

Alien Incarceration Report Fiscal Year 2018, Quarter 2

April 16, 2019



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On January 25, 2017, the President signed Executive Order (E.O.) 13768 on *Enhancing Public Safety in the Interior of the United States*.

Section 16 of the E.O. directs the U.S. Department of Homeland Security (DHS) and the U.S. Department of Justice (DOJ) to collect relevant data and provide quarterly reports on: (a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons (BOP); (b) the immigration status of all aliens incarcerated as federal pretrial detainees under the supervision of the United States Marshals Service (USMS); and (c) the immigration status of all convicted aliens incarcerated in state prisons and local detention centers throughout the United States.

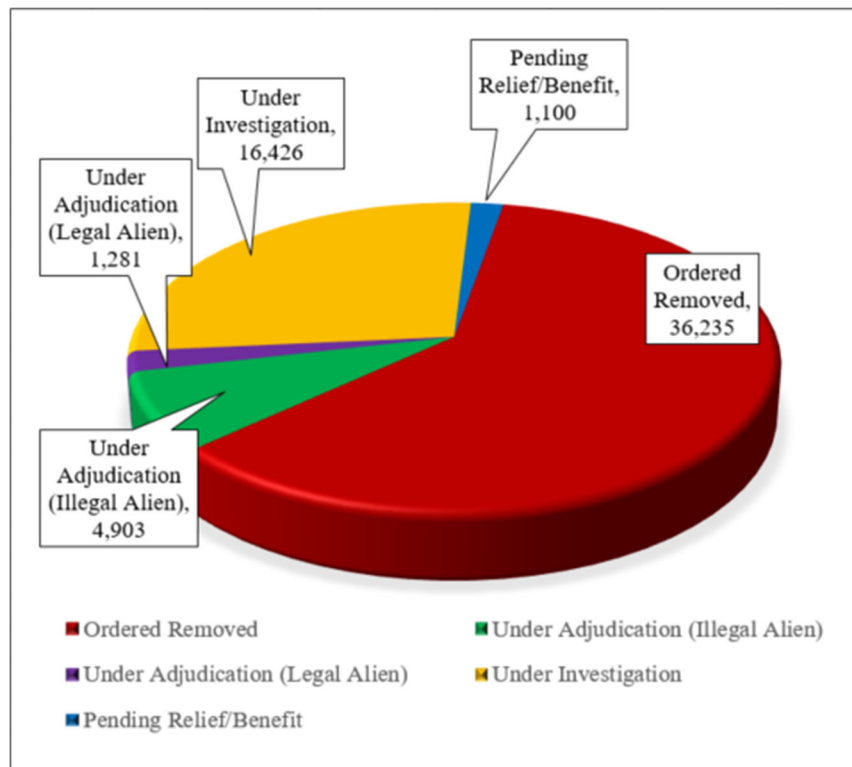
This report includes data on known or suspected aliens under the custody of BOP or USMS, and limited data regarding the immigration status of convicted aliens incarcerated in state prisons and local detention centers throughout the United States. Future reports will also provide additional information regarding the immigration status of aliens incarcerated in state prisons and local detention centers.

Summary of Findings

A total of 59,945 known or suspected aliens were in DOJ custody for a range of offenses at the end of the second quarter of Fiscal Year 2018 (FY18) (*see* Figure 1). Of those, 36,235 were confirmed aliens with orders of removal or who had agreed to depart voluntarily, 16,426 were still under investigation by ICE to determine alienage, 4,903 were aliens who were illegally present and undergoing removal proceedings, and 1,281 were legally present and undergoing removal proceedings. A total of 1,100 aliens in DOJ custody had been granted relief or protection from removal.



Figure 1: Immigration Status of Known or Suspected Aliens in DOJ Custody, FY18 Q2



Source: U.S. Department of Justice, U.S. Department of Homeland Security

This report also includes the available data regarding alien populations in state and local facilities, including aggregate data collected by DOJ, data reported directly to the public by state authorities, and other information made available through public reporting. The lack of comprehensive data on this topic is a noteworthy limitation of this report, because state and local facilities account for approximately 90 percent of the total U.S. incarcerated population. DOJ and DHS are continuing to develop and establish methods to collect, estimate, and analyze accurate data regarding the impact of aliens on public safety and the criminal justice system at the state and local levels. This section of the report will continue to expand as these methodologies and procedures are improved or more information becomes available.

Process

Pursuant to E.O. 13768, USMS and BOP provide U.S. Immigration and Customs Enforcement (ICE) with data on a quarterly basis regarding inmates and detainees identified as foreign-born during their criminal case process.¹ In turn, ICE checks USMS and BOP data against its ICE Enforcement and Removal Operations (ERO) case management system, the ENFORCE Alien

¹ Total counts in BOP and USMS custody reflect the populations on reported dates and are not quarterly or yearly totals.



Removal Module (EARM), and the U.S. Citizenship and Immigration Services Central Index System to identify aliens with immigration records and pending or completed removal proceedings.

This approach allows ICE to place each known or suspected alien within one of the following five categories:

- Under Investigation: Further investigation by ICE is required to confirm alien status and establish potential removability.
- Under Adjudication – Legal: The person is lawfully present in the United States but has been charged as a removable alien; removal proceedings are ongoing.
- Under Adjudication – Illegal: The person is unlawfully present² in the United States and has been charged as a removable alien; removal proceedings are ongoing.
- Ordered Removed: The person is an alien who has been issued a final order of removal or has agreed to depart voluntarily, and therefore has no lawful status.
- Relief/Benefit: The person is an alien who has been granted relief or protection from removal that would generally be considered lawful status. However, depending on the nature of the inmate’s criminal offense, his or her status may be subject to review and rescission or revocation by DHS or an immigration judge.

