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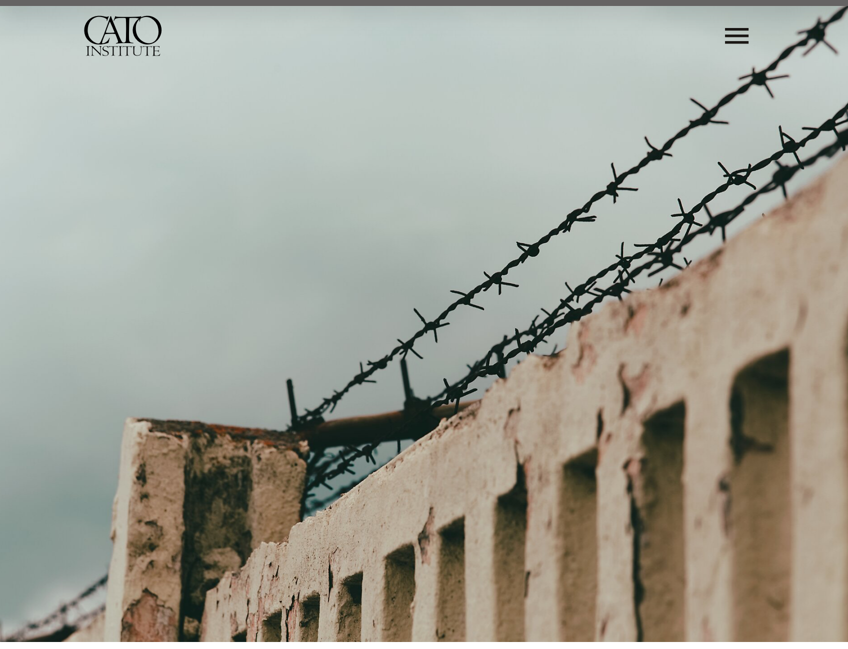

# Illegal Immigrant Incarceration Rates, 2010–2023

Legal immigrants have the lowest incarceration rates, and native-born Americans have the highest. Illegal immigrants are in the middle.

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By Michelangelo Landgrave and **Alex Nowrasteh**

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People crossing into America unlawfully at the southwest border is one of the top public policy issues that Americans want resolved, and their concerns about it helped re-elect President Donald J. Trump. Related to immigration is the perception that immigrants, especially illegal immigrants, are criminally inclined and increase American crime rates.

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Is this perception supported by the facts? Illegal immigration and the crimes illegal immigrants commit are notoriously difficult to measure. The states and federal government should collect better incarceration, conviction, and arrest data by immigration status so that the public and policymakers can more accurately understand how immigrants affect crime in the United States. This policy analysis is the latest in a series that attempts to answer that question by estimating illegal immigrant incarceration rates in the United States by using the American Community Survey Public Use Microdata Sample from the US Census.

We provide detailed incarceration data on both immigrants and native-born Americans by race and ethnicity, region of birth, sex, education, and age, and for immigrants we provide their country of birth, the number of years they have been in the United States, and their age at their time of arrival.

We estimate that all immigrants—legal and illegal—are less likely to be incarcerated than native-born Americans. The 2023 native-born American incarceration rate of 1,221 per 100,000 natives is the highest of the three groups analyzed. Legal immigrants have the lowest incarceration rate at 319 per 100,000 legal immigrants in 2023. Illegal immigrants have an incarceration rate of 613 per 100,000 illegal immigrants, higher than legal immigrants but also lower than native-born Americans.

## Introduction

The US Border Patrol has made more than eight million apprehensions of unlawful border crossers along the southwest border since January 2021, when President Joe Biden first took office.[1] Many of those border crossers applied for asylum, but a significant portion of them avoided Border Patrol entirely and disappeared into the United States. According to a recent poll by Gallup, 47 percent of Americans believe that immigrants increase crime in the United States; there's little doubt that many of the responders are specifically thinking of illegal immigrants when they answer affirmatively.[2]

Is this perception accurate? This policy analysis is the latest in a series that attempts to answer that question by estimating illegal immigrant incarceration rates in the United States by using American Community Survey (ACS) Public Use Microdata Sample (PUMS) from the US Census. The data show that all immigrants—legal and illegal—are less likely to be incarcerated than native-born Americans, relative to their shares of the population. By themselves, illegal immigrants are less likely to be incarcerated than native-born Americans.

