliens were sentenced in fiscal year 2016, 91 percent were for illegal reentry, as shown in Figure 18.²

²These selected immigration offenses accounted for 95 percent of all immigration offenses for which criminal aliens were convicted of in fiscal year 2016. According to the U.S. Sentencing Commission, subsequent entries, reentry after removal, and remaining in the United States after being ordered removed are felonies covered by U.S. Sentencing Guidelines and as such would be included in these data. Further, conviction for a first offense of illegal entry is a misdemeanor and would not be covered by U.S. Sentencing Guidelines in these data. See 8 U.S.C. §§ 1325(a), 1326, and 1253.

Figure 18: Selected Immigration Primary Offenses for Which Convicted Criminal Alien Federal Offenders Were Sentenced in Fiscal Year 2016



Source: GAO analysis of U.S Sentencing Commission data. | GAO-18-433

Note: These selected immigration offenses accounted for 95 percent of all immigration offenses for which criminal aliens were convicted in federal court and sentenced in fiscal year 2016.

For the primary offenses for which all individuals—U.S. citizens and criminal aliens—were convicted and sentenced in fiscal years 2011 through 2016, criminal aliens made up between 0 and 94 percent of all convictions for each primary offense, based upon U.S. Sentencing Commission data, as shown in table 13.

Table 13: Number of Each Primary Offense for Federal Convictions, by Citizenship, Fiscal Years 2011 through 2016

Primary offense	Total, all convictions	Total, U.S. citizen	Percentage of all convictions that were for U.S. citizens	Total, criminal aliens	Percentage of all convictions that were for criminal aliens
Drugs	143,899	98,582	68.5	45,317	31.5
Immigration	143,448	8,739	6.1	134,709	93.9
Economic crimes	62,063	51,026	82.2	11,037	17.8
Firearms	46,198	42,712	92.5	3,486	7.5
Sex offenses	14,488	13,897	95.9	591	4.1
Money laundering/ racketeering/extortion	10,011	7,819	78.1	2,192	21.9
Administration of justice offenses	7,183	6,217	86.6	966	13.4
Robbery	4,867	4,708	96.7	159	3.3
Assault	4,235	3,827	90.4	408	9.6
Homicide	811	739	91.1	72	8.9
Auto theft	423	369	87.2	54	12.8
Arson	330	315	95.5	15	4.5
Kidnapping/hostage taking	290	167	57.6	123	42.4
Burglary/breaking and entering	227	227	100.0	0	0.0
Other	16,977	14,776	87.0	2,201	13.0
Total	455,450	254,120	n/a	201,330	n/a

Legend: n/a = not applicable

Source: GAO Analysis of U.S. Sentencing Commission data. | GAO-18-433

Note: U.S. Sentencing Commission data are limited to felony and Class A misdemeanor cases for offenders who are convicted and sentenced in the federal court system. These data do not include state cases, federal petty offenses, federal cases which result in all charges being dismissed or acquitted, federal death penalty cases, federal juvenile cases, or federal witness protection cases. They also do not include convicted offenders for whom no sentences were yet issued, offenders sentenced but for whom no sentencing documents were submitted to the Commission, and offenders sentenced prior to the enactment of the Sentencing Reform Act of 1984. See Pub. L. No. 98-473, ch. II, 98 Stat. 1837, 1987-2001 (1984). According to U.S. Sentencing Commission officials, data do include a small number of individuals that may have been fined or given probation instead of a federal prison sentence. Convictions that did not have information on offender's citizenship status were excluded. Information on the citizenship status of offenders is obtained from their presentence investigation report. The U.S. Sentencing Commission data on non-U.S. citizens includes data on "resident aliens", "illegal aliens", "extradited aliens" and "non-U.S. citizens, alien status unknown". For the purposes of this report, we refer to these individuals as criminal aliens. Data on primary offenses for which individuals may be convicted include attempts, conspiracies, and intents to commit crimes. For example, the U.S. Sentencing Commission's offense category of assault includes attempt to commit murder and assault with intent to murder; while the murder offense category includes a conspiracy to murder when there is a resulting death. The "other" category includes bribery, gambling/lottery, civil rights, prison offenses, environmental/wildlife, national defense, food and drug, and other miscellaneous offenses.

Table 14 details the total number of primary offenses for which U.S. citizens and criminal aliens were convicted and sentenced in each fiscal year from 2011 through 2016.

**Appendix IV: Federal Convictions, Fiscal Years
2011 through 2016**

Table 14: Number of Each Primary Offense for Federal Convictions, by Citizenship, Fiscal Years 2011 through 2016

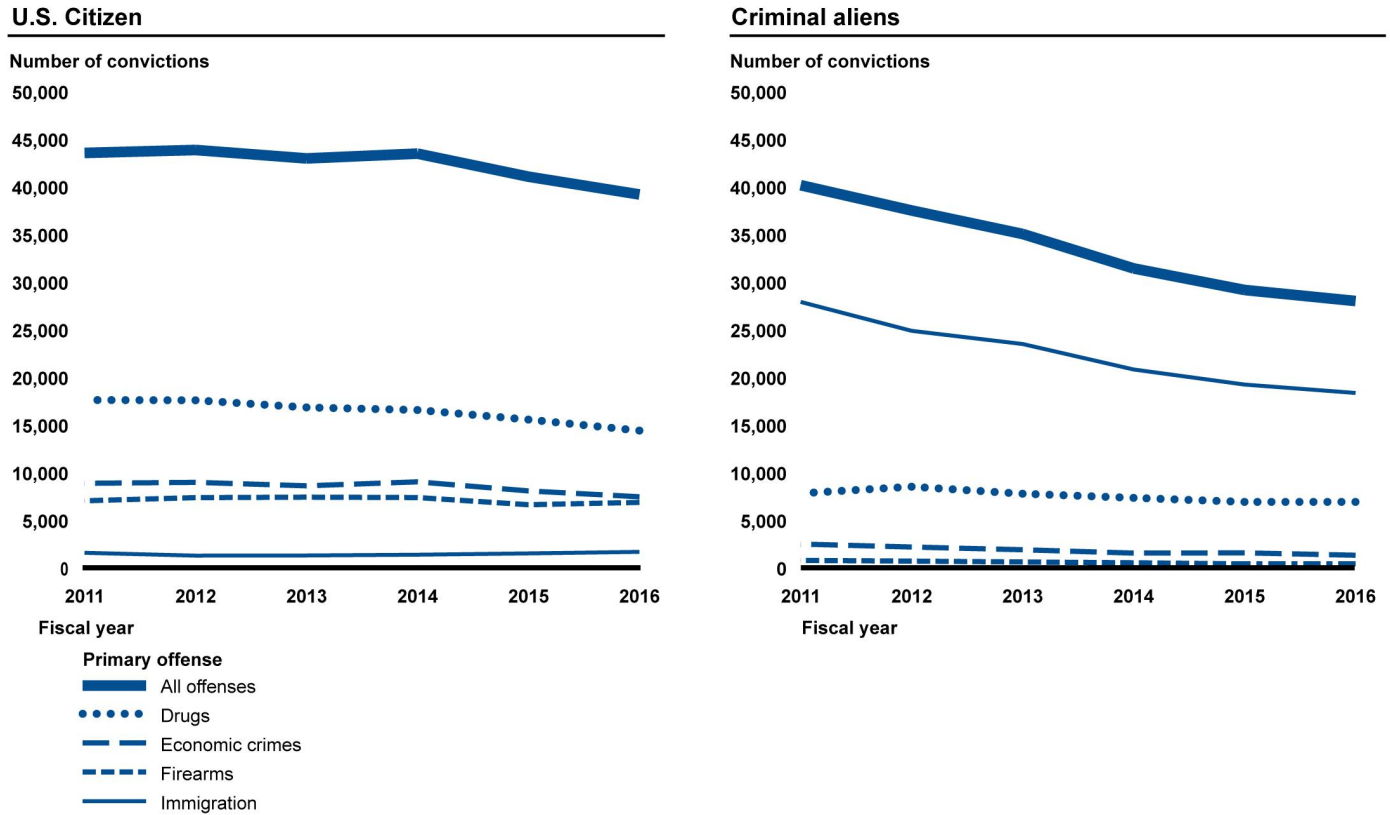
Citizen/Alien	Primary offense	2011	2012	2013	2014	2015	2016	5-year change
U.S. citizens	Drugs	17,616	17,589	16,840	16,568	15,562	14,407	-18
	Immigration	1,579	1,283	1,300	1,381	1,517	1,679	6
	Economic crimes	8,873	8,974	8,612	9,029	8,076	7,462	-16
	Firearms	7,041	7,371	7,420	7,380	6,627	6,873	-2
	Sex offenses	2,179	2,358	2,238	2,352	2,325	2,445	12
	Money laundering/ racketeering/extortion	1,162	1,318	1,306	1,374	1,375	1,284	10
	Administration of justice offenses	951	1,105	1,187	1,058	1,005	911	-4
	Robbery	914	824	809	759	723	679	-26
	Assault	568	585	597	684	672	721	27
	Homicide	131	108	142	113	126	119	-9
	Auto theft	71	50	83	72	51	42	-41
	Arson	53	46	66	50	55	45	-15
	Kidnapping/hostage taking	25	25	28	30	22	37	48
	Burglary/breaking and entering	52	42	37	37	36	23	-56
	Other offenses	2,338	2,183	2,311	2,592	2,887	2,465	5
Total		43,553	43,861	42,976	43,479	41,059	39,192	-10
Criminal aliens	Drugs	7,823	8,518	7,782	7,347	6,923	6,924	-11
	Immigration	27,912	24,879	23,496	20,823	19,240	18,359	-34
	Economic crimes	2,498	2,187	1,900	1,550	1,575	1,327	-47
	Firearms	783	706	618	532	421	426	-46
	Sex offenses	70	83	105	118	105	110	57
	Money laundering/ racketeering/extortion	396	400	384	370	288	354	-11
	Administration of justice offenses	185	177	164	171	157	112	-39
	Robbery	41	25	32	23	15	23	-44
	Assault	58	71	79	69	62	69	19
	Homicide	8	6	8	11	17	22	175
	Auto theft	13	10	3	14	11	3	-77
	Arson	1	2	3	4	4	1	0
	Kidnapping/hostage taking	44	24	12	20	21	2	-95
	Burglary/breaking and entering	0	0	0	0	0	0	0
	Other	332	424	460	380	327	278	-16
Total		40,164	37,512	35,046	31,432	29,166	28,010	-30