Once ICE checks the USMS and BOP data, it returns its findings to USMS and BOP. That data is then utilized by USMS and BOP to generate statistics relevant to E.O. 13768, including the primary offenses committed, costs of incarceration, and other factors affecting public safety and the criminal justice system. USMS and BOP are continuing to develop their process to allow for more robust reporting of information related to E.O. 13768.

Immigration Status of and Offenses Committed by Known or Suspected Aliens in BOP Custody

A. Immigration Status of Known or Suspected Aliens in BOP Custody

As of March 31, 2018, 38,391 known or suspected aliens were in BOP custody (approximately 21 percent of the 183,291 total individuals in BOP custody on that date). More than half of the 38,391 known or suspected aliens (approximately 64 percent) were confirmed not to have lawful immigration status in the United States, including 21,170 (55 percent of the total number of known or suspected aliens in BOP custody) who had been ordered removed, and 3,316 (nearly nine percent) who were unlawfully present and in removal proceedings. Nearly three percent of the known or suspected aliens in BOP custody (1,007 individuals) were lawfully present and in

² “Unlawful presence” includes those circumstances where an “alien is present in the United States after the expiration of the period of stay authorized ... or is present in the United States without being admitted or paroled.”

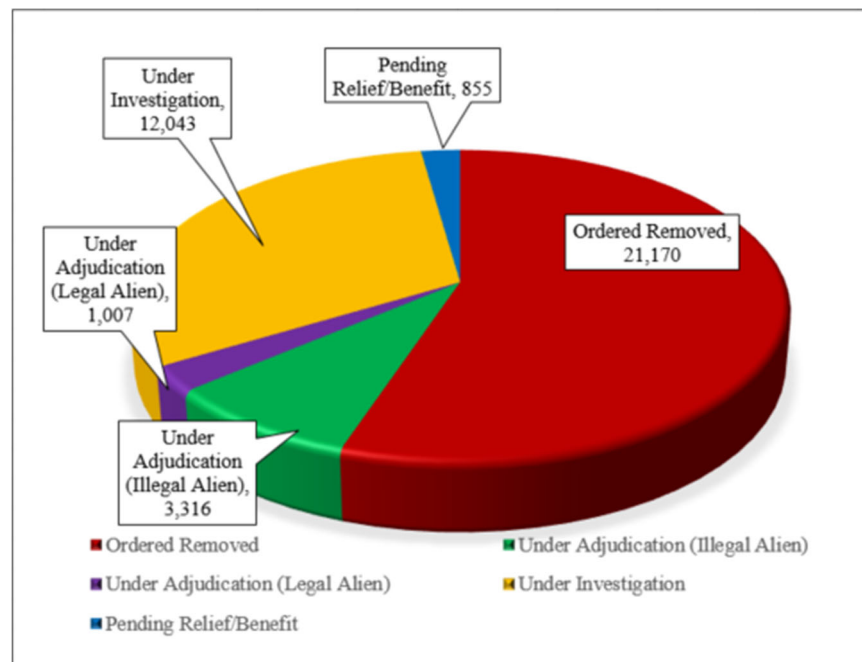
8 U.S.C. § 1182(a)(9)(B)(ii).



removal proceedings, and 855 aliens (approximately two percent) had received an immigration benefit or relief or protection from removal (*see* Figure 2).

DOJ and DHS expect the proportion of aliens remaining in the “under investigation” status to continue to decline over time. As of March 2018, only 31 percent (12,043) of the known or suspected aliens were under investigation, approximately the same percentage as in the first quarter of FY18, and down from the third and fourth quarters of FY17 (50 percent and 38 percent, respectively).

Figure 2: Known or Suspected Aliens in BOP Custody, FY18 Q2



Source: U.S. Department of Justice, U.S. Department of Homeland Security

B. Primary Offenses Committed by Known or Suspected Aliens in BOP Custody

Approximately 46 percent (17,540) of the known or suspected aliens in BOP custody committed drug trafficking or other drug-related offenses (such as conspiracy to commit drug trafficking offenses, or smuggling large amounts of drugs on the high seas) as their primary offense, making it the most common type of offense (*see* Figure 3). Of the 17,540 known or suspected aliens in BOP custody with a drug offense as their primary offense, 17,354 (approximately 99 percent) were convicted of drug trafficking or other drug trafficking-related crimes. Only 186 (approximately one percent of the known or suspected aliens with a drug offense as their primary offense) had a primary offense of simple possession—and many of these were traffickers who



were caught with significant amounts of drugs but were convicted of lesser offenses as a result of circumstances such as plea bargains.³

Approximately 28 percent (10,693) of the known or suspected aliens in BOP custody had committed immigration offenses (such as human trafficking or illegal reentry after deportation) as their primary offense. The third-largest category (approximately nine percent, or 3,582 individuals) of known or suspected aliens in BOP custody were individuals awaiting trial. Drug trafficking-related and immigration offenses were the most common primary charges associated with those in the pre-trial category.