## Background

We published the first nationwide estimates of the incarcerated illegal immigrant population in 2017, followed by updates in 2018, 2019, and 2020.[3] The 2017 brief analyzed incarceration rates for 2014, the 2018 brief analyzed incarceration rates for 2016, the 2019 paper analyzed incarceration rates for 2017, and the 2020 paper estimated incarceration rates using an updated methodology for the 2010–2018 period. Interest among the public in that research was so large that in this paper we update the estimates using the most recent 2023 inmate data from the ACS. Estimates of the total criminal immigrant population vary widely in other sources and according to different measures, but the illegal immigrant incarceration rate is an important indicator of that population's criminality.[4]

Empirical studies of immigrant criminality examine the issue from different perspectives using different measures of criminality. Those studies generally find that immigrants do not increase crime in small communities, are less likely to cause crime than their native-born peers, and are less likely to be incarcerated, convicted, and arrested than native-born Americans.[5] However, immigrant criminality could vary based on whether they are legal or illegal immigrants because the two groups are distinct demographically, socioeconomically, and on different margins that could make one group more or less crime-prone than the other.[6]

Illegal immigrant incarceration rates, criminal conviction rates, arrest rates, and broader impacts on crime are not well studied because of data limitations because, with few exceptions, most jurisdictions, law enforcement agencies, state corrections departments, and other organizations in the criminal justice system do not systematically record data on the immigration statuses of those who are arrested, convicted of crimes, or incarcerated. The two major exceptions are Texas and Georgia. Texas has been keeping data on arrests and convictions by immigration status since 2011, and Georgia has been publishing data on illegal immigrants incarcerated in that state beginning in 2024.[7] A Cato Institute analysis of the conviction, arrest, and incarceration data in those states found that illegal immigrants had a lower criminal conviction rate and a lower arrest rate in Texas relative to the native-born population, and a lower incarceration rate in Georgia relative to the non-illegal-immigrant population. The finding held for all crimes, including the various types of homicide that are the most serious offenses.[8] Data for the other 48 states are unavailable, so Cato scholars have estimated the illegal immigrant and legal immigrant incarceration rates for the entire country and have found it to be lower than for native-born Americans.[9]

Recent peer-reviewed empirical studies have found no link between violent crime and illegal immigration, a negative relationship between the number of illegal immigrants and most types of nonviolent crime, and lower illegal immigrant criminal conviction and arrest rates in Texas, compared to other subpopulations in Texas.[10] Results can vary somewhat based on the methods and data, but there is convincing evidence that a larger number of illegal immigrants present in an area increase the rate of identity theft in a jurisdiction, and there is evidence of a small but statistically significant relationship between the size of the illegal immigrant population and drug arrests.[11]

Our estimates of a low illegal immigrant incarceration rate are consistent with other research that finds that increasing immigration enforcement and deporting more illegal immigrants does not reduce the crime rate, which we would expect to occur if illegal immigrants were more crime-prone than natives.[12] Our research is also consistent with work that finds crime rates either do not increase to a statistically significant extent when states create sanctuary jurisdictions that limit the scope of immigration enforcement, or that the rates for some crimes actually fall, which is counter to what we would expect if illegal immigrants were more crime-prone than the rest of the population.[13] However, data limitations mean that these studies are not the final word on the matter.

