

Why GAO Did This Study

The Department of Homeland Security (DHS) estimated that as of fiscal year 2009 the total alien—non-U.S.-citizen—population was about 25.3 million, including about 10.8 million aliens without lawful immigration status. Some aliens have been convicted and incarcerated (criminal aliens). The federal government bears these incarceration costs for federal prisons and reimburses states and localities for portions of their costs through the Department of Justice’s (DOJ) State Criminal Alien Assistance Program (SCAAP). GAO was asked to update its April and May 2005 reports that contained information on criminal aliens. This report addresses (1) the number and nationalities of incarcerated criminal aliens; (2) the types of offenses for which criminal aliens were arrested and convicted; and (3) the costs associated with incarcerating criminal aliens and the extent to which DOJ’s methodology for reimbursing states and localities for incarcerating criminal aliens is current and relevant. GAO analyzed federal and SCAAP incarceration and cost data of criminal aliens from fiscal years 2003 through 2010, and conviction and cost data from five states that account for about 70 percent of the SCAAP criminal alien population in 2008. GAO analyzed a random sample of 1,000 criminal aliens to estimate arrest information due to the large volume of arrests and offenses. GAO also estimated selected costs to incarcerate criminal aliens nationwide using DOJ data, among other sources.

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CRIMINAL ALIEN STATISTICS

Information on Incarcerations, Arrests, and Costs

What GAO Found

The number of criminal aliens in federal prisons in fiscal year 2010 was about 55,000, and the number of SCAAP criminal alien incarcerations in state prison systems and local jails was about 296,000 in fiscal year 2009 (the most recent data available), and the majority were from Mexico. The number of criminal aliens in federal prisons increased about 7 percent from about 51,000 in fiscal year 2005 while the number of SCAAP criminal alien incarcerations in state prison systems and local jails increased about 35 percent from about 220,000 in fiscal year 2003. The time period covered by these data vary because they reflect updates since GAO last reported on these issues in 2005. Specifically, in 2005, GAO reported that the percentage of criminal aliens in federal prisons was about 27 percent of the total inmate population from 2001 through 2004.

Based on our random sample, GAO estimates that the criminal aliens had an average of 7 arrests, 65 percent were arrested at least once for an immigration offense, and about 50 percent were arrested at least once for a drug offense. Immigration, drugs, and traffic violations accounted for about 50 percent of arrest offenses. About 90 percent of the criminal aliens sentenced in federal court in fiscal year 2009 (the most recently available data) were convicted of immigration and drug-related offenses. About 40 percent of individuals convicted as a result of DOJ terrorism-related investigations were aliens. SCAAP criminal aliens incarcerated in selected state prison systems in Arizona, California, Florida, New York, and Texas were convicted of various offenses in fiscal year 2008 (the most recently available data at the time of GAO’s analysis). The highest percentage of convictions for criminal aliens incarcerated in four of these states was for drug-related offenses. Homicide resulted in the most primary offense convictions for SCAAP criminal aliens in the fifth state—New York—in fiscal year 2008.

GAO estimates that costs to incarcerate criminal aliens in federal prisons and SCAAP reimbursements to states and localities ranged from about \$1.5 billion to \$1.6 billion annually from fiscal years 2005 through 2009; DOJ plans to update its SCAAP methodology for reimbursing states and localities in 2011 to help ensure that it is current and relevant. DOJ developed its reimbursement methodology using analysis conducted by the former Immigration and Naturalization Service in 2000 that was based on 1997 data. Best practices in cost estimating and assessment of programs call for new data to be continuously collected so it is always relevant and current. During the course of its review, GAO raised questions about the relevancy of the methodology. Thus, DOJ developed plans to update its methodology in 2011 using SCAAP data from 2009 and would like to establish a 3-year update cycle to review the methodology in the future. Doing so could provide additional assurance that DOJ reimburses states and localities for such costs consistent with current trends.

In commenting on a draft of this report, DHS and DOJ had no written comments to include in the report.