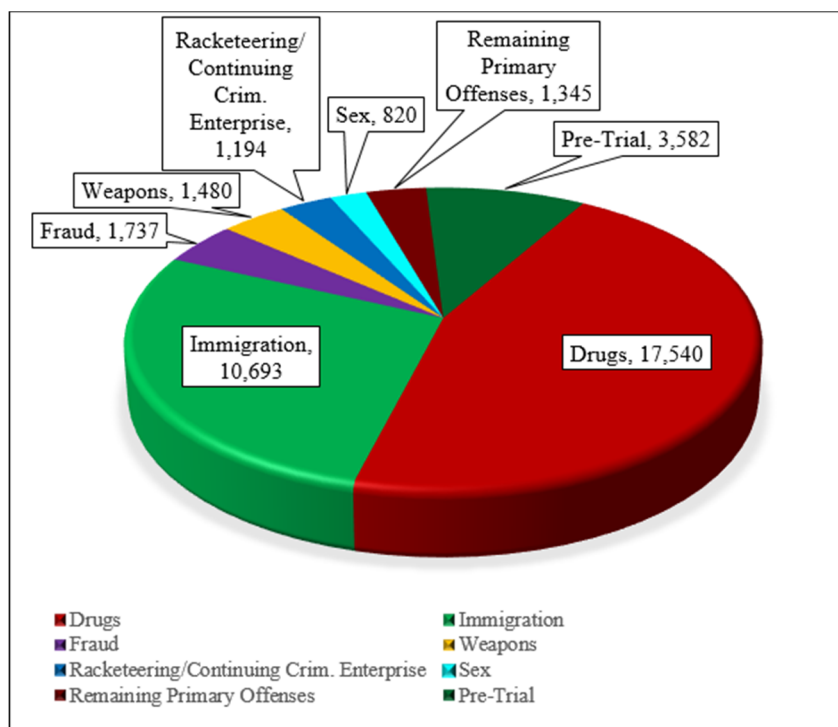
Of the known or suspected aliens in BOP custody, approximately five percent (1,737) had committed fraud as their primary offense. Another four percent (1,480) committed weapons offenses (including firearms offenses). Racketeering and continuing criminal enterprise offenses (including murder for hire) were the primary offenses committed by approximately 3 percent (1,194), and obscene materials offenses (such as the production or distribution of child pornography) and other sex offenses were the primary offenses committed by approximately 2 percent (820). Other primary offenses committed by smaller numbers of known or suspected aliens in BOP custody included kidnapping, murder, larceny, terrorism, escape, bribery and extortion, rape, and other offenses—aside from terrorism-related offenses, many of these types of offenses are typically prosecuted at the state and local level.

Future reports will also include information regarding costs associated with incarcerating aliens in BOP custody.

³ The proportion of drug offenders sentenced for drug trafficking is generally consistent throughout the entire federal prison population. According to the Bureau of Justice Statistics, “[m]ore than 99% of federal drug offenders are sentenced for trafficking.” See Bureau of Justice Statistics, *Prisoners in 2016* (Jan. 2018), <https://www.bjs.gov/content/pub/pdf/p16.pdf>.



Figure 3: Primary Offenses Committed by Known or Suspected Aliens in BOP Custody, FY18 Q2



Source: U.S. Department of Justice, U.S. Department of Homeland Security

C. Examples of Newly Sentenced or Incarcerated Aliens in BOP Custody

The following are examples of aliens who were recently sentenced or incarcerated for federal offenses.

- **Yovanny Aroldo Mendivil-Balderama** (W.D. Mo.), 23, a Mexican national who resided in Missouri, was sentenced to 50 years in federal prison, after he pled guilty to participating in a conspiracy to distribute methamphetamine in Greene, Dallas, Webster and Christian counties in Missouri, from April 2015 through April 2016. He also pled guilty to using a firearm in furtherance of a drug-trafficking crime, resulting in the murder of Oscar Adan Martinez-Gaxiola on April 25, 2016.

According to court documents, Mendivil-Balderama and Martinez-Gaxiola obtained large amounts of methamphetamine from either Arizona or Mexico and transported it to Missouri. They supplied methamphetamine to co-defendant Brooke Danielle Beckley, 21, of Nixa, Missouri, for distribution in the Springfield area. On April 6, 2016, law enforcement officers seized from Beckley's hotel room approximately 1.9 kilograms of methamphetamine, a loaded 20-gauge shotgun with a sawed off barrel and stock, four rounds of additional shotgun ammunition, a .22-caliber pistol, a drug ledger, and \$3,663. The seizure of the 1.9 kilograms of methamphetamine created a \$44,000 debt that



Beckley owed to both Mendivil-Balderama and Martinez-Gaxiola. Text messages between Mendivil-Balderama and Beckley later established that they both wanted to kill Martinez-Gaxiola as a way to reduce, or extend, the debt, and to prevent Martinez-Gaxiola from possibly killing Beckley. Beckley recruited other co-defendants to carry out the murder.

On April 25, 2016, Mendivil-Balderama traveled with Martinez-Gaxiola to a co-defendant's residence on the pretext that Beckley would pay the drug debt. Beckley and the other co-defendants were waiting at the residence. Upon arrival, Mendivil-Balderama got out of the vehicle first. When Martinez-Gaxiola exited the vehicle, the other co-defendants opened fire, expending 30 to 60 rounds of ammunition, and Martinez-Gaxiola fell to the ground. One of the co-defendants then went up to where Martinez-Gaxiola lay and shot him once in the head. Martinez-Gaxiola was later found to have been armed with a handgun but did not discharge it during his murder. Neighbors reported the shots fired. As police responded to the area, the defendants attempted to conceal Martinez-Gaxiola's body by hiding him under a piece of tin siding. They all then fled. Officers found Martinez-Gaxiola alive but he died before they could transport him to the hospital.

- **Sergio Chavez-Verduzco** and his son, **Sergio Chavez-Macias** (D. Idaho), both Mexican nationals living in Burley, Idaho, were sentenced to 420 months and 144 months in prison after a jury convicted them of conspiracy related to drug trafficking. Chavez-Verduzco was also sentenced for his participation in a continuing criminal enterprise. Evidence presented during the trial showed that from 2015 and early 2016, Chavez-Verduzco and Chavez-Macias were the source of supply for multiple large-scale methamphetamine traffickers in the Treasure Valley of Idaho. The evidence specifically identified certain methamphetamine traffickers whom the father and son supplied with hundreds of pounds of methamphetamine.
- **Ramiro Hermosillo-Salazar** (N.D. Ga.), a Mexican national residing in Palmetto, Georgia, was sentenced to 30 years in prison after he pled guilty to conspiracy and possession of methamphetamine with intent to distribute, possession of methamphetamine with intent to distribute on premises where minor children resided, and possession of firearms in furtherance of drug trafficking crimes. As presented in court, following a multi-month DEA investigation, agents identified Hermosillo-Salazar as a likely member of a methamphetamine trafficking organization.