## Methodology

In this policy analysis we use ACS data to estimate the incarceration rate and other demographic characteristics for immigrants aged 18–54 during the 2010–2023 period. The ACS inmate data are reliable because they are ordinarily collected by, or under the supervision of, correctional institution administrators; however, the quality of the data for the population that includes the incarcerated was not always as reliable. In the 2000 census, the data were for a subpopulation who live in facilities that are owned and managed by others, which includes prisoners incarcerated in correctional facilities, and the response rate to the census was low. The Census Bureau recognized the problem with data collection and substantially resolved the issue in the 2010 census and the ACS, making several tweaks over the years that have continually improved the size and quality of the group quarters sample.[14]

The ACS counts the incarcerated population by their nativity and naturalization status, but local and state governments rarely record whether prisoners are illegal immigrants.[15] As a result, we have to use common statistical methods to identify incarcerated illegal immigrant prisoners by excluding prisoners with characteristics that illegal immigrants are unlikely to have.[16] In other words, we can identify likely illegal immigrants by looking at prisoners with individual characteristics that are highly correlated with being an illegal immigrant.

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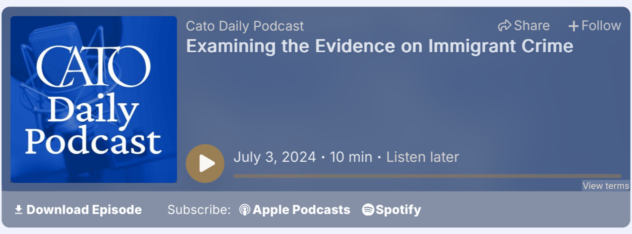
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We identified likely illegal immigrants using a modified residual method developed by economist Christian Gunadi. Our modified method makes larger adjustments for the estimated undercount of the immigrant population and relaxes assumptions about employment and Medicaid access because of legal changes since Gunadi first published his methods.[17] Gunadi's method imputes legal immigrant status first and then identifies those remaining foreign-born residents as illegal immigrants, which is different from other residual statistical methods that identify illegal immigrants first and then count the remaining foreign-born residents as legal immigrants.[18] Our modified estimation method counts people as legal immigrants if they meet any of the following criteria as recorded in the ACS: is a US citizen; arrived in the United States before 1982; served in the armed forces; was born in Cuba and immigrated prior to 2017; received welfare benefits such as Social Security, Supplemental Security Income, Medicaid (with some adjustment based on states extending Medicaid access to illegal immigrants), Medicare, or military insurance; resided in public housing or received rental subsidies or was the spouse of someone who resided in public housing or received rental subsidies; had occupational licenses; and/or had a spouse who was a legal immigrant or US citizen.[19] The number of legal immigrants estimated using this method includes those present in the United States on temporary nonimmigrant work visas and those who have naturalized and earned American citizenship.

A limitation of the ACS data is that they include prisoners in correctional facilities and other types of facilities. Although most inmates listed in the public-use microdata version of the ACS are in correctional facilities, the data also include those in mental health and elderly care institutions and those in institutions for people with disabilities.[20] These inclusions add ambiguity to our findings about the illegal immigrant population but not to our findings about the immigrant population as a whole, because the ACS releases macrodemographic snapshots of inmates in correctional facilities, which allows us to check our work.[21]

The above-mentioned ambiguity in illegal immigrant incarceration rates prompted us to narrow our analysis to those who are aged 18–54. This range excludes most inmates in mental health and retirement facilities. Few prisoners are under age 18, many in mental health facilities are juveniles, and many of those over age 54 are in elderly care institutions. Additionally, few illegal immigrants are elderly, whereas those who are in elderly care institutions are typically over age 54.[22] As a result, narrowing the age range does not exclude many individuals from our analysis. We identified 1,743,525 prisoners in the 18–54 age range in adult correctional facilities in 2023, compared to approximately 1,821,745 identified by the ACS in the same year and age ranges. Winnowing the age range reduces our estimated number of incarcerated individuals in the 18–54 age range to about 4.3 percent below that of the ACS 2023 snapshot.[23] Natives in our results are those born as American citizens, and the group includes both those born in the United States and those born abroad to American parents.

