

March 2011

# CRIMINAL ALIEN STATISTICS

## Information on Incarcerations, Arrests, and Costs



G A O

Accountability \* Integrity \* Reliability

## 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.

View [GAO-11-187](#) or key components. For more information, contact Charles A. Jeszeck at (202) 512-8777 or [jeszeckc@gao.gov](mailto:jeszeckc@gao.gov).

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## 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.

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## **Abbreviations**

BOP	Bureau of Prisons
BJA	Bureau of Justice Assistance
BJS	Bureau of Justice Statistics
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
IAFIS	Integrated Automated Fingerprint Identification System
ICE	Immigration and Customs Enforcement
INS	Immigration and Naturalization Service
SCAAP	State Criminal Alien Assistance Program
USCIS	U.S. Citizenship and Immigration Services

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United States Government Accountability Office  
Washington, DC 20548

March 24, 2011

The Honorable Zoe Lofgren  
Ranking Member  
Subcommittee on Immigration Policy and Enforcement  
Committee on the Judiciary  
House of Representatives

The Honorable Steve King  
House of Representatives

The Department of Homeland Security (DHS) estimated that as of fiscal year 2009 the total alien—non-U.S.-citizen—population in the United States was about 25.3 million, including about 14.5 million aliens with lawful immigration status and about 10.8 million aliens without lawful immigration status.<sup>1</sup> Some of the alien population have been arrested and convicted of various crimes and incarcerated in federal and state prisons and local jails. DHS refers to these individuals as criminal aliens.<sup>2</sup> Immigration and Customs Enforcement (ICE), one of DHS's components, is responsible for apprehending and removing those criminal aliens that do not have a legal right to remain in the United States.

The costs associated with incarcerating criminal aliens are borne by the federal government as well as state and local governments. Criminal 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 individuals. The federal government also reimburses state and local government entities for portions of their incarceration costs for certain criminal alien populations through DOJ's State Criminal Alien Assistance Program (SCAAP).<sup>3</sup> SCAAP is intended to provide

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<sup>1</sup>DHS's estimate for aliens with lawful status included lawful permanent residents, refugees, asylees, and other nonimmigrants such as temporary visitors.

<sup>2</sup>As we reported in April 2005, criminal aliens are noncitizens convicted of crimes while in this country legally or illegally. For more information, see GAO, *Information on Criminal Aliens Incarcerated in Federal and State Prisons and Local Jails*, [GAO-05-337R](#) (Washington, D.C.: Apr. 7, 2005).

<sup>3</sup>By statute, criminal aliens reimbursed under SCAAP are limited to those who entered the United States illegally, were in removal proceedings when taken into custody, or failed to maintain or comply with the conditions of their immigration status. See 8 U.S.C. § 1231(i)(3)(B).

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reimbursement to states and localities for a portion of the correctional officer salary costs associated with incarcerating criminal aliens who met 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. Therefore, SCAAP is not intended to reimburse state and local governments for all of the costs associated with incarcerating all criminal aliens.

We issued two reports that contained information on criminal aliens in 2005.<sup>4</sup> You asked that we update and expand upon the information in those reports. Specifically, this report provides information on the following:

- The number and nationalities of criminal aliens incarcerated in federal and state prisons and local jails and the number of criminal alien (1) apprehensions, (2) removals, and (3) apprehensions for illegal reentry into the United States after removal.
- The types of offenses for which criminal aliens were arrested and convicted.
- The costs associated with incarcerating criminal aliens and the extent to which DOJ's methodology for reimbursing states and localities for incarcerating certain criminal aliens is relevant and current.

To determine the number and nationalities of criminal aliens incarcerated, we analyzed BOP data on criminal aliens incarcerated in federal prisons from fiscal years 2005 through 2010 and SCAAP data on criminal aliens incarcerated in state prisons and local jails from fiscal years 2003 through 2009. There are no reliable population data on criminal aliens incarcerated in all state prison systems and local jails. The data we obtained represent a portion of the total population of criminal aliens who may be incarcerated at the state and local levels, since by statute SCAAP does not reimburse states and localities for certain criminal aliens, such as aliens with lawful immigration status, and not all jurisdictions may apply for reimbursement. To determine the number of criminal alien apprehensions, removals, and

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<sup>4</sup>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).