On June 15, 2017, DEA agents, aided by the Coweta County Sheriff's Office S.W.A.T. team, executed a federal search warrant at Hermosillo's residence in Palmetto. Law enforcement encountered the defendant in his residence and arrested him. They discovered that Hermosillo was also living with his three minor children, ages 5, 8, and 9. During the search, agents discovered a methamphetamine "superlab" in a separate building several yards from the house. The lab contained approximately 300 pounds of highly pure crystal methamphetamine, as well as several gallons of liquid



methamphetamine that, if converted to its crystal form, would have yielded an additional 100 pounds of the drug. Inside the residence, agents found a second, smaller methamphetamine lab in a room next to the kitchen. They also found several more kilograms of methamphetamine and over \$12,000. Hermosillo had placed three loaded rifles at points throughout the home, one of which was equipped with a high-capacity magazine. Hermosillo also had a bulletproof vest. A video-surveillance system revealed that Hermosillo had been operating the “superlab” for at least several months. Hermosillo was ordered to pay restitution to the government for the cost of dismantling the superlab. Following his term of imprisonment, Hermosillo will be deported from the United States.

- **Bryan Galicia Barillas** (D. Mass.), aka “Chucky,” a Guatemalan national who resided in Chelsea, Massachusetts, was sentenced to 22 years in prison after he pled guilty to conspiracy to conduct enterprise affairs through a pattern of racketeering activity, more commonly referred to as a RICO conspiracy. The racketeering activity by Galicia Barillas, a member of MS-13’s Enfermos Criminales Salvatrucha (ECS) clique, included his involvement in the death of an innocent bystander in Chelsea. On October 18, 2014, Galicia Barillas and Hector Ramires, another member of the ECS clique, encountered a group of individuals in Chelsea suspected of belonging to a rival gang. Ramires, who was armed with a weapon that Galicia Barillas had provided on an earlier occasion, shot at one of the suspected gang rivals and missed, killing an innocent bystander who was looking out a nearby window of a room she shared with her three children. Galicia Barillas was a juvenile at the time of the murder. Galicia Barillas also accepted responsibility for his role in a September 8, 2014 stabbing and attempted murder of an individual in Chelsea, which Galicia Barillas also committed when he was a juvenile. Shortly after he turned 18, Galicia Barillas was involved in an April 2015 conspiracy to kill an MS-13 member that the gang believed was cooperating with law enforcement, and a May 26, 2015 stabbing and attempted murder of a suspected rival gang member in Chelsea. For his part, Ramires pled guilty in October 2017, to a RICO conspiracy involving murder and was sentenced in April 2018 to 27 years in prison.
- **Alfonso Rios-Ayon** (E.D. Ca.), 44, a Mexican national who resided in Pixley, California, was sentenced to 20 years in prison after he pled guilty to conspiracy to possess methamphetamine with intent to distribute it. According to court documents, between March 1, 2016 and June 29, 2016, Rios-Ayon conspired with others to distribute methamphetamine to various drug dealers and users in Kern County, California and elsewhere. On June 29, 2016, law enforcement conducted a controlled purchase of approximately 30 pounds of crystal methamphetamine at a ranch where Rios-Ayon lived. A search of the residence later resulted in the seizure of 30 pounds of crystal methamphetamine, three firearms, multiple magazines and ammunition, and approximately \$16,850.



- **Felipe Benitez Aguilar** (S.D. Fla.), 44, a Mexican national who resided in West Palm Beach, Florida, was sentenced to 20 years in prison after he pled guilty to possession with intent to distribute cocaine, felon in possession of a firearm, and alien in possession of a firearm. According to court documents, Aguilar was found in possession of over 30 kilogram-sized packages of cocaine, an UZI rifle, a revolver, and multiple rounds of ammunition. Aguilar had previously been removed from the United States in February 2004, and again in July 2012. Aguilar's July 2012 removal followed his 37-month federal sentence for conspiracy to possess with intent to distribute over 500 grams of cocaine.
- **Marisol Carmona Arreola Avalos** (N.D. Tex.), a Mexican national who resided in Wilmer, Texas, was sentenced to 216 months in prison after she pled guilty to conspiracy to launder monetary instruments. According to the plea agreement, from September 25, 2015 through March 18, 2016, Marisol Avalos, and her husband, Jose Apolinar Arreola Avalos, cooked and cleaned methamphetamine in order to make the methamphetamine as white and clean as possible to maximize profits. The methamphetamine was obtained from Mexico. Marisol Avalos was provided with drug proceeds to purchase acetone, strainers, and materials to store the methamphetamine so that, once it was cleaned, it could be sold to other people in Texas and other parts of the United States. Marisol Avalos used some of the drug proceeds to pay phone bills, propane gas bills, and electric bills. The gas and electric bills were paid to maintain the house and area where the methamphetamine was cooked. The phone bill was paid so that she and Jose Avalos could communicate with other co-defendants and drug couriers who were dropping off the liquid methamphetamine to be cleaned. On March 18, 2016, the Dallas Police Department executed a search warrant at the Avalos' residence. Agents seized approximately 172 kilograms of a combination of crystal and liquid methamphetamine, firearms and several thousands of dollars.
- **Rosendo Flores Angulo** (D. N.M.), 40, a Mexican national who resided in New Mexico, was sentenced to 210 months in prison after he pled guilty to conspiracy to distribute heroin. As part of the plea agreement, Angulo admitted that he was a mid-level drug dealer who distributed heroin to low-level drug dealers and heroin users in Albuquerque in 2014 and 2015. Angulo admitted that he supplied Curtis Hutchinson, a low-level drug dealer, with heroin on April 29, 2015, and acknowledged learning that Hutchinson sold some of the heroin to a young man, who collapsed and died after using the heroin. A medical toxicologist concluded that the heroin was the cause of the young man's death. The case was initiated after Angulo was charged with heroin trafficking charges based on a number of heroin sales to two undercover DEA agents in Bernalillo and Sandoval Counties, New Mexico, between July 2015 and September 2015. Additional charges were later added which included the charge of distribution of heroin to a person who died as a result of using that heroin.