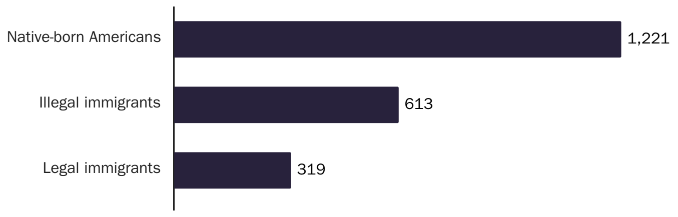
Controlling for the size of the population is essential to compare relative incarceration rates between the native-born, illegal immigrant, and legal immigrant subpopulations. Thus, we report the incarceration rate as the number of incarcerations per 100,000 members of that particular subpopulation, just as most government agencies do.[24]

## Incarcerations

An estimated 1,617,197 native-born Americans, 67,813 illegal immigrants, and 58,515 legal immigrants were incarcerated in 2023. The incarceration rate for native-born Americans was 1,221 per 100,000; 613 per 100,000 for illegal immigrants; and 319 per 100,000 for legal immigrants in 2022 (Figure 1). Illegal immigrants are half as likely to be incarcerated as native-born Americans. Legal immigrants are 74 percent less likely to be incarcerated than natives. If native-born Americans were incarcerated at the same rate as illegal immigrants, about 806,000 fewer natives would be incarcerated. Conversely, if natives were incarcerated at the same rate as legal immigrants, about 1.2 million fewer native-born Americans would be incarcerated.

Figure 1

**Incarceration rates by immigration status in 2023, ages 18–54**



Source: Authors' analysis of the American Community Survey data.
Note: Rates are per 100,000 residents in each subpopulation.

The ACS data include illegal immigrants incarcerated for immigration offenses and those in Immigration and Customs Enforcement's (ICE) detention facilities.[25] Those individuals are not incarcerated for violent or property crimes but only for immigration violations. If we were to remove the 28,289 people in ICE detention facilities on any given day, that would lower the illegal immigrant incarceration rate to 357 per 100,000—just 12 percent above the incarceration rate for legal immigrants.[26]

## Robustness Checks for Counting the Illegal Immigrant Population

Because our chosen ACS variables could have affected the number of illegal immigrants we identified in the data, we altered some of the variables to see whether the results significantly changed. First, we loosened the identifications for illegal immigrants, counting some of those who lived in households with users of means-tested welfare benefits as illegal immigrants. Illegal immigrants do not have access to those benefits, but US citizens and some lawful permanent residents in their households do. This adjustment increased the illegal immigrant population and their incarceration rate to 741 per 100,000, reduced the legal immigrant incarceration rate to 212 per 100,000, and did not affect the native incarceration rate.

Our second robustness check excluded all immigrants who entered the United States after 2009. Immigrants on lawful permanent residency can apply for citizenship after five years, virtually guaranteeing that most of the lawful permanent residents who are able to naturalize have done so, which decreases the pool of potential illegal immigrants in our sample. This robustness check shrinks the size of the nonincarcerated illegal immigrant subpopulation relative to those incarcerated and, thus, slightly raises the rate of illegal immigrant incarceration to about 851 per 100,000 and the legal immigrant rate to 394 per 100,000. These variable changes did not alter our results enough to undermine our confidence in the findings.

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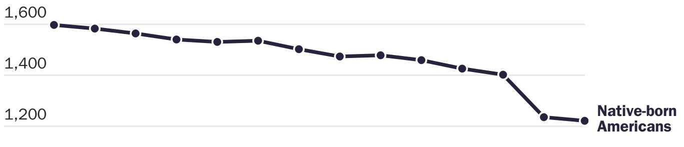
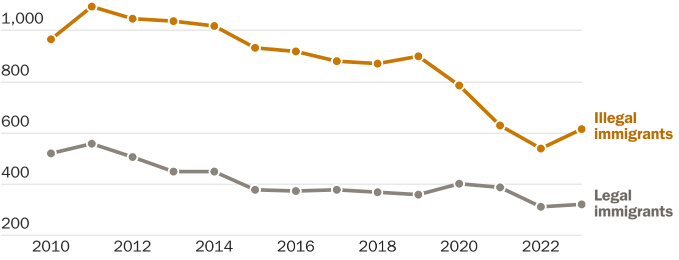
## Illegal Immigrant Incarceration Rates over Time, 2010–2023