Source: GAO Analysis of U.S. Sentencing Commission data. | GAO-18-433

Note: U.S. Sentencing Commission data are limited to felony and Class A misdemeanor cases for offenders who are convicted and sentenced in the federal court system. These data do not include state cases, federal petty offenses, federal cases which result in all charges being dismissed or acquitted, federal death penalty cases, federal juvenile cases, or federal witness protection cases. They also do not include convicted offenders for whom no sentences were yet issued, offenders sentenced but for whom no sentencing documents were submitted to the Commission, and offenders sentenced prior to the enactment of the Sentencing Reform Act of 1984. See Pub. L. No. 98-473, ch. II, 98 Stat. 1837, 1987-2001 (1984). According to U.S. Sentencing Commission officials, data do include a small number of individuals that may have been fined or given probation instead of a federal prison sentence. Convictions that did not have information on offender's citizenship status were excluded. Information on the citizenship status of offenders is obtained from their presentence investigation report. The U.S. Sentencing Commission data on non-U.S. citizens includes data on "resident aliens", "illegal aliens", "extradited aliens" and "non-U.S. citizens, alien status unknown". For the purposes of this report, we refer to these individuals as criminal aliens. Data on primary offenses for which individuals may be convicted include attempts, conspiracies, and intents to commit crimes. For example, the U.S. Sentencing Commission's offense category of assault includes attempt to commit murder and assault with intent to murder; while the murder offense category includes a conspiracy to murder when there is a resulting death. The "other" category includes bribery, gambling/lottery, civil rights, prison offenses, environmental/wildlife, national defense, food and drug, and other miscellaneous offenses.

Primary offenses related to drugs, immigration, economic crimes, and firearms accounted for 87 percent of all federal convictions of individuals that were sentenced in fiscal year 2011 through fiscal year 2016. Figure 19 shows the trends for each of these primary offenses.

Figure 19: Primary Offenses for Which Individuals Were Convicted, for Offense Categories with the Greatest Number of Federal Convictions, by Citizenship, from Fiscal Years 2011 through 2016



Source: GAO analysis of U.S Sentencing Commission data. | GAO-18-433

Note: U.S. Sentencing Commission data are limited to felony and Class A misdemeanor cases for offenders who are convicted and sentenced in the federal court system. These data do not include state cases, federal petty offenses, federal cases which result in all charges being dismissed or acquitted, federal death penalty cases, federal juvenile cases, or federal witness protection cases. They also do not include convicted offenders for whom no sentences were yet issued, offenders sentenced but for whom no sentencing documents were submitted to the Commission, and offenders sentenced prior to the enactment of the Sentencing Reform Act of 1984. See Pub. L. No. 98-473, ch. II, 98 Stat. 1837, 1987-2001 (1984). According to U.S. Sentencing Commission officials, data do include a small number of individuals that may have been fined or given probation instead of a federal prison sentence. Convictions that did not have information on offender's citizenship status were excluded. Information on the citizenship status of offenders is obtained from their presentence investigation report. The U.S. Sentencing Commission data on non-U.S. citizens includes data on "resident aliens", "illegal aliens", "extradited aliens" and "non-U.S. citizens, alien status unknown". For the purposes of this report, we refer to these individuals as criminal aliens.

Appendix V: Individuals Convicted as a Result of International Terrorism- related Investigations

The Department of Justice's (DOJ) National Security Division (NSD) maintains a list of individuals with public and unsealed federal convictions resulting from international terrorism-related investigations conducted since September 11, 2001.¹ According to DOJ, the list includes both individuals convicted of crimes that DOJ considers to be directly related to international terrorism and individuals convicted of a variety of other crimes where the investigation, at the time of charging, appeared to involve an identified link to international terrorism.² According to the U.S. Attorney's Manual, U.S. Attorneys are to coordinate with the NSD on all investigations involving an identified link to international terrorism. According to DOJ officials, when such investigations result in a public and unsealed criminal conviction, the defendant's name and information about

¹DOJ, *National Security Division Chart of Public/Unsealed Terrorism and Terrorism-Related Convictions, 9/11/01-12/31/16*. (Washington, D.C.: February 10, 2017). For the purposes of this report, we refer to this chart as the NSD list. According to the NSD, these investigations include investigations of terrorist acts planned or committed outside the territorial jurisdiction of the United States over which Federal criminal jurisdiction exists and investigations of terrorist acts planned or committed within the United States involving international terrorists and terrorist groups. Individuals whose convictions arose from the nationwide investigation conducted after the September 11, 2001 investigation were included on the list at that time, regardless of whether investigators developed or identified evidence that they had any connection to international terrorism. Since then, the NSD has added individuals to this list only if, at the time of charging, they appeared to have a connection to international terrorism, even if they were not charged with a terrorism offense. The decision to add defendants to the list is made on a case-by-case basis by career prosecutors in the NSD's Counterterrorism Section, whose primary responsibility is investigating and prosecuting international and domestic terrorism cases to prevent and disrupt acts of terrorism anywhere in the world that impact on significant United States interests and persons. According to the NSD, its list is distinct from statistics maintained by the Bureau of Prisons to track inmates with terrorist connections.

²In January 2018, DOJ and the Department of Homeland Security issued a report that included information about some individuals on the NSD list. Department of Homeland Security and Department of Justice, *Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States Initial Section 11 Report* (January 2018).

the charged crime and conviction, among other information, is added to the NSD list. According to DOJ, the NSD list does not include convictions related solely to domestic terrorism. We did not verify the connections to terrorism for individuals on the NSD list.

There are 250 individuals on the NSD list with convictions from March 19, 2010 through December 2016.³ Of these, 196 individuals (or 78 percent) were convicted under statutes NSD considers directly related to international terrorism—regardless of the offense for which they were charged.⁴ For example, some individuals on the NSD list were convicted of providing material support to designated terrorist organizations, which are designated by the Secretary of State and include, among others, Boko Haram, Hamas, al Qaeda, and the Revolutionary Armed Forces of Colombia.⁵ We used data from the Bureau of Prisons, U.S. Sentencing Commission, U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement to determine the citizenship status of individuals convicted under statutes NSD considers directly related to international terrorism from March 2010 through December 2016 at the time of their conviction, as shown in table 15.⁶

³In 2011, we reported information on the 399 individuals on the NSD list with convictions between September 2001 and March 18, 2010. See GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: Mar. 24, 2011).

⁴As defined by DOJ's NSD, criminal cases arising from international terrorism investigations are divided into two categories. The first category includes cases with charged violations of federal statutes that are directly related to international terrorism, regardless of the offense of conviction. These statutes prohibit terrorist acts abroad against U.S. nationals and providing material support to terrorists, among others. The second category includes cases charged with a variety of other statutes where the investigation involved an identified link to international terrorism. These include offenses such as those involving fraud, immigration, firearms, drugs, and perjury, among others.

⁵The Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, has the authority to designate a foreign organization as a foreign terrorist organization. Designation allows the United States to impose legal consequences on the foreign terrorist organization or on individuals who support the foreign terrorist organization. See GAO, *Combating Terrorism: Foreign Terrorist Organization Designation Process and U.S. Agency Enforcement Actions*, [GAO-15-629](#) (Washington, D.C.: June 25, 2015).

⁶We relied on the U.S. Sentencing Commission data to identify those aliens who were extradited to the United States for prosecution. We relied on U.S. Citizenship and Immigration Services data to identify naturalized citizens. We determined the citizenship status of the remaining individuals on the list using the totality of available data from these agencies.

Appendix V: Individuals Convicted as a Result of International Terrorism-related Investigations

Table 15: Citizenship Status of Individuals Convicted Under Statutes Directly Related to International Terrorism, March 2010 through December 2016

Citizenship status	Number of individuals convicted under statute directly related to terrorism	Percent
Alien	95	48
<i>Extradited alien</i> ^a	31	--
<i>Other alien</i>	64	--
U.S. citizen ^b	97	49
<i>Naturalized U.S. citizen</i> ^c	24	--
<i>U.S. citizen, not naturalized</i>	73	--
Unknown	4	2
Total^d	196	100

Legend: -- = percent for sub-categories not provided

Source: GAO analysis of Bureau of Prisons, U.S. Sentencing Commission, U.S. Citizenship and Immigration Services (USCIS), and U.S. Immigration and Customs Enforcement data. | GAO-18-433

^aWe relied on U.S. Sentencing Commission data to identify aliens who were brought to the United States for prosecution.