- **Ignacio Montes Leon** (W.D. Pa.), 37, a Mexican national who resided in Erie, Pennsylvania, was sentenced to 15 years in prison after he pled guilty to conspiracy to distribute between 50 to 150 kilograms of cocaine and more than 100 grams of 99% pure methamphetamine. Montes Leon was extradited from Mexico for prosecution. According to information provided to the court, Montes Leon was the local leader of a drug trafficking organization involved in importing cocaine and methamphetamine from Mexico into Texas, which was then transported to Erie, Pennsylvania and elsewhere in hidden compartments in vehicles. Montes Leon was responsible for coordinating the drug shipments with higher-level conspirators in Texas, was directly selling pure methamphetamine to individuals in Erie on multiple occasions, and was responsible for distributing multi-kilogram quantities of cocaine at a time to his co-conspirators. In December 2013, law enforcement officers seized four kilograms of cocaine in Erie, Pennsylvania connected to Montes Leon. On November 1, 2014, after Montes Leon traveled to Texas to coordinate another drug shipment, two of his drug couriers were transporting the cocaine when they were stopped by the Arkansas State Police. Montes Leon arranged for those couriers to travel to Houston, Texas area to pick up a load of cocaine destined for delivery to Erie and elsewhere. A search warrant was then executed on the vehicle and the individually-wrapped packages of cocaine were located in a hidden compartment. The packages contained more than five kilograms of cocaine. Montes Leon then fled to Mexico. Law enforcement officers located Montes Leon in Mexico, and he was arrested and extradited back to the United States to face prosecution.
- **Misraim Israel Briones Pasos**, aka Mario Ozuna (D. Ore.), 36, a Mexican national who resided in the Portland, Oregon area, was sentenced to 151 months for his role in a vast conspiracy responsible for trafficking hundreds of pounds of black tar heroin from Nayarit, Mexico to the Portland metropolitan area. According to court documents, investigators first learned of the conspiracy when a confidential informant provided a tip that co-defendant Cory Jacques was selling heroin and oxycodone from his residence in southwest Portland. Using controlled buys, surveillance, and phone records analysis, investigators determined that Jaques was receiving heroin from Briones Pasos and another co-defendant Melchor Luna Rodriguez. A federal wiretap investigation was opened in the fall of 2014. Investigators later learned that Briones Pasos managed one of several heroin cells in the Portland area sourced by a single Nayarit-based supplier. The supply cell, managed by co-defendants Christopher Guillen Robles and Paul Guillen, was responsible for bringing as much as 10 pounds of heroin into the metropolitan Portland area every week. By early 2015, investigators had revealed the cells' transportation methods and the movement of money via banks, bulk cash smuggling, and wire transfers. In February 2015, a federal grand jury in Portland returned a multi-count indictment implicating 22 defendants. Soon thereafter, investigators executed search and arrest warrants at 24 locations across four states. By February 2018, all principal targets had been convicted and the court had ordered more than \$1.4 million in forfeiture money judgments. All 22 defendants have been sentenced, with sentences ranging from time-



served to 151 months in prison. The 22 defendants hailed from both the United States and Mexico, with 12 being citizens of Mexico.

Immigration Status of and Pending Charges Against Known or Suspected Aliens in USMS Custody

A. Immigration Status of Known or Suspected Aliens in USMS Custody

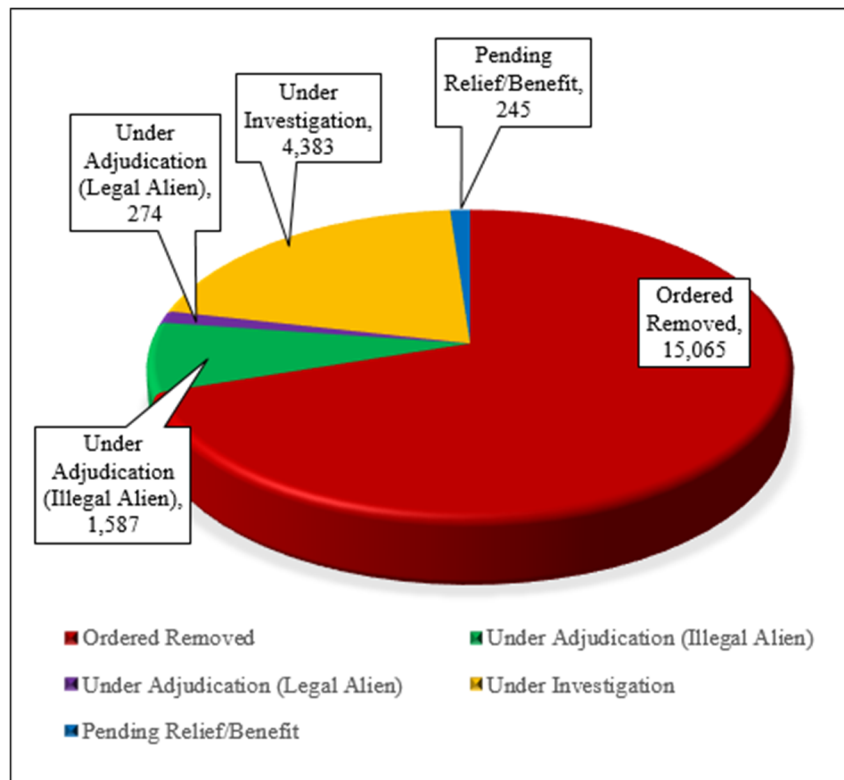
The USMS is DOJ's component charged with the housing and care of federal pretrial detainees. USMS also houses certain short-term sentenced individuals, as well as sentenced individuals pending transfer to BOP. This report includes data on all known or suspected aliens in USMS custody.⁴ As of March 31, 2018, 21,554 confirmed aliens were in USMS custody, along with 2,075 individuals for whom alienage had not yet been determined.