Figure 2 shows how incarceration rates for native-born Americans, illegal immigrants, and legal immigrants have changed during the 2010–2023 period. In every year, the illegal immigrant incarceration rate is between 31 percent and 56 percent below that of native-born Americans. In every year, the legal immigrant incarceration rate is between 65 percent and 75 percent below that of native-born Americans. Furthermore, the incarceration rate has declined for every group. From 2010 to 2023, the native-born incarceration rate fell by 23 percent, the legal immigrant incarceration rate fell by 38 percent, and the illegal immigrant incarceration rate fell by 36 percent.[27] However, there was an increase in the illegal immigrant incarceration rate recently, from 538 per 100,000 in 2022 to 612 per 100,000 in 2023.

Figure 2

**Incarceration rates by immigration status, 2010–2023, ages 18–54**





Source: Authors' analysis of the American Community Survey data.
Note: Rates are per 100,000 residents in each subpopulation.

## Demographic and Social Characteristics

Incarceration rates vary widely by race and ethnicity in the United States, even within each immigrant category (Table 1). Legal and illegal immigrants have a lower incarceration rate than native-born Americans of the same race or ethnicity. For instance, the incarceration rate for black native-born Americans is 8.9 times that of black legal immigrants, and the incarceration rate for white native-born Americans is 3.5 times higher than it is for white legal immigrants. The incarceration rate for all illegal immigrants is lower than the incarceration rate for white native-born Americans.

Table 1
**Incarceration rates by race, ethnicity, and immigration status in 2023, ages 18–54**

| Race/ethnicity | Native-born Americans | Legal immigrants | Illegal immigrants | All |
|---|---|---|---|---|
| White | 747 | 216 | 335 | 724 |
| Black | 3,441 | 385 | 461 | 3,036 |
| Asian | 417 | 115 | 127 | 213 |
| Hispanic (any race) | 1,284 | 491 | 879 | 1,038 |
| Other | 1,461 | 199 | 490 | 1,326 |
| All | 1,221 | 319 | 613 | 1,077 |

Source: Authors' analysis of the American Community Survey data.
Note: Rates are per 100,000 residents in each subpopulation.

Immigrants from certain parts of the world are more likely to be incarcerated than others (Table 2).[28] Of all legal immigrants, those from Oceania have the highest incarceration rates, followed by immigrants from Latin America. For illegal immigrants, those from Latin America have the highest incarceration rates, followed by those from Oceania.

Table 2
**Incarceration rates by region of birth in 2023, ages 18–54**

| Region of birth | Native-born Americans | Legal immigrants | Illegal immigrants | All |
|---|---|---|---|---|
| United States | 1,233 | NA | NA | 1,233 |
| Other North America | 108 | 203 | 210 | 188 |
| Latin America | 498 | 472 | 862 | 639 |
| Europe | 387 | 294 | 214 | 297 |
| East Asia | 411 | 151 | 133 | 164 |
| Indian subcontinent | 249 | 40 | 136 | 85 |
| Middle East | – | 130 | 99 | 110 |
| Other Asia | – | 9 | – | 6 |
| Africa | 630 | 243 | 531 | 330 |
| Oceania | – | 647 | 533 | 488 |
| Other | 10,073 | – | – | 1,464 |
| **Total** | **1,221** | **319** | **613** | **1,077** |

Source: Authors' analysis of the American Community Survey data.
Notes: Rates are per 100,000 residents in each subpopulation; NA = not applicable.

About 69 percent of all immigrants in the United States come from the top 20 countries of origin for the foreign-born population.[29] Of those, illegal immigrants and legal immigrants from Honduras have the highest incarceration rate, which is likely exacerbated by their presence in immigration detention facilities for immigration offenses that rarely include violent or property offenses (Table 3). The distribution of prisoners by their immigration status and their region of origin shows that 5.1 percent of those incarcerated are immigrants from Latin America, whereas 92.8 percent are native-born Americans regardless of their location of birth (Table 4).