^bThis category includes U.S. citizens who were born in the United States, derived U.S. citizenship, or were naturalized.

^cWe relied on USCIS data to identify naturalized citizens. All individuals identified as naturalized citizens in this table became U.S. citizens before they were charged with a crime related to international terrorism.

^dPercentages may not add to 100 due to rounding.

Of those 196 individuals with convictions directly related to international terrorism, 95 were aliens, including 31 aliens that were brought to the United States for prosecution. Of the individuals born outside of the United States—including aliens, extradited aliens, U.S. citizens, and individuals whose citizenship status is unknown but whose country of birth is known—convicted of statutes directly related to international terrorism, the highest number of convictions were from individuals born in Somalia (19 convictions), Pakistan (14 convictions), and Colombia (12 convictions).⁷ No other country of birth outside of the United States had more than five individuals with convictions directly related to international terrorism.

⁷Some individuals born in these countries were extradited to the United States for prosecution, including those born in Somalia (3 individuals), Pakistan (4 individuals), and Colombia (10 individuals).

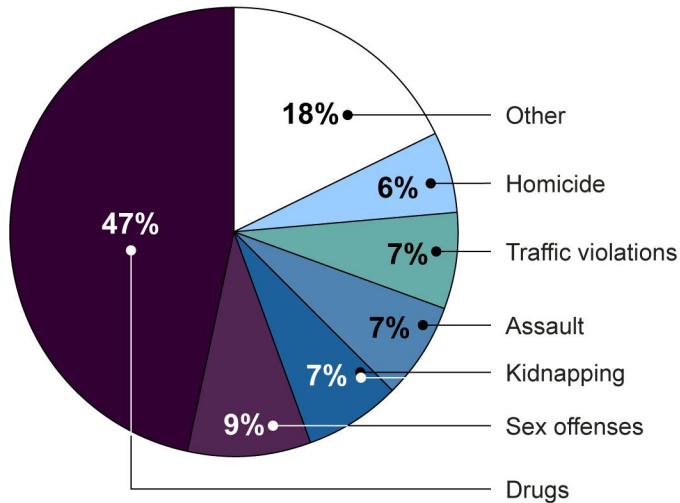
Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Since there are no reliable data on criminal aliens incarcerated in all state prisons and local jails, we analyzed conviction data from the five state prison systems that had the largest number of State Criminal Alien Assistance Program (SCAAP) criminal alien incarcerations in fiscal year 2015.¹ Primary offenses for which SCAAP criminal aliens incarcerated in fiscal year 2015 were convicted varied across these selected state prison systems, as shown in figures 20 through 24.

¹These data were the most recent data available. Collectively, these five state prison systems accounted for 64 percent of the SCAAP criminal alien incarcerations in state prisons during fiscal year 2015. This analysis included state prison systems that participated in SCAAP and did not include U.S. territories. State prison systems in Arkansas, West Virginia, Vermont, and the District of Columbia did not receive reimbursement for SCAAP criminal aliens incarcerated in fiscal year 2015.

Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Figure 20: Primary Offenses, Attempted or Committed, for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in Arizona’s State Prison System in Fiscal Year 2015 Were Convicted

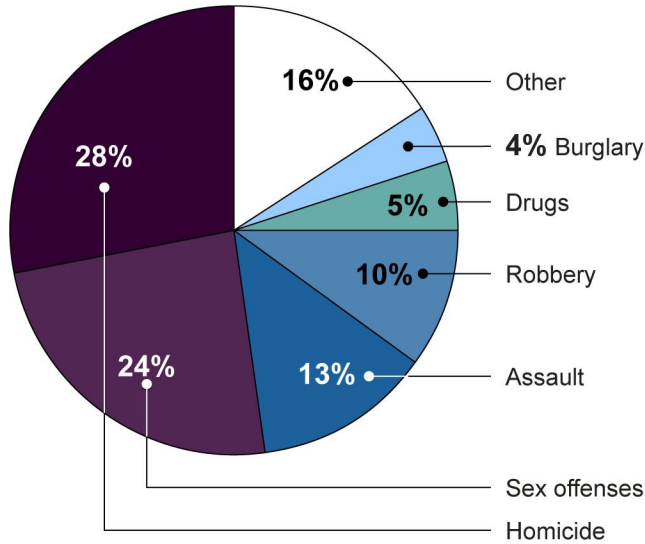


Source: GAO analysis of Arizona Department of Corrections data. | GAO-18-433

Note: Our analysis is of the primary offense per SCAAP criminal alien incarceration in fiscal year 2015; convictions may have occurred prior to this time period. The figure above includes over 6,300 primary offenses. "Other" includes primary offenses for robbery; burglary; fraud, forgery, and counterfeiting; larceny and theft; motor vehicle theft; obstruction of justice; immigration; stolen property; disorderly conduct; arson; property damage; and miscellaneous offenses. Each of these primary "other" offenses make up between 4.1 percent and .1 percent of all the offenses for which these aliens were convicted. Arizona Department of Corrections determined the primary offense by the sentence which has the controlling release date. Offenses for which individuals are convicted may include an attempt or conspiracy to commit the respective offense. We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes.

Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Figure 21: Primary Offenses, Attempted or Committed, for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in California's State Prison System in Fiscal Year 2015 Were Convicted

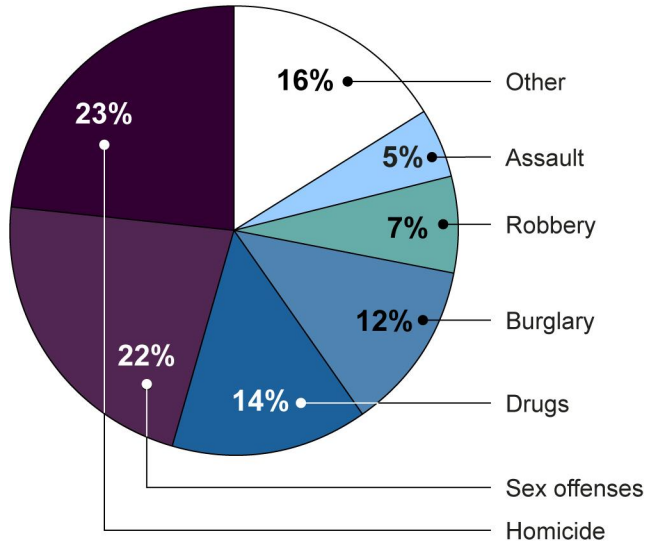


Source: GAO analysis of California Department of Corrections and Rehabilitation data. | GAO-18-433

Note: Our analysis is of the primary offense per SCAAP criminal alien incarceration in fiscal year 2015; these convictions may have occurred prior to this time period. The figure above includes over 18,600 primary offenses. "Other" includes primary offenses for larceny and theft; traffic violations; fraud, forgery, and counterfeiting; weapons violations; motor vehicle theft; obstruction of justice; stolen property; arson; property damage; and miscellaneous offenses. Each of these primary "other" offenses make up between 2.8 percent and .2 percent of all the offenses for which these aliens were convicted. California Department of Corrections and Rehabilitation determines a primary offense based on the longest maximum sentence and/or offense severity. Offenses for which individuals are convicted may include an attempt or conspiracy to commit the respective offense. We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes.

Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Figure 22: Primary Offenses, Attempted or Committed, for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in Florida’s State Prison System in Fiscal Year 2015 Were Convicted

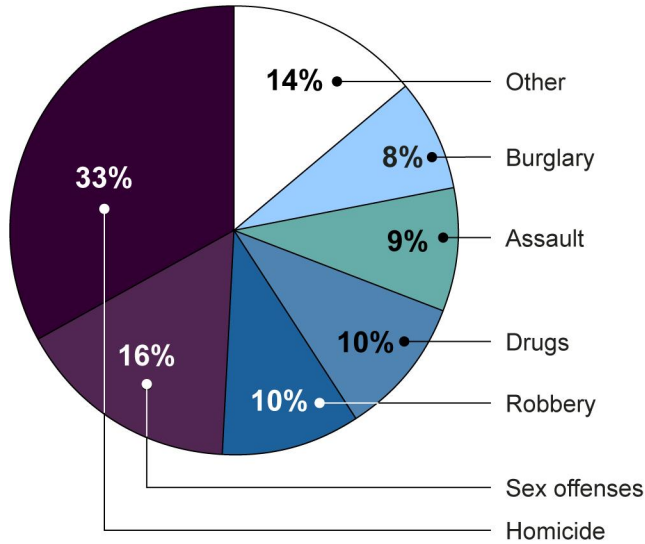


Source: GAO analysis of Florida Department of Corrections data. | GAO-18-433

Note: Our analysis is of the primary offense per SCAAP criminal alien incarceration in fiscal year 2015; these convictions may have occurred prior to this time period. The figure above includes nearly 6,300 primary offenses. “Other” includes primary offenses for motor vehicle theft; traffic violations; obstruction of justice; kidnapping; weapons violations; larceny and theft; property damage; fraud, forgery, and counterfeiting; stolen property; arson; and miscellaneous offenses. Each of these primary “other” offenses make up between 3.6 percent and .05 percent of all the offenses for which these aliens were convicted. Florida Department of Corrections defines a primary offense as the offense with the highest felony degree. If there are multiple offenses with the same felony degree, the primary offense is the one with the longest sentence. If there are multiple offenses with the same felony degree and sentence length, the first offense listed on the commitment papers is the primary offense. Offenses for which individuals are convicted may include an attempt or conspiracy to commit the respective offense. We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes.

Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Figure 23: Primary Offenses, Attempted or Committed, for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in New York's State Prison System in Fiscal Year 2015 Were Convicted

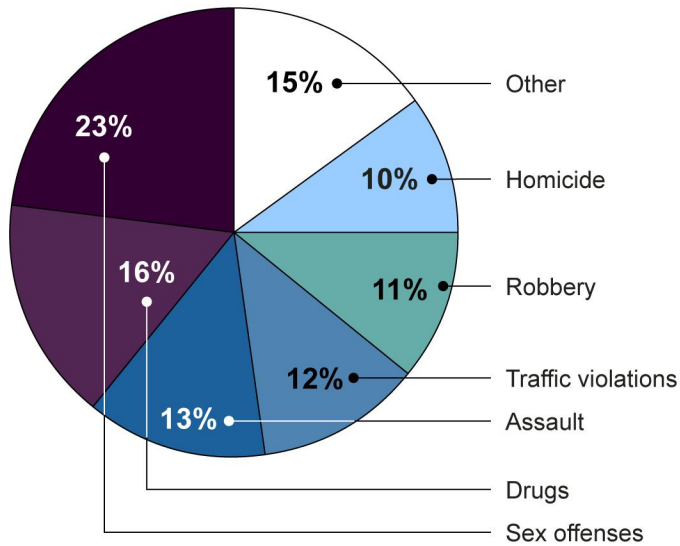


Source: GAO analysis of New York State Department of Corrections and Community Supervision data. | GAO-18-433

Note: Our analysis is of the primary offense per SCAAP criminal alien incarceration in fiscal year 2015; these convictions may have occurred prior to this time period. The figure above includes nearly 3,400 primary offenses. "Other" includes primary offenses for weapons violations; kidnapping; larceny and theft; traffic violations; fraud, forgery, and counterfeiting; arson; stolen property; obstruction of justice; and miscellaneous offenses. Each of these primary "other" offenses make up between 4.2 percent and .2 percent of all the offenses for which these aliens were convicted. New York State Department of Corrections and Community Supervision defines a primary offense in almost all instances as the offense with the longest sentence. In some cases, a violent felony may become the primary offense even if the sentence for that crime is not the longest. Offenses for which individuals are convicted may include an attempt or conspiracy to commit the respective offense. We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes.

Appendix VI: Primary Offenses for Which Criminal Aliens Incarcerated in Selected State Prison Systems Were Convicted

Figure 24: Primary Offenses, Attempted or Committed, for Which State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in Texas’s State Prison System in Fiscal Year 2015 Were Convicted



Source: GAO analysis of Texas Department of Criminal Justice data. | GAO-18-433

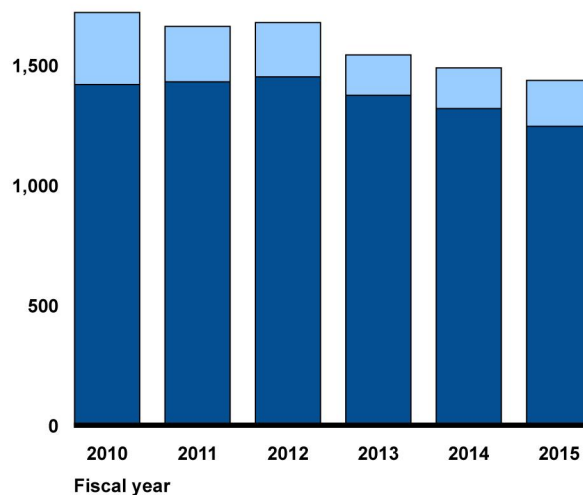
Note: Our analysis is of the primary offense per SCAAP criminal alien incarceration in fiscal year 2015; these convictions may have occurred prior to this time period. The figure above includes nearly 9,600 primary offenses. "Other" includes primary offenses for burglary; obstruction of justice; kidnapping; larceny and theft; fraud, forgery, and counterfeiting; weapons violations; motor vehicle theft; arson; property damage; stolen property; disorderly conduct; and miscellaneous offenses. Each of these primary "other" offenses make up between 5 percent and .01 percent of all the offenses for which these aliens were convicted. Texas Department of Criminal Justice defines the primary offense as the offense that keeps the offender incarcerated the longest if there is more than one current offense. Offenses for which individuals are convicted may include an attempt or conspiracy to commit the respective offense. We did not examine the extent to which state policies may have affected the number of individuals convicted of crimes.

Appendix VII: Estimated Costs to Incarcerate Criminal Aliens in Fiscal Year 2016 Dollars

This appendix provides cost data for the following: (1) estimated federal costs to incarcerate criminal aliens; (2) SCAAP reimbursements to states and localities, and (3) estimated selected operating costs to incarcerate state SCAAP criminal aliens in all 50 state prison systems from fiscal years 2010 through 2015. These cost data are presented in fiscal year 2016 dollars, as shown in figures 25 through 27.

Figure 25: Estimated Federal Costs to Incarcerate Criminal Aliens from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars

Dollars (in millions)
2,000



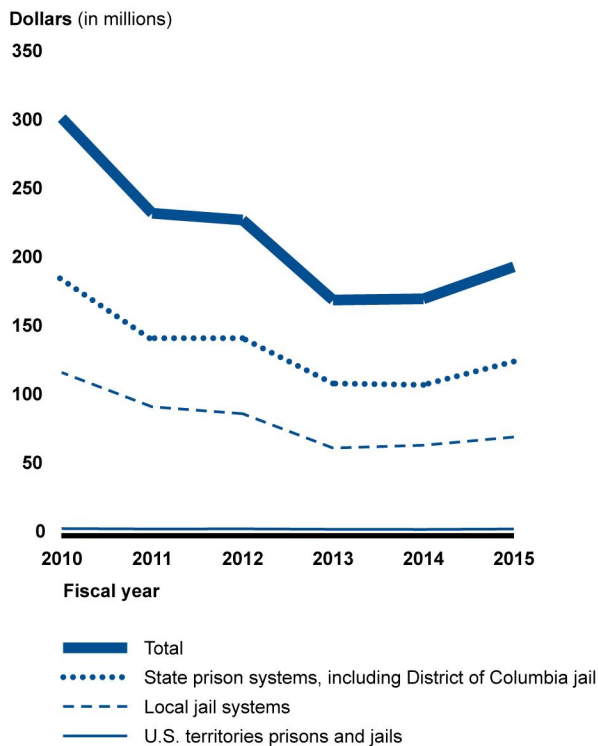
Legend:
Light blue: Costs to reimburse states and localities for incarcerating State Criminal Alien Assistance Program (SCAAP) criminal aliens
Dark blue: Estimated costs associated with incarcerating criminal aliens in federal prisons

Source: GAO analysis of Bureau of Prisons and Bureau of Justice Assistance data. | GAO-18-433

Appendix VII: Estimated Costs to Incarcerate Criminal Aliens in Fiscal Year 2016 Dollars

Note: Costs to reimburse states and localities are based on actual SCAAP reimbursements each year. Costs associated with incarcerating criminal aliens in federal prisons were estimated based on snapshot data representing an average of the 12 monthly population snapshots for each type of Bureau of Prisons institution, and Bureau of Prisons per capita costs.