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apprehensions for reentering the country illegally after a prior removal, we analyzed ICE data from fiscal years 2007 through 2010.<sup>5</sup>

To determine the types of offenses for which criminal aliens were arrested, we obtained the Federal Bureau of Investigation (FBI) arrest histories of about 203,000 criminal aliens incarcerated in state prisons and local jails from July 1, 2004, through June 30, 2008, and 48,000 criminal aliens incarcerated in federal prisons as of December 27, 2008, for a total of 251,000 criminal aliens. Due to the large volume of arrests and offenses, we selected a random sample of 1,000 criminal aliens and analyzed their arrest records to estimate the number and types of offenses in our study population of approximately 249,000.<sup>6</sup> There were nearly 1.7 million arrest records relating to nearly 3 million offenses for these 249,000 criminal aliens. To determine the type of offenses for which criminal aliens were convicted, we analyzed data from the U.S. Sentencing Commission on federal convictions of criminal aliens from fiscal years 2003 through 2009 and conviction data from five states—Arizona, California, Florida, New York, and Texas—from fiscal years 2005 through 2008. We selected these five states based on the number of SCAAP criminal aliens. Collectively, these states accounted for about 70 percent of the SCAAP criminal alien population in fiscal year 2008.

To determine the costs associated with incarcerating criminal aliens in federal prisons, we analyzed BOP inmate and cost data. To determine the costs of incarcerating criminal aliens in state prison systems, we used a DOJ Bureau of Justice Statistics (BJS) study that estimated selected costs of incarcerating inmates (i.e., correctional officer salary, medical care, food service, and utilities) for all 50 state prison systems in 2001.<sup>7</sup> Applying relevant inflation factors and SCAAP reimbursement data, we calculated these selected operating costs for incarcerating criminal aliens for state

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<sup>5</sup>The periods of time covered by these data vary because they reflect updates since we last reported on these issues in 2005 (see [GAO-05-337R](#) and [GAO-05-646R](#)). Moreover, they reflect the most recent data available at the time of our analysis.

<sup>6</sup>We found that five of the criminal aliens from our random sample of 1,000 were out of scope because their records did not reflect actual arrests but rather administrative actions (e.g., being booked into a prison or transferred from one correctional facility to another). As such, our analysis is of 995 criminal aliens and our estimated study population is about 249,000. See appendix I for details on the margin of error for sample estimates presented in this report.

<sup>7</sup>BJS, *State Prison Expenditures, 2001* (Washington, D.C.: June 2004). See appendix II for criminal alien costs in fiscal year 2010 dollars.

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prisons systems that sought SCAAP reimbursement from fiscal years 2003 through 2009. Since our nationwide estimate only includes selected costs, to estimate the total cost of incarcerating criminal aliens, we analyzed cost and SCAAP data for 5 state prisons systems—Arizona, California, Florida, New York, and Texas—and 5 local jails—New York City, New York; Los Angeles County, California; Orange County, California; Maricopa County, Arizona; and Harris County, Texas. We selected these state prison systems and local jails because they are the same prison systems and local jails that we used in our April 2005 report.<sup>8</sup> To determine the extent to which DOJ's SCAAP reimbursement methodology was relevant and current, we analyzed agency documentation, such as current SCAAP guidelines, and spoke with DOJ officials regarding the methodology. We evaluated this methodology using best practices in cost estimating.<sup>9</sup> For more details on our scope and methodology, see appendix I.

We determined that the data in our study were sufficiently reliable for the purposes of this report by analyzing available documentation, such as related data dictionaries, conducting tests to identify missing data or anomalies, and following up with agency officials knowledgeable about the data to address any questions about the data. We conducted this performance audit from October 2009 through March 2011 in accordance with generally accepted government auditing standards.<sup>10</sup> 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.

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## Background

As of fiscal year 2009, DHS estimated that the total alien population in the United States was about 25.3 million. Some of the alien population have been arrested and incarcerated in federal and state prisons and local jails, adding to already overcrowded prisons and jails. The federal government

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<sup>8</sup>See [GAO-05-337R](#).

<sup>9</sup>See GAO, *GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, [GAO-09-3SP](#) (Washington, D.C.: March 2009).

<sup>10</sup>As part of this review, we briefed the reporting subcommittee on our preliminary results. In addition, the length of this review reflects delays we encountered in obtaining conviction data on SCAAP illegal aliens and cost data from states due to unforeseen circumstances caused by state furloughs.