Table 4
**Percentage of all prisoners by region of birth in 2023, ages 18–54**

| Region of birth | Native-born Americans | Legal immigrants | Illegal immigrants | All |
|---|---|---|---|---|
| United States | 99.5% | NA | NA | 92.3% |
| Other North America | 0.0% | 0.9% | 0.5% | 0.1% |
| Latin America | 0.2% | 71.0% | 88.1% | 6.0% |
| Europe | 0.2% | 9.7% | 2.0% | 0.6% |
| East Asia | 0.1% | 8.7% | 2.5% | 0.5% |
| Indian subcontinent | 0.0% | 1.3% | 2.9% | 0.2% |
| Middle East | 0.0% | 1.1% | 0.2% | 0.0% |
| Other Asia | 0.0% | 0.0% | 0.0% | 0.0% |
| Africa | 0.0% | 6.0% | 3.5% | 0.4% |
| Oceania | 0.0% | 1.0% | 0.4% | 0.1% |
| Other | 0.0% | 0.0% | 0.0% | 0.0% |
| Total | 100% | 100% | 100% | 100% |

Source: Authors' analysis of the American Community Survey data.
Note: NA = not applicable.

On January 6, 2023, the Biden administration created a parole program to allow American residents to sponsor up to 30,000 Cubans, Venezuelans, Nicaraguans, and Haitians (CVNH) a month to come to the United States legally through a parole sponsorship program.[30] As of November 2024, 531,670 Cubans, Venezuelans, Nicaraguans, and Haitians had arrived lawfully in the United States and were granted parole. Although the incarceration data in this paper only go through 2023, the incarceration rate for immigrants from the CVNH countries could predict how criminally inclined the parolees from those countries will end up being. The incarceration rate for all immigrants from the CVNH countries in the 18–54 age range was 437 per 100,000 in 2023, slightly above the incarceration rate for all immigrants of 430 per 100,000. Venezuelans had the lowest incarceration rate at 241 per 100,000, while Haitians had the highest rate at 633 per 100,000. Incarceration rates for CVNH countries, whether considered separately, combined, or divided by immigration status, had incarceration rates well below those of native-born Americans.

Just over 88.1 percent of all prisoners are men, whereas only 11.9 percent are women (Table 5). Legal and illegal immigrant women are a smaller share of prisoners in their respective subpopulations, at 7.9 percent and 6.1 percent, respectively. Native-born American women are significantly more likely to be incarcerated than immigrant women.

Prisoners in every subpopulation are less educated than their total subpopulation (Table 6). About 65.5 percent of all native-born American adults, including those who are not incarcerated, have some college education (which can include a community college course) or above, whereas 17.1 percent of native-born prisoners have the same level of education. A total of 17.5 percent of legal immigrant prisoners and 11 percent of illegal immigrant prisoners have some college education or above; these percentages are lower than the percentages of their subpopulations with the same level of education (55.30 percent and 45.88 percent, respectively).[31] Native-born Americans and immigrants who are highly educated tend to avoid incarceration.

Table 6

| Education | Native-born Americans | Legal immigrants | Illegal immigrants | All |
|---|---:|---:|---:|---:|
| Less than high school | 28.5% | 39.1% | 47.4% | 29.6% |
| High school graduate | 54.4% | 43.4% | 41.6% | 53.6% |
| Some college | 14.7% | 12.4% | 7.7% | 14.3% |
| College graduate | 1.7% | 4.5% | 2.9% | 1.9% |
| Postgraduate | 0.6% | 0.7% | 0.5% | 0.6% |

Source: Authors' analysis of the American Community Survey data.