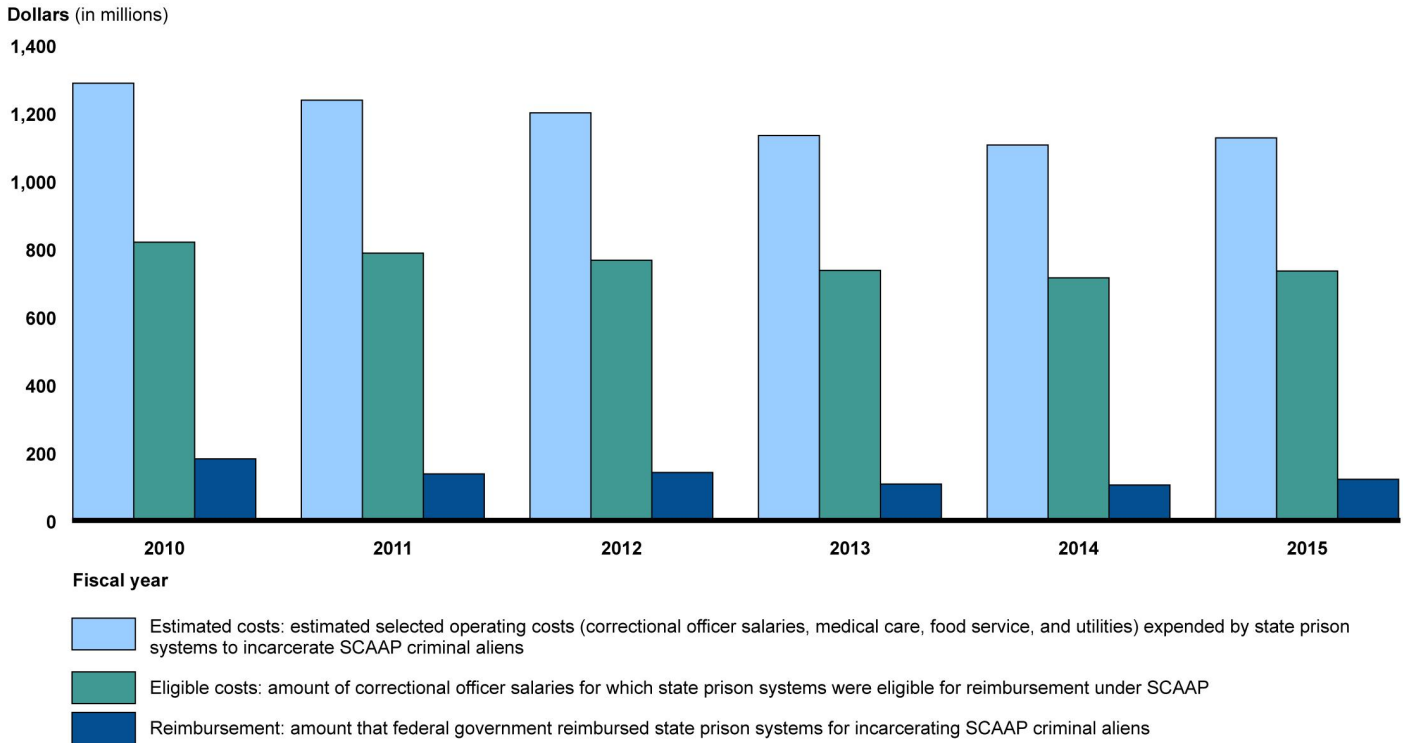
Figure 26: State Criminal Alien Assistance Program (SCAAP) Reimbursements to States and Localities from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-18-433

Note: Forty-seven state prison systems and four U.S. territories received SCAAP reimbursement in fiscal year 2015 compared to fifty state prison systems, including the District of Columbia, and four U.S. territories in fiscal year 2010. 760 local jail systems received reimbursement in fiscal year 2015 compared to 875 local jail systems in fiscal year 2010.

Figure 27: Estimated Selected Operating Costs to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in All 50 State Prison Systems from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars



Source: GAO analysis of Bureau of Justice Statistics and Bureau of Justice Assistance data. | GAO-18-433

Note: SCAAP reimbursement figures may not equal appropriation due to rounding. Our analysis includes those state prison systems—including the District of Columbia jail—that received SCAAP reimbursement in the associated fiscal year. As a result, not all 50 state prison systems may be included in these estimates for each fiscal year.

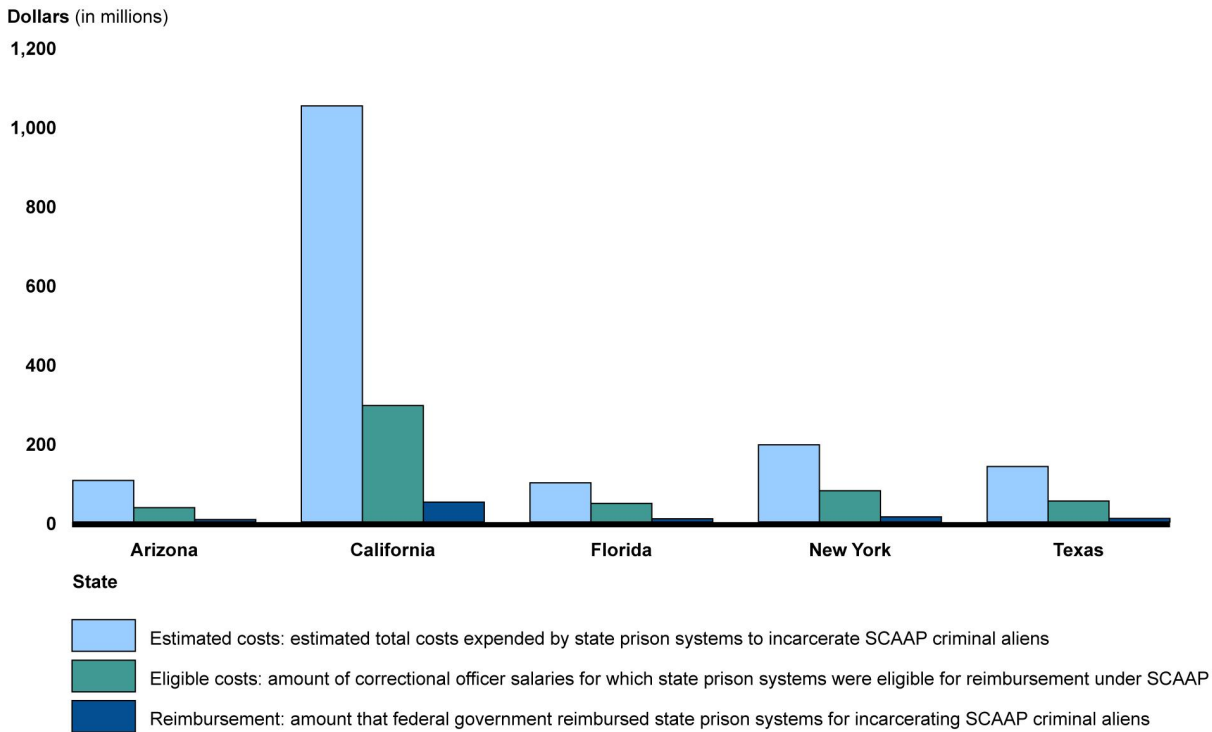
Appendix VIII: Estimated Costs and Federal Reimbursements to Incarcerate Criminal Aliens in Selected States and Localities

Based on average daily cost data, we estimated the total costs expended by five selected state prison systems to incarcerate State Criminal Alien Assistance Program (SCAAP) criminal aliens in fiscal year 2015. Specifically, as shown in figure 28, the federal government reimbursed the state prison systems with the largest number of SCAAP criminal alien incarcerations—Arizona, California, Florida, New York, and Texas—only a portion of their estimated costs to incarcerate SCAAP criminal aliens in state prisons.¹

¹We selected the five state prison systems with the highest number of SCAAP criminal alien incarcerations. Collectively, these state prison systems accounted for 64 percent of the SCAAP criminal alien incarcerations in state prisons during fiscal year 2015. These same state prison systems were selected in our April 2005 and March 2011 report. See GAO, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs*, [GAO-11-187](#) (Washington, D.C.: Mar. 24, 2011); *Information on Criminal Aliens Incarcerated in Federal and State Prisons and Local Jails*, [GAO-05-337R](#) (Washington, D.C.: Apr. 7, 2005).

Appendix VIII: Estimated Costs and Federal Reimbursements to Incarcerate Criminal Aliens in Selected States and Localities

Figure 28: Selected State Prison Systems' Estimated Costs and Federal Reimbursements to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in Fiscal Year 2015



Source: GAO analysis of Bureau of Justice Assistance data and Arizona Department of Corrections, California Department of Corrections and Rehabilitation, Florida Department of Corrections, New York State Department of Corrections and Community Supervision, and Texas Department of Criminal Justice data. | GAO-18-433

Note: SCAAP reimbursement figures may not equal the actual SCAAP awarded amount due to rounding.

Specifically, for these selected state prison systems, the federal government's reimbursement, which is only for a portion of correctional officer salaries, accounted for between 5 and 8 percent of the estimated costs associated with incarcerating SCAAP criminal aliens in fiscal year 2015.² We estimated the total costs that each of the five state prison systems expended to incarcerate SCAAP criminal aliens—based on their average daily costs—totaled about \$1.6 billion in 2015, with California accounting for 66 percent of these costs. Of the estimated \$1.6 billion, these five state prison systems were eligible to be reimbursed for about

²Our estimates of the total costs for incarcerating SCAAP criminal aliens in state prisons are based on each jurisdiction's average daily cost data and number of inmate days attributed to SCAAP criminal aliens. These average daily costs might not represent actual expenditures if expenditures on undocumented prisoners differ from expenditures in the average prison population.

Appendix VIII: Estimated Costs and Federal Reimbursements to Incarcerate Criminal Aliens in Selected States and Localities

\$509 million in correctional officer salaries under SCAAP. Based on available appropriations for SCAAP for fiscal year 2015, which reimbursed states and localities for 17 percent of eligible costs, the federal government reimbursed these state prison systems about \$86.5 million of the approximately \$509 million they were eligible to receive.