Confirmed aliens, identified through self-reporting or through confirmation of alienage by ICE, comprised 38 percent of the 56,436 total individuals in USMS custody. Of those confirmed aliens, 70 percent (15,065 individuals) had removal orders, 20 percent (4,383 individuals) had their immigration status currently under investigation, and approximately seven percent (1,587 individuals) were unlawfully present and in removal proceedings (*see* Figure 4). Only one percent (274 individuals) of the confirmed aliens in USMS custody were lawfully present and in immigration proceedings. Another one percent (245 individuals) of the confirmed aliens in USMS custody were in receipt of a grant of protection or relief from removal.

⁴ USMS data reflects all aliens in USMS custody, and does not delineate solely pretrial aliens as the USMS also detains post-trial aliens completing short-term sentences or awaiting transfer to BOP.



Figure 4: Immigration Status of Confirmed Aliens in USMS Custody, FY18 Q2



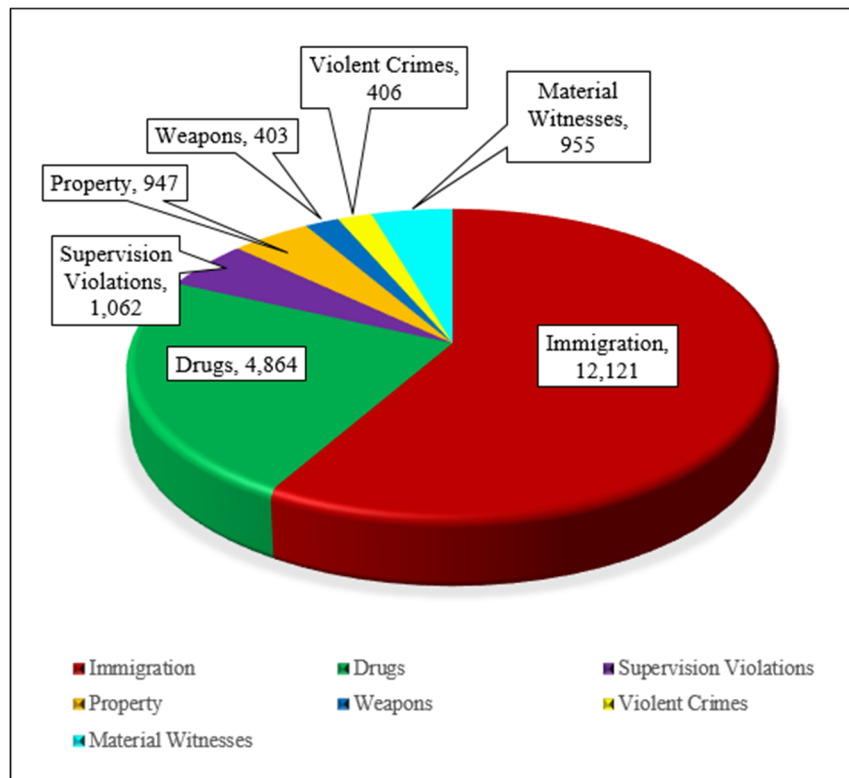
Source: U.S. Department of Justice, U.S. Department of Homeland Security

B. Pending Primary Charges Against Confirmed Aliens in USMS Custody

Of the 21,554 confirmed aliens in USMS custody, approximately 56 percent (12,121 individuals) were in custody for a primary offense related to immigration, such as human trafficking or illegal reentry after deportation (*see* Figure 5). Approximately 23 percent (4,864 individuals) of the confirmed aliens in USMS custody were in custody for a primary offense related to drugs. Other primary offenses included violations of conditions of supervision (1,062 individuals, approximately five percent of the aliens in USMS custody), property offenses (947 individuals, approximately four percent of the aliens in USMS custody), weapons offenses, and violent offenses (406 and 406 individuals, respectively, each approximately two percent of the aliens in USMS custody). Approximately four percent (955 individuals) of the aliens in USMS custody were material witnesses, while another four percent (796 individuals) were in custody for an unlisted offense or were in USMS custody due to a writ, hold, or transfer. Notably, 69 percent (14,916) of all aliens in USMS custody were apprehended in the southwest region.



Figure 5: Pending Primary Charges Against Confirmed Aliens in USMS Custody, FY18 Q2



Source: U.S. Department of Justice, U.S. Department of Homeland Security

C. Costs Associated With Confirmed Aliens in USMS Custody

During the second quarter of FY18, USMS had an average daily population of 20,132 confirmed aliens in custody, and incurred more than \$136 million in housing costs related to those prisoners during that quarter. An average of 3,198 of those aliens were held in BOP facilities, for whom no direct housing costs were incurred by USMS (the costs were instead funded by appropriations received by BOP). An average daily population of 82 aliens were also housed in other settings for which no direct housing costs were incurred by USMS, such as in hospitals or in correctional health care facilities due to required medical treatment. The remaining 16,853 aliens (daily average) in USMS custody were housed in a combination of state, local, and private facilities, at an average cost of \$90.23 per diem.