Native-born Americans, illegal immigrants, and legal immigrants all have higher incarceration rates when they are younger (Table 7). Native-born American incarceration rates peak in the 35–39 age range, while legal immigrant and illegal immigrant incarceration rates peak younger, in the 30–34 age range. The incarceration rates for legal and illegal immigrants generally increase with the amount of time they have spent in the United States, with minor variations in different age ranges (Table 8).

Related to the amount of time that immigrants have spent in the United States, both illegal and legal immigrants who immigrate at a younger age are more likely to be incarcerated (Table 9). Illegal immigrants who arrive before they are 17 are almost two-and-a-half times more likely to be incarcerated than those who arrive after age 17, suggesting that illegal immigrants who were old enough to choose to come here are more law-abiding than those who were brought here as minors. The pattern is less pronounced for legal immigrants. Those who immigrated before age 17 were almost two times as likely to be incarcerated than legal immigrants who were older than 17 when they arrived. This again suggests that those who are old enough to choose to come to the United States legally are more law-abiding, regardless of their legal status.

At least two non-mutually exclusive theories can explain why those who immigrated in their youth have higher incarceration rates than those who immigrated later. First, spending part of their childhood in the United States could assimilate some immigrants to a relatively high-crime culture here—at least as compared to other developed countries. A second theory is that those who decide to come here by choice as adults have some systematically different characteristics that make them less likely to commit crimes, whereas those who are too young to make the decision to immigrate do not.

A substantial percentage of the American public believes that immigration increases crime and that illegal immigrants disproportionately contribute to the problem.[32] However, the evidence presented here shows that they have lower incarceration rates than native-born Americans. The addition of a less crime-prone population to the United States mechanically reduces the overall incarceration rate in the country.

incarceration rate in the country.

For instance, federal officials should abandon efforts to convince so-called sanctuary cities to fully abandon their policies, because such cooperation will not lower violent and property crime rates nationwide. Illegal immigrants have a lower incarceration rate than native-born Americans, so scarce law enforcement resources should not be spent on identifying and deporting a subpopulation with such a low crime rate. If the purpose of law enforcement is to deter crime and to punish criminals, their resources would be inefficiently allocated if targeted at illegal immigrants. However, the federal government should convince sanctuary jurisdictions and others to turn over any noncitizen guilty of committing a violent or property-related offense for removal from the United States.

Second, the federal government already has effective programs to identify illegal immigrants who have been arrested, convicted, or incarcerated. The federal government should continue those policies and make the removal of these illegal immigrants a priority, but it should not widen its reach to include illegal immigrants who have not committed criminal offenses or have not otherwise put Americans at risk.[33]

Third, the government should collect better data on illegal and legal immigrant criminality. Incarceration rates are just one measurement of criminality that are used to understand relative crime rates in the United States. Unfortunately, the paucity of data means that we must estimate the number of illegal immigrants who are incarcerated, which adds some uncertainty to our final numbers. Every state should collect and make available data on the immigration statuses of those who are convicted and arrested for crimes, just like Texas does, as well as those who are incarcerated, as Georgia does.[34] To be clear, this proposal would only require documenting the immigration status of people who are arrested for crimes, convicted of crimes, or incarcerated for crimes. There is no excuse for the lack of data on this important public policy issue.

Legal and illegal immigrants were less likely to be incarcerated than native-born Americans between 2010 and 2023. Those who were incarcerated do not represent the total number of immigrants who can be deported under current law, nor the complete number of convicted immigrant criminals who are in the United States. The younger that immigrants are upon their arrival in the United States, and the longer that they are here, the more likely they are to be incarcerated as adults.

The government should expeditiously remove violent and property criminals who are noncitizens, whether they are legal immigrants or illegal immigrants, but a general mass deportation policy indiscriminately targeted at all illegal immigrants will not reduce crime rates, nor will reductions in legal immigration. Governments at all levels in the United States should collect better data so that we can more precisely understand how illegal immigrants and legal immigrants contribute to crime in the United States.

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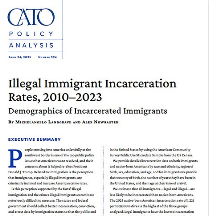

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