Based on average daily cost data, we estimated the total costs expended by five selected local jail systems to incarcerate SCAAP criminal aliens in fiscal year 2015. Specifically, as shown in figure 29, the federal government also reimbursed the local jail systems with the largest number of SCAAP criminal alien incarcerations—Maricopa County, Arizona; Orange County, California; Los Angeles County, California; Essex County, New Jersey; and Harris County, Texas—only a portion of their estimated expenditures to incarcerate SCAAP criminal aliens in local jails.³

³We selected the six local jail systems with the highest number of SCAAP criminal alien incarcerations. Collectively, these local jail systems accounted for 19 percent of the SCAAP criminal alien incarcerations in local jails during fiscal year 2015. These local jail systems were the same as the ones we selected in our April 2005 and March 2011 report with the exception of Essex County, New Jersey. Additionally, although New York City, New York was in the top six, we could not estimate total costs for this locality. Officials from this locality stated that they no longer apply for SCAAP funds, and they did not provide us an average daily cost per inmate.

Appendix VIII: Estimated Costs and Federal Reimbursements to Incarcerate Criminal Aliens in Selected States and Localities

Figure 29: Selected Local Jail Systems' Estimated Costs and Federal Reimbursements for Incarcerating State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in Fiscal Year 2015



Source: GAO analysis of Bureau of Justice Assistance data and Essex County, New Jersey Department of Corrections, Los Angeles County, California, Sheriff's Department; Maricopa County, Arizona Sheriff's Office; Orange County, California Sheriff's Department; and Harris County, Texas Sheriff's Office data. | GAO-18-433

Note: SCAAP reimbursement figures may not equal the actual SCAAP awarded amount due to rounding.

Specifically, for these selected local jail systems, the federal government's reimbursement, which is only for a portion of correctional officer salaries, accounted for between 4 and 7 percent of the estimated costs associated with incarcerating SCAAP criminal aliens in fiscal year 2015.⁴ We estimated the total costs that each of the five local jail systems expended to incarcerate SCAAP criminal aliens—based on their average daily costs—totaled about \$198 million in fiscal year 2015, with Los Angeles, California accounting for 44 percent of these costs. Of the estimated \$198 million, these five local jail systems were eligible to be

⁴Our estimates of the total costs for incarcerating SCAAP criminal aliens in local jails are based on each local jail system's average daily cost data and number of inmate days attributed to SCAAP criminal aliens. These average daily costs might not represent actual expenditures if expenditures on undocumented prisoners differ from expenditures in the average prison population.

Appendix VIII: Estimated Costs and Federal Reimbursements to Incarcerate Criminal Aliens in Selected States and Localities

reimbursed for about \$66 million in correctional officer salaries under SCAAP. Based on available appropriations for SCAAP for fiscal year 2015 which reimbursed states and localities for 17 percent of eligible costs, the federal government reimbursed these local jail systems about \$11.2 million of the approximately \$66 million they were eligible to receive.

Appendix IX: Removals from the United States of Aliens Convicted of a Crime, Fiscal Years 2011 through 2016

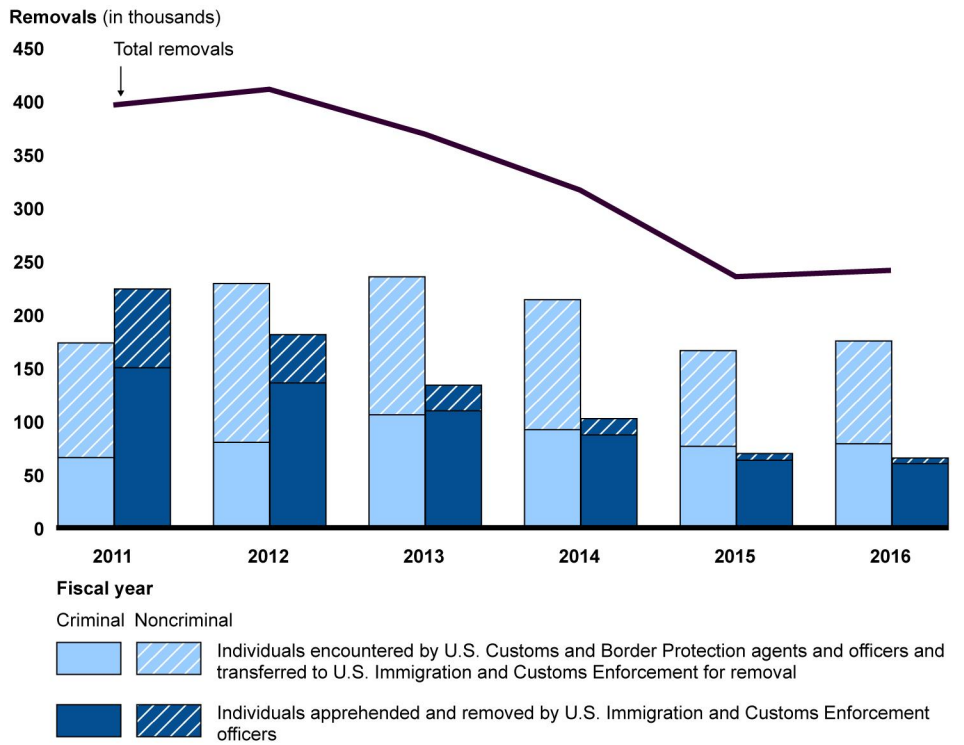
As of May 2016, U.S. Immigration and Customs Enforcement (ICE) reported that there were about 950,100 aliens with final orders of removal on ICE's docket, of which about 182,200, or 19 percent, were criminals.¹ ICE's removals of aliens include individuals apprehended by ICE officers and individuals encountered by U.S. Customs and Border Protection agents and officers that are transferred to ICE for removal from the United States. According to ICE data, between 53 and 59 percent of all aliens ICE removed each year from fiscal years 2011 through 2016 were

¹ICE defines a criminal alien as an alien convicted of a crime, either within or outside of the United States. According to ICE, these figures include individuals who could not lawfully be removed due to certain protections afforded under the Immigration and Nationality Act, such as temporary protective status or withholding of removal; individuals who may be lawfully removed but who are no longer enforcement priorities; individuals who are enforcement priorities but who have been released under conditions (e.g., electronic monitoring, regular reporting requirements, bond) due to case-specific circumstances; and individuals who are enforcement priorities and are targeted for removal through ICE's increased at-large operations, such as fugitives with criminal convictions. These figures also include aliens whose removal ICE is coordinating and aliens whose departure ICE has been unable to confirm. Additionally, there are some countries that do not cooperate with the U.S. government in accepting the return of their citizens who have final removal orders from the United States. Thomas Homan, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, response to questions for the record from the Senate Committee on the Judiciary, Subcommittee on Immigration and the National Interest regarding the hearing, *Declining Deportations and Increasing Criminal Alien Releases—The Lawless Immigration Policies of the Obama Administration*, 114th Cong., 2nd sess., May 19, 2016.

criminal aliens.² The total number of criminal aliens ICE removed from the United States decreased in recent years—from about 216,000 in fiscal year 2011 to about 139,000 in fiscal year 2016. As illustrated in figure 30, the subset of these criminal aliens who were apprehended by ICE also decreased from fiscal years 2011 through 2016, from about 150,000 to about 60,000 removals. Of all aliens apprehended by ICE who were subsequently removed from the United States, the proportion of those aliens who were criminal aliens increased each year, from 67 percent in 2011 to 92 percent in 2016.

²These data are reported by ICE in its annual *ICE Enforcement and Removal Operations Report* and includes removals administered by ICE. ICE's removal data differs from the removal data reported by DHS's Office of Immigration Statistics in its *Yearbook of Immigration Statistics* and *Annual Report on Immigration Enforcement Actions* because the DHS reports include removals administered by U.S. Customs and Border Protection. In addition, according to DHS, the removal and return numbers in these reports are estimates, largely because U.S. Customs and Border Protection records indicate which aliens the agency intends to remove and do not have explicit records of its removals. DHS's *Annual Report on Immigration Enforcement Actions* reported approximately 340,100 total removals for fiscal year 2016. Of those, ICE removed approximately 228,200 individuals, U.S. Border Patrol removed approximately 85,000 individuals, and U.S. Customs and Border Protection Office of Field Operations removed approximately 26,100 individuals.

Figure 30: U.S. Immigration and Customs Enforcement's Removals from the United States, Fiscal Years 2011 through 2016



Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-18-433

Note: ICE defines a criminal alien as an alien convicted of a crime, either within or outside of the United States.

Appendix X: Comments from the Department of Justice



U.S. Department of Justice

July 12, 2018

Washington, D.C. 20530

Gretta L. Goodwin, Ph.D.
Director, Justice and Law Enforcement Issues
Homeland Security and Justice Team
U.S. Government Accountability Office
441 G Street N.W.
Washington, DC 20548

Dear Dr. Goodwin:

Thank you for the opportunity to review and comment on your draft report titled "*Criminal Alien Statistics: Information on Incarcerations, Arrests, Convictions, Costs, and Removals* (GAO-18-433). In this report, the Government Accountability Office (GAO) presented a number of statistics regarding the apprehension, arrest, prosecution, and incarceration of aliens who committed crimes.

The Department of Justice (DOJ) appreciates the GAO's work to provide additional information on incarcerations, arrests, convictions, costs, and removals of criminal aliens. However, we explain, below, why some of the statistics cited could be misinterpreted or misunderstood by those who read the report.

Although the use of data from the State Criminal Alien Assistance Program (SCAAP) provides some insight into the level of criminality of aliens at the state and local level, as the draft report we reviewed indicates in a few locations, SCAAP information is generally not a reliable indicator of the total criminality levels of aliens at the state and local level. Our concern is that the draft report—while appropriately qualifying data throughout—does not highlight early enough in the report the limitations on using SCAAP information to avoid misinterpretation or misunderstanding by recipients of the report.

