

GAO Highlights

Highlights of [GAO-20-172](#), a report to the Chairwoman, Subcommittee on Immigration and Citizenship, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

In 2017 and 2018, the Attorney General directed federal prosecutors to prioritize prosecutions of immigration-related offenses, including improper entry into the United States, illegal reentry after a prior removal from the country, and alien smuggling, among other offenses. Most individuals prosecuted for such offenses are arrested by DHS's U.S. Border Patrol and referred to DOJ's USAOs for prosecution in federal court.

GAO was asked to review the actions DOJ, DHS, and the federal judiciary took in response to the 2017 and 2018 memoranda. GAO reviewed (1) how DOJ prioritized prosecutions of immigration-related offenses in response to the Attorney General's memoranda, (2) what DHS and DOJ data from fiscal years 2014 through 2018 indicate about such prosecutions, and (3) resources that DOJ, DHS, and the federal judiciary used to support increased immigration-related prosecutions. GAO visited three of the five southwest border USAO districts and interviewed DOJ, DHS, and federal judiciary officials by phone from the other two districts. GAO also analyzed U.S. Border Patrol data on its arrests and prosecution referrals from fiscal years 2014 through 2018; analyzed Executive Office for U.S. Attorneys data on its prosecutions from fiscal years 2014 through 2018; and reviewed relevant laws and DOJ, DHS, and federal judiciary policies, operational guidance, and budget data.

This is a public version of a sensitive report that GAO issued in August 2019. Information that DOJ, DHS, or the federal judiciary deemed sensitive has been removed.

View [GAO-20-172](#) for more information, or contact Gretta L. Goodwin at (202) 512-8777 or email at goodwing@gao.gov.

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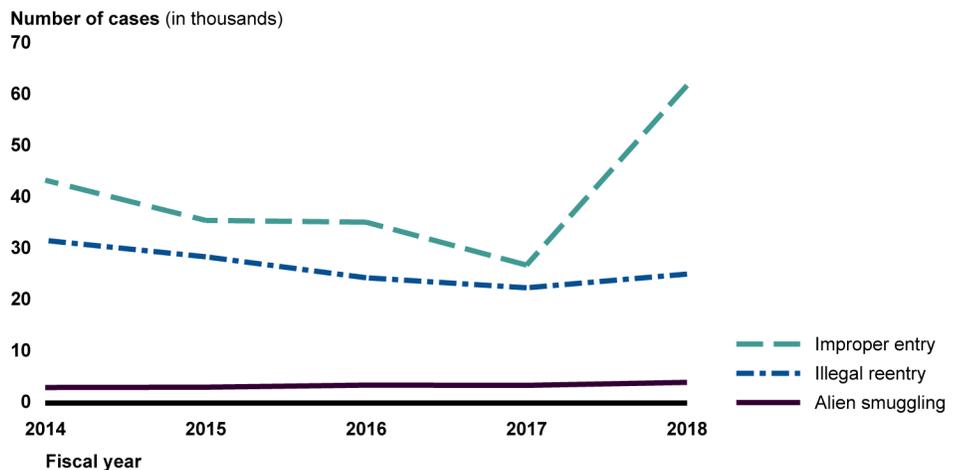
IMMIGRATION ENFORCEMENT

Immigration-Related Prosecutions Increased from 2017 to 2018 in Response to U.S. Attorney General's Direction

What GAO Found

Department of Justice (DOJ) U.S. Attorney's Offices (USAO) in all five districts along the southwest border—Arizona, California Southern, New Mexico, Texas Southern, and Texas Western—have adopted prosecution priorities aligned with the Attorney General's prioritization of criminal immigration enforcement. In particular, all five USAOs prioritized misdemeanor improper entry cases in response to the Attorney General's 2017 and 2018 memoranda. Some USAOs, such as Arizona, were able to quickly increase such prosecutions using existing practices. In other districts, such as California Southern, USAOs had to establish new practices in coordination with other stakeholders in the federal criminal prosecution process—including the Department of Homeland Security (DHS), other DOJ components such as the U.S. Marshals Service (USMS), and the federal judiciary—before they could begin accepting a significant number of improper entry cases.

Improper Entry, Illegal Reentry, and Alien Smuggling Cases Filed in U.S. Southwest Border Districts, by Lead Charge, Fiscal Years 2014-2018



Source: GAO analysis of Executive Office for U.S. Attorneys data. | GAO-20-172

Note: The lead charge is typically the most serious charged offense at the time the case is filed.

The number of improper entry cases more than doubled from fiscal year 2017 (about 27,000) to fiscal year 2018 (about 62,000). In fiscal year 2018, about 84 percent of all improper entry cases filed were completed in districts with one-day improper entry court proceedings. In these proceedings, the initial hearing, presentation of evidence, plea, and sentencing took place in one day or less.

DOJ, DHS, and the federal judiciary realigned resources to support the prosecution priorities outlined in the 2017 and 2018 memoranda, including personnel and physical space. In addition, agencies temporarily surged personnel to the southwest border. For example, USMS reassigned personnel from other enforcement areas to judicial security duties to support increased immigration-related prosecutions.