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bears the total cost of incarcerating all criminal aliens in federal prisons and reimburses state and local governments for portions of their incarceration costs for certain criminal alien populations through SCAAP. Any costs related to incarcerating criminal aliens not reimbursed by the federal government are borne by state and local governments.

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## Arrest Histories

In general, individuals arrested by federal, state, and local law enforcement authorities are fingerprinted and their prints are sent to the FBI. For each individual submitted, the FBI creates a unique identification number allowing, among other things, law enforcement to determine an individual's arrest history. The fingerprints are stored in the FBI's Integrated Automated Fingerprint Identification System (IAFIS).

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## SCAAP Reimbursement

State and local entities wishing to get reimbursed for incarcerating eligible criminal aliens submit identification data each year, such as the individual alien's name, and date and country of birth to DOJ by means of a web-based system. DOJ then sends this data to ICE, which researches DHS databases to try to determine the individual's immigration or citizenship status. For each individual name submitted, ICE reports to DOJ that it (1) verified the individual was illegally in the United States at the time of incarceration (called SCAAP illegal aliens), (2) lacked documentation to confirm an individual's immigration status (called SCAAP unknown aliens), or (3) verified that the individual was an alien legally in the United States or a United States citizen and therefore not eligible for reimbursement under SCAAP. According to ICE officials, some of the unknown aliens may be in the United States illegally but have not come into contact with DHS authorities, which is why ICE could not verify their immigration status. Table 1 summarizes the terms and definitions used in this report.

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## General Terms and Definitions

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**Table 1: Common Terms and Definitions Used in this Report**

Term	Definition
Alien	Any person who is not a citizen of the United States.
Criminal aliens	Noncitizens who are residing in the United States legally or illegally and are convicted of a crime.
Primary conviction	When convicted of multiple offenses, the primary conviction is the offense with the longest maximum sentence.
<b>SCAAP criminal aliens—divided into two subgroups<sup>a</sup></b>	
SCAAP illegal aliens	Noncitizens whom ICE verified were illegally in the United States at the time of incarceration and for whom state and local jurisdictions received federal reimbursement through SCAAP.
SCAAP unknown aliens	Individuals whom states and local jurisdictions believe to be illegally in the United States. However, ICE lacks documentation to confirm their immigration status. States and local jurisdictions received partial federal reimbursement through SCAAP.

Source: GAO.

<sup>a</sup>SCAAP criminal aliens are a subset of all criminal aliens because criminal aliens with lawful immigration status do not meet the statutory criteria for SCAAP reimbursement. SCAAP data do not represent the number of unique individuals since these individuals could be incarcerated in multiple SCAAP jurisdictions during the reporting period.

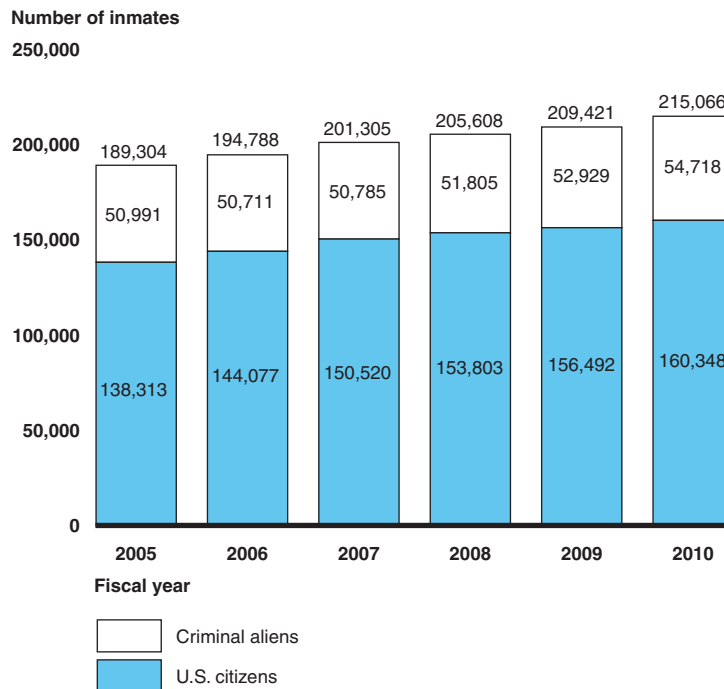
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## Criminal Alien Incarcerations and Nationalities