For one, the very definitional provisions of covered aliens employed in the SCAAP program leave out large numbers of criminal aliens. *See* 8 U.S.C. § 1231(i)(3)(B) (defining a covered alien as one who "has been convicted of a felony or two or more misdemeanors" and who either entered the United States unlawfully, was subject to ongoing immigration proceedings when taken into state or local custody, or who was admitted on a nonimmigrant visa but failed to maintain or comply with the conditions of their admission). Further, as GAO noted in the report, SCAAP data "does not include (a) aliens incarcerated in states or localities that did not apply for and receive federal reimbursement for costs of incarceration and (b) aliens with lawful immigration status who were not eligible for removal proceedings at the time they were taken into custody." U.S. Government Accountability Office, GAO-18-433, *Criminal Alien Statistics: Information on Incarcerations, Arrests, Convictions, Costs, and Removals* at 14 (2018). It is

Letter to Gretta Goodwin

Page 2

clear that this definition excludes potential large numbers of crimes committed by aliens at the state and local level—such as an alien who has been convicted of one serious misdemeanor such as Driving Under the Influence.

Similarly, citations to reduced costs associated with the program on an annual basis, or to declines in the total SCAAP population, do not accurately reflect the total criminality level of aliens at the state and local level. The draft report we reviewed contained appropriate qualifications—such as footnote 43 on page 14—but such qualifications would be more appropriately highlighted in a different manner to ensure that an individual reading the report does not misinterpret or misunderstand the data.

Conclusion

Thank you again for the opportunity to review and comment on this report. We look forward to working with the GAO and continuing to build on our successful relationship. Furthermore, we encourage the GAO to make the effort to explain accurately to others the inferences that might be drawn from this report regarding the numbers of criminal aliens in the law enforcement system.

Sincerely,



for Lee J. Lofthus
Assistant Attorney general
for Administration

Appendix XI: GAO Contact and Staff Acknowledgments

GAO Contact

Gretta L. Goodwin, (202) 512-8777 or goodwing@gao.gov

Staff Acknowledgments

In addition to the contact named above, Meg Ullengren (Assistant Director), Tracey Cross (Analyst-in-Charge), Brian Lipman, Mary Pitts, Cindy Ayers, April Yeane, Adam Vogt, Jan Montgomery, Heidi Nielson, Hiwotte Amare, Pamela Davidson, Lilia Chaidez, Jim Ashley, Khristi Wilkins, and Eric Hauswirth made key contributions to this work.

Appendix XII: Accessible Data

Data Tables

Data Table for Estimated Number of Individuals, by Citizenship, Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016

Fiscal year	Criminal aliens	U.S. citizens
2011	50409	148519
2012	52353	151181
2013	51493	152675
2014	49309	154161
2015	44899	151916
2016	39522	144482

Data Table for Figure 1: Estimated Number of Individuals, by Citizenship, Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016

Fiscal Year	U.S. citizens	Criminal aliens
2011	148519	50409
2012	151181	52353
2013	152675	51493
2014	154161	49309
2015	151916	44899
2016	144482	39522

Data Table for Figure 3: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations from Fiscal Years 2010 through 2015

Fiscal Year	Number of SCAAP criminal alien incarcerations in local jails	Number of SCAAP criminal alien incarcerations in state prisons, including District of Columbia jails	Number of SCAAP criminal alien incarcerations in U.S. territories
2010	189003	92203	1047
2011	169188	86364	806
2012	156796	80677	786
2013	130529	71954	733
2014	117762	70396	741
2015	99138	69351	830

Data Table for Figure 6: Estimated Number of Arrests/Transfers from 1974 through 2017 per Criminal Alien Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number

Arrest Transfers	Estimated Number
1 to five arrests/transfers	100,027
6 to 10 arrests/transfers	60,334
11 to 15 arrests/transfers	25,404
16 to 20 arrests/transfers	5,557
21 to 25 arrests/transfers	2,779
26 or more arrests/transfers	2,779

Data Table for Figure 8: Estimated Percentage of Criminal Aliens Incarcerated in Federal Prisons from Fiscal Years 2011 through 2016 who had an FBI Number that were Arrested/Transferred At Least Once from 1974 through 2017 by Offense Category, Attempted or Committed

Violation	Percentage
Immigration	89.1129
Drugs	60.28226
Obstruction of justice	30.44355
Traffic violations	30.44355
Assault	24.39516
Other	20.76613
Fraud, forgery, and counterfeiting	19.35484
Larceny/theft	15.72581
Weapons violations	12.29839

Violation	Percentage
Burglary	11.49194
Property damage	6.048387
Disorderly Conduct	5.846774
Motor vehicle theft	5.645161
Robbery	5.443548
Sex offenses	5.241935
Stolen property	4.032258
Kidnapping	2.217742
Homicide	1.814516
Arson	0.201613
Terrorism	0.201613

Data Table for Figure 9: Estimated Number of Arrests/Transfers from 1964 through 2017 per State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number

Arrest Transfers	Estimated number
1 to five arrests/transfers	327,004
6 to 10 arrests/transfers	118,115
11 to 15 arrests/transfers	42,653
16 to 20 arrests/transfers	24,060
21 to 25 arrests/transfers	9,843
26 or more arrests/transfers	10,937

Data Table for Figure 11: Estimated Percentage of State Criminal Alien Assistance Program (SCAAP) Criminal Aliens Incarcerated in State Prisons and Local Jails from Fiscal Years 2010 through 2015 who had an FBI Number that were Arrested/Transferred At Least Once from 1964 through 2017 by Offense Category, Attempted or Committed

Description	Estimated Percent
Immigration	65.0924
Traffic violations	53.59343
Obstruction of justice	44.14784
Drugs	39.01437
Assault	31.00616
Other	27.10472
Larceny/theft	22.17659
Fraud, forgery, and counterfeiting	21.97125
Burglary	15.19507

Description	Estimated Percent
Weapons violations	13.55236
Sex offenses	12.73101
Disorderly Conduct	9.650924
Motor vehicle theft	8.418891
Stolen property	7.597536
Property damage	7.392197
Robbery	7.186858
Homicide	4.517454
Kidnapping	2.669405
Arson	0.410678
Terrorism	0.205339

Data Table for Figure 13: Federal Costs to Incarcerate Criminal Aliens from Fiscal Years 2010 through 2015

Total Federal Prison and SCAAP Costs (in millions).

Fiscal year	Costs to reimburse states and localities for incarcerating State Criminal Alien Assistance Program (SCAAP) criminal aliens	Estimated costs associated with incarcerating criminal aliens in federal prisons
2010	272	1289
2011	214	1324
2012	213	1369
2013	161	1318
2014	165	1288
2015	189	1230

Data Table for Figure 14: State Criminal Alien Assistance Program (SCAAP) Reimbursements to States and Localities from Fiscal Years 2010 through 2015

Dollars in millions

Fiscal year	2010	2011	2012	2013	2014	2015
State prison systems, including District of Columbia jail	167	130	132	103	104	121
Local jail systems	104	83	80	58	61	67
U.S. Territories prisons and jails	1.2	0.9	1	0.7	0.7	1
TOTAL	272.2	213.9	213	161	165	189

Data Table for Figure 15: Estimated Selected Operating Costs to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in All 50 State Prison Systems from Fiscal Years 2010 through 2015

Dollars in millions.

Fiscal year	Estimated costs: estimated selected operating costs (correctional officer salaries, medical care, food service, and utilities) expended by state prison systems to incarcerate SCAAP criminal aliens	Eligible costs: amount of correctional officer salaries for which state prison systems were eligible for reimbursement under SCAAP	Reimbursement: amount that federal government reimbursed state prison systems for incarcerating SCAAP criminal aliens
2010	1169	743	165
2011	1146	729	127
2012	1132	723	133
2013	1087	706	103
2014	1080	697	102
2015	1113	725	120

Data Table for Figure 16: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations by State from Fiscal Years 2010 through 2015

SCAAP criminal alien incarcerations, by Fiscal Year.