Immigration Status of Individuals in State and Local Custody

Through its Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS), DOJ continues its progress towards better understanding the immigration status of convicted aliens incarcerated in state prisons and local detention centers. In the meantime, some data is already available from particular states, such as Texas. Additionally, some information is available through public



reporting of cases that offer anecdotal evidence of alien criminal activity at the state and local levels.

A. Gathering Data from State Prisons

BJS currently collects on an annual basis aggregate numbers of noncitizens in state and federal prisons through the National Prisoner Statistics program. Departments of corrections voluntarily submit these numbers. The most recent figures, released in January 2018, were from December 31, 2016. According to that report, there were approximately 83,573 inmates under federal jurisdiction or in state custody who are not U.S. citizens. As BJS appropriately noted,⁵ state numbers in the report, which reflect 43,617 noncitizen individuals in custody, represent an undercount, because five states—including California, Nevada, and Oregon—did not report citizenship data. In addition, other states likely also provided undercounts, in part because; (1) inmates self-report place of birth or citizenship, and state corrections departments use these elements differently to determine citizenship, and (2) the count for most states only includes individuals in state-run institutions, not private facilities. Due to this underreporting (or complete lack of reporting) by some states, the aggregate tally of 83,573 noncitizen inmates reported to BJS as being under federal jurisdiction or in state custody does not currently represent a comprehensive national total.

BJS is improving its data collection in this area, including asking states and the BOP to provide additional information to disaggregate the number of noncitizens in custody by basic sentence length and by sex as of December 31 each year. The enhanced data collection began in January 2018, and will also include counts of noncitizens in both state-run and private facilities for all jurisdictions. BJS expects to release the 2017 counts of noncitizens soon.

BJS is also continuing its efforts to modify the National Corrections Reporting Program (NCRP), BJS's annual collection of individual-level state prisoner records, to collect citizenship status of all inmates in state prisons. In November 2018, the Office of Information and Regulatory Affairs at the Office of Management and Budget granted conditional clearance for BJS to utilize a modified NCRP.⁶ The modified NCRP now also collects information regarding whether inmates in state prisons are citizens of the United States, the country of each inmate's current citizenship, and the country of each inmate's birth. BJS began data collection using the modified NCRP in early 2019.

B. Gathering Data from Local Detention Facilities

BJS currently collects data from local detention facilities through its Annual Survey of Jails (ASJ). Currently, the ASJ data cannot be used to accurately estimate the total number of

⁵ Bureau of Justice Statistics, *Prisoners in 2016* (Jan. 2018), <https://www.bjs.gov/content/pub/pdf/p16.pdf>.

⁶ Office of Information and Regulatory Affairs, *Notice of Office of Management and Budget Action* (Nov. 2018), <https://www.reginfo.gov/public/do/DownloadNOA?requestID=292954>.



noncitizens in local custody. BJS is working to improve reporting from local facilities, and develop ASJ's data collection to allow the disaggregation of conviction status, which would enable analysis of ASJ data to determine the number of noncitizens in custody, and to break those numbers down by conviction status. During the first quarter of FY18, BJS fielded a pilot study to investigate the ability of local jail facilities to report this information. Based on the results of this study, BJS is working to modify its 2019 Census of Jails (which is fielded instead of the ASJ every 5-7 years) to include this improved data collection. The 2019 Census of Jails will be fielded later this year.

In addition, the DHS, Office of Immigration Statistics is currently evaluating potential strategies to estimate the immigration status of individuals in state and local custody based on information available in the U.S. Census Bureau's American Community Survey on individuals living in institutional settings, a category that includes federal and state prisons as well as local jails.

C. Nonfederal Data and Public Reporting

While the Departments of Justice and Homeland Security are developing improved methods to collect and analyze relevant data from state and local authorities, some of those authorities already take the proactive step of making this data available to the public.

For example, the Texas Department of Public Safety publishes data online regarding criminal alien arrests and convictions. These data do not account for all aliens in the Texas criminal justice system, as they are limited to criminal alien arrestees who have had prior interaction with DHS resulting in the collection of their fingerprints. Nonetheless, these data are helpful in understanding how criminal aliens impact public safety and the criminal justice system. As reported by Texas Department of Public Safety (DPS):

According to DHS status indicators, over 279,000 criminal aliens have been booked into local Texas jails between June 1, 2011 and January 31, 2019, of which over 189,000 were classified as illegal aliens by DHS.

Between June 1, 2011 and January 31, 2019, these 189,000 illegal aliens were charged with more than 295,000 criminal offenses which included arrests for 539 homicide charges; 32,785 assault charges; 5,737 burglary charges; 37,234 drug charges; 403 kidnapping charges; 15,991 theft charges; 23,701 obstructing police charges; 1,660 robbery charges; 3,473 sexual assault charges; 2,170 sexual offense charges; and 2,976 weapon charges. DPS criminal history records reflect those criminal charges have thus far resulted in over 120,000 convictions including 238 homicide convictions; 13,662 assault convictions; 3,158 burglary convictions; 17,930 drug convictions; 175 kidnapping convictions; 7,100 theft convictions; 11,336 obstructing police convictions; 1,013 robbery convictions; 1,710 sexual assault convictions; 1,153 sexual offense convictions; and 1,282 weapon convictions.



These figures only count individuals who previously had an encounter with DHS that resulted in their fingerprints being entered into the DHS IDENT database. Foreign nationals who enter the country illegally and avoid detection by DHS, but are later arrested by local or state law enforcement for a state offense will not have a DHS response in regard to their lawful status and do not appear in these counts. However, in addition to the PEP [Priority Enforcement Program] program, DHS actively adjudicates the immigration status of individuals incarcerated in the Texas prison system. From 2011 to date, the Department of Criminal Justice (TDCJ) has provided DPS with information on more than 26,000 individuals who were identified by DHS as in the country illegally while they were incarcerated at TDCJ. 10,306 of these individuals were not identified through the PEP program at the time of their arrest. DPS does not know the current incarceration status of the individuals identified while they were incarcerated nor when their alien status was initially determined.⁷

D. Examples of Media Reports of Crimes Committed by Aliens at the State and Local Level

In addition to official data from state and local authorities, media reports can be helpful in understanding the impacts of aliens on public safety and the criminal justice system in the United States. Media reports are inherently less desirable than official data, in part because of the higher possibility of inaccuracies. Additionally, media reports are limited in their utility to identify larger trends, both because the reporting may be inconsistent and because media reports may be more likely to report on atypically serious crimes. Nonetheless, particularly in the absence of official data, anecdotal examples from public reporting are noted. A few examples from the second quarter of FY18 include:⁸

- **Viusqui J. Perez-Espinosa**, 45, who was convicted in Louisiana of killing his ex-girlfriend's new boyfriend, dismembering the body, and dumping the remains in a swamp. He was arrested in early 2017, several months after the murder, after severed body parts began to surface and were found by a fisherman. Perez-Espinosa is a Cuban national.⁹

⁷ Texas Dep't of Pub. Safety, *Texas Criminal Illegal Alien Data* (last visited Feb. 15, 2019), https://www.dps.texas.gov/administration/crime_records/pages/txCriminalAlienStatistics.htm.

⁸ The information contained within these examples comes entirely from the cited media reports. Neither DOJ nor DHS make any assurances as to the accuracy of the information provided in these examples, nor have DOJ or DHS independently confirmed any of the information in this section. The examples are provided solely for the purpose of demonstrating the type of information that is often contained within media reports about criminal activity.

⁹ Laura McKnight, *Man convicted of killing, dismembering ex-girlfriend's new lover: Jefferson Parish DA*, The Times-Picayune (Mar. 26, 2018), https://www.nola.com/crime/index.ssf/2018/03/man_convicted_of_killing_disme.html.



- **Zheheng Feng**, 24, pled guilty to aggravated cruelty to animals after killing his girlfriend's dog and stuffing the body down a building garbage chute. Feng, a former Manhattan bank worker, was sentenced to serve 30 days in jail before being deported. He is a Chinese national.¹⁰
- **Abigail Hernandez**, 21, was arrested in Rochester, N.Y. in February 2018 for making threats to shoot up a high school in Rochester. Hernandez, who came to the United States illegally and was granted protection under DACA, later pled guilty.¹¹
- **Ricardo Corral-Venegas**, 27, who was sentenced to 72 years to life in prison for raping one woman at knifepoint in her apartment in Aurora, Colorado, while her one-year-old son was at the apartment. Two weeks after the first rape, Corral-Venegas attempted to enter a different apartment in the same complex and sexually assault a second woman. Corral-Venegas is a former Mexican police officer from Chihuahua, Mexico, and a warrant there alleges that he raped five other women. He has entered the United States illegally at least twice, including once after being deported.¹²

Additional Information Regarding Criminal Aliens in the United States

A. Efforts to Expand the Institutional Hearing and Removal Program

The Institutional Hearing and Removal Program (IHRP) is a cooperative effort between the Executive Office for Immigration Review (EOIR), DHS, and various federal, state, and municipal corrections agencies. As part of the IHRP, DHS identifies alien inmates in BOP, state, or local custody who may be removable from the United States and initiates their removal proceedings before EOIR while the aliens continue serving their criminal sentences. Bringing immigration judges to these inmates for a determination of their removability allows their immigration case to be resolved prior to their release from incarceration. Through the IHRP, EOIR provides in-person and video teleconference immigration proceedings to determine whether alien inmates are removable from the United States and, if removable, whether they are eligible for any form of protection or relief from removal.

Upon their release from custody, DHS is able to effectuate the removal of those aliens who have a final order of removal, as determined by either an immigration judge or the Board of Immigration Appeals. IHRP aims to avoid transferring removable aliens into DHS custody, or

¹⁰ Gabrielle Fonrouge, *Ex-banker gets jail, deportation for killing girlfriend's dog*, New York Post (Feb. 5, 2018), <https://nypost.com/2018/02/05/ex-banker-gets-jail-deportation-for-killing-girlfriends-dog/>.

¹¹ Frank Miles, *DACA recipient, 21, threatened to 'shoot all of ya b----es' at NY high school, police say*, Fox News (Feb. 25, 2018), <https://www.foxnews.com/us/daca-recipient-21-threatened-to-shoot-all-of-ya-b-es-at-ny-high-school-police-say>.

¹² Kieran Nicholson, *Former police officer from Mexico sentences to 72 years to life for sexually assaulting Aurora woman, other felonies*, The Denver Post (Mar. 21, 2018), <https://www.denverpost.com/2018/03/21/ricardo-corral-venegas-sex-assault-aurora/>.



releasing them into the community, pending future adjudication of their immigration case. By holding immigration proceedings during an alien's prison sentence, IHRP enhances the overall efficiency of the immigration system while contributing to the Nation's security.

Between January 1 and March 31, 2018, EOIR completed 640 immigration cases at 45 IHRP locations. EOIR had 1,963 IHRP cases pending as of March 31, 2018 and may hear cases at additional IHRP locations as circumstances warrant.