State	2010	2011	2012	2013	2014	2015
Alaska	114	59	88	150	104	121
Alabama	379	366	378	253	221	237
Arkansas	976	1126	1037	819	646	601
Arizona	16788	12674	12107	11406	11149	10300
California	91674	80473	70745	54959	50666	42188
Colorado	6736	5578	5336	5070	3883	4165
Connecticut	474	469	483	453	333	440
District of Columbia	529
Delaware	35	34	33	63	66	59
Florida	15514	14643	14145	12725	11604	12475
Georgia	7682	7331	5937	4947	4306	4041
Hawaii	325	253	371	290	273	298
Iowa	568	815	570	557	552	636
Idaho	1169	933	788	697	656	565
Illinois	9654	9193	8228	7503	6608	6162
Indiana	2043	2076	1889	1598	1521	1626

Appendix XII: Accessible Data

State	2010	2011	2012	2013	2014	2015
Kansas	1331	1273	1230	1126	917	777
Kentucky	1117	933	724	746	686	554
Louisiana	274	273	326	176	152	133
Massachusetts	1961	2085	2166	2212	2125	1577
Maryland	2417	2413	2330	1978	2083	2048
Maine	101	90	141	92	109	87
Michigan	1749	1759	1591	1256	1224	1156
Minnesota	2132	2260	2221	1877	1736	1710
Missouri	773	615	660	184	342	352
Mississippi	367	228	149	41	39	34
Montana	44	54	58	29	37	40
North Carolina	8673	7250	6192	5517	4762	4379
North Dakota	58	61	44	53	65	86
Nebraska	1783	1546	1341	1292	1079	1146
New Hampshire	177	147	195	184	148	149
New Jersey	11216	11043	14039	12786	12132	9783
New Mexico	2279	1786	1694	1584	1106	907
Nevada	6659	5981	3856	3523	3614	3648
New York	11392	11131	10553	9528	10065	8877
Ohio	1887	2692	2047	2009	1724	1422
Oklahoma	2771	2344	2621	2466	2737	2161
Oregon	4812	4520	4065	3335	2801	2440
Pennsylvania	2547	2223	2710	2933	2857	2752
Rhode Island	413	418	414	352	397	396
South Carolina	4072	5334	4497	3163	2640	2207
South Dakota	340	225	253	273	242	235
Tennessee	2338	2227	2021	1161	1431	1165
Texas	35839	32298	31446	27566	25238	22477
Utah	3608	2863	3009	2505	2186	1916
Virginia	4387	5503	5337	4732	4274	3955
Vermont	19	11	17	16	22	.
Washington	5998	5479	5035	4218	4276	3866
Wisconsin	2917	2358	2273	2070	2250	2070
West Virginia	25	47	29	10	8	1
Wyoming	70	59	54	.	66	69

Data Table for Figure 19: Primary Offenses for Which Individuals Were Convicted, for Offense Categories with the Greatest Number of Federal Convictions, by Citizenship, from Fiscal Years 2011 through 2016

U.S. citizen.

Fiscal year	Drugs	Immigration	Economic Crimes	Firearms	Total
2011	17616	1579	8873	7041	43553
2012	17589	1283	8974	7371	43861
2013	16840	1300	8612	7420	42976
2014	16568	1381	9029	7380	43479
2015	15562	1517	8076	6627	41059
2016	14407	1679	7462	6873	39192

Criminal aliens.

Fiscal year	Drugs	Immigration	Economic Crimes	Firearms	Total
2011	7823	27912	2498	783	40164
2012	8518	24879	2187	706	37512
2013	7782	23496	1900	618	35046
2014	7347	20823	1550	532	31432
2015	6923	19240	1575	421	29166
2016	6924	18359	1327	426	28010

Data Table for Figure 25: Estimated Federal Costs to Incarcerate Criminal Aliens from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars

Total Federal Prison and SCAAP Costs (in millions).

Fiscal year	Costs to reimburse states and localities for incarcerating State Criminal Alien Assistance Program (SCAAP) criminal aliens	Estimated costs associated with incarcerating criminal aliens in federal prisons
2010	300	1419
2011	231	1430
2012	226	1451
2013	168	1374
2014	169	1319
2015	191	1245

Data Table for Figure 26: State Criminal Alien Assistance Program (SCAAP) Reimbursements to States and Localities from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars

Total SCAAP reimbursement data by fiscal year (figures in chained 2016 dollars and in millions).

Fiscal year	State prison systems, including District of Columbia jail	Local jail systems	U.S. Territories prisons and jails	TOTAL
2010	184	115	1.3	300.3
2011	140	90	1	231
2012	140	85	1.1	226.1
2013	107	60	0.8	167.8
2014	106	62	0.7	168.7
2015	123	68	1	191

Data Table for Figure 27: Estimated Selected Operating Costs to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in All 50 State Prison Systems from Fiscal Years 2010 through 2015 in Fiscal Year 2016 Dollars

Dollars in millions.

Fiscal year	Estimated costs: estimated selected operating costs (correctional officer salaries, medical care, food service, and utilities) expended by state prison systems to incarcerate SCAAP criminal aliens	Eligible costs: amount of correctional officer salaries for which state prison systems were eligible for reimbursement under SCAAP	Reimbursement: amount that federal government reimbursed state prison systems for incarcerating SCAAP criminal aliens
2010	1287	819	181
2011	1237	787	137
2012	1200	766	141
2013	1133	736	107
2014	1105	714	104
2015	1126	734	121

Data Table for Figure 28: Selected State Prison Systems' Estimated Costs and Federal Reimbursements to Incarcerate State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in Fiscal Year 2015

Dollars in millions.

State	Estimated costs: estimated total costs expended by state prison systems to incarcerate SCAAP criminal aliens	Eligible costs: amount of correctional officer salaries for which state prison systems were eligible for reimbursement under SCAAP	Reimbursement: amount that federal government reimbursed state prison systems for incarcerating SCAAP criminal aliens
Arizona	105	36	6
California	1051	294	50
Florida	99	47	8
New York	195	79	13
Texas	140	53	9

Data Table for Figure 29: Selected Local Jail Systems' Estimated Costs and Federal Reimbursements for Incarcerating State Criminal Alien Assistance Program (SCAAP) Criminal Aliens in Fiscal Year 2015

Dollars in millions.

Location	Estimated costs: estimated total costs expended by local jail systems to incarcerate SCAAP criminal aliens	Eligible costs: amount of correctional officer salaries for which local jail systems were eligible for reimbursement under SCAAP	Reimbursement: amount that federal government reimbursed local jail systems for incarcerating SCAAP criminal aliens
Maricopa County, AZ	18	4	1
Los Angeles County, CA	88	35	6
Orange County, CA	31	9	1
Essex County, NJ	46	12	2
Harris County, TX	16	5	1

Data Table for Figure 30: U.S. Immigration and Customs Enforcement's Removals from the United States, Fiscal Years 2011 through 2016

Fiscal year	Individuals encountered by U.S. Customs and Border Protection agents and officers and transferred to U.S. Immigration and Customs Enforcement for removal		Individuals apprehended and removed by U.S. Immigration and Customs Enforcement officers		
	Criminal	Noncriminal	Criminal	Noncriminal	Total
2011	65797	107354	149916	73839	396906
2012	80108	148771	135728	45243	409849
2013	105792	129301	109512	24039	368644
2014	91899	121820	86890	15334	315943
2015	76330	89605	63225	6253	235413
2016	78715	96208	60105	5227	240255

Agency Comment Letter

Text of Appendix X: Comments from the Department of Justice

Page 1

Dear Dr. Goodwin:

Thank you for the opportunity to review and comment on your draft report titled "Criminal Alien Statistics: Information on Incarcerations, Arrests, Convictions, Costs, and Removals (GAO-18- 433). In this report, the Government Accountability Office (GAO) presented a number of statistics regarding the apprehension, arrest, prosecution, and incarceration of aliens who committed crimes.

The Department of Justice (DOJ) appreciates the GAO's work to provide additional information on incarcerations, arrests, convictions, costs, and removals of criminal aliens. However, we explain, below, why some of the statistics cited could be misinterpreted or misunderstood by those who read the report.

Although the use of data from the State Criminal Alien Assistance Program (SCAAP) provides some insight into the level of criminality of aliens at the state and local level, as the draft report we reviewed indicates in a few locations, SCAAP information is generally not a reliable indicator of the total criminality levels of aliens at the state and local level. Our concern is that the draft report-while appropriately qualifying data throughout-does not highlight early enough in the report the limitations on using SCAAP information to avoid misinterpretation or misunderstanding by recipients of the report.

For one, the very definitional provisions of covered aliens employed in the SCAAP program leave out large numbers of criminal aliens. See 8 U.S.C. § 1231(i)(3)(B) (defining a covered alien as one who "has been convicted of a felony or two or more misdemeanors" and who either entered the United States unlawfully, was subject to ongoing immigration proceedings when taken into state or local custody, or who was admitted on a nonimmigrant visa but failed to maintain or comply with the conditions of their admission). Further, as GAO noted in the report, SCAAP data "does not include (a) aliens incarcerated in states or localities that did not apply

for and receive federal reimbursement for costs of incarceration and (b) aliens with lawful immigration status who were not eligible for removal proceedings at the time they were taken into custody." U.S. Government Accountability Office, GAO-18-433, Criminal Alien Statistics: Information on Incarcerations, Arrests, Convictions, Costs, and Removals at 14 (2018). It is clear that this definition excludes potential large numbers of crimes committed by aliens at the state and local level-such as an alien who has been convicted of one serious misdemeanor such as Driving Under the Influence.

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Similarly, citations to reduced costs associated with the program on an annual basis, or to declines in the total SCAAP population, do not accurately reflect the total criminality level of aliens at the state and local level. The draft report we reviewed contained appropriate qualifications-such as footnote 43 on page 14-but such qualifications would be more appropriately highlighted in a different manner to ensure that an individual reading the report does not misinterpret or misunderstand the data.

Conclusion

Thank you again for the opportunity to review and comment on this report. We look forward to working with the GAO and continuing to build on our successful relationship. Furthermore, we encourage the GAO to make the effort to explain accurately to others the inferences that might be drawn from this report regarding the numbers of criminal aliens in the law enforcement system.

Sincerely,

Lee J. Lofthus
Assistant Attorney general or Administration

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