## Proportion of Criminal Aliens Incarcerated in Federal Prisons Remained Consistent from Fiscal Years 2005 through 2010

As shown in figure 1, the number of criminal aliens incarcerated in federal prisons increased about 7 percent from about 51,000 in fiscal year 2005 to about 55,000 in fiscal year 2010. The number of total inmates incarcerated in federal prisons increased about 14 percent from about 189,000 in fiscal year 2005 to about 215,000 in fiscal year 2010.<sup>11</sup>

**Figure 1: Number of Criminal Aliens and U.S. Citizens Incarcerated in Federal Prisons from Fiscal Years 2005 through 2010**



Source: GAO analysis of BOP data.

Further, the criminal alien population as a percentage of the total federal inmate population has remained relatively constant since 2001. In 2005, we reported that the overall percentage of the criminal alien population incarcerated in federal prisons remained consistently around 27 percent of the total inmate population from 2001 through 2004.<sup>12</sup> In fiscal year 2005,

<sup>11</sup>BOP incarceration data are based on an average of the 12 monthly population snapshots for each type of BOP institution, such as minimum security, within the fiscal year. These data do not include inmates for which citizenship is unknown.

<sup>12</sup>See [GAO-05-337R](#). In 2005, we reported federal incarceration data as of the end of the calendar year.

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the criminal alien population in federal prisons was around 27 percent of the total inmate population, and from fiscal years 2006 through 2010 remained consistently around 25 percent.

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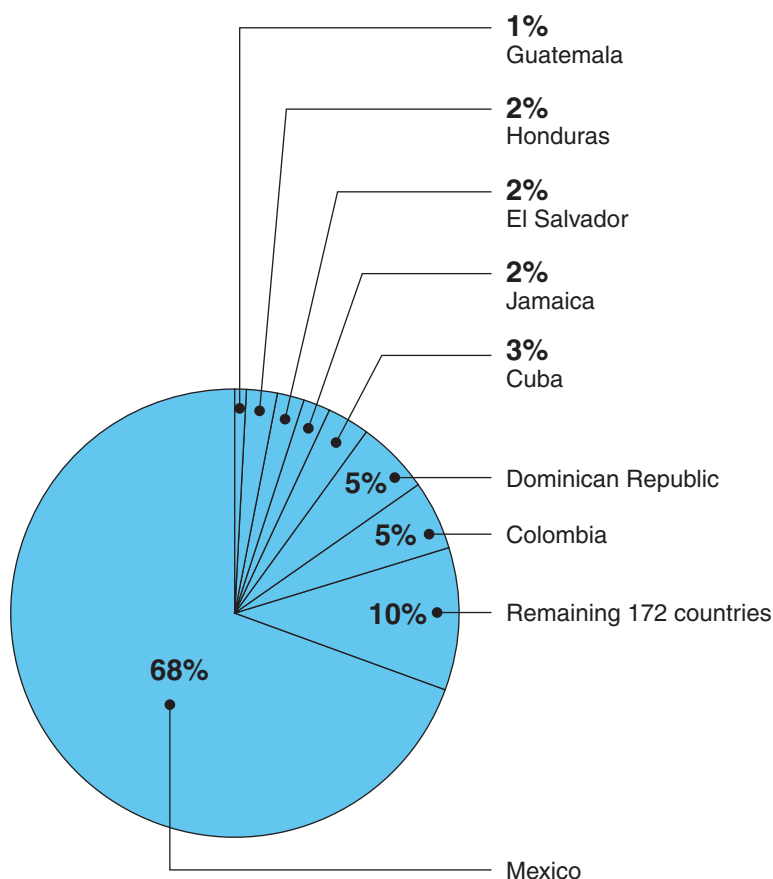
**Mexico Represents the Country of Citizenship for Most Criminal Aliens Incarcerated in Federal Prisons as of December 2010**

As shown in figure 2, about 68 percent of the approximately 51,000 criminal aliens incarcerated in federal prison at the end of December 2010 were citizens of Mexico, and almost 90 percent were citizens of one of eight countries, including Mexico.<sup>13</sup>

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<sup>13</sup>BOP's data were as of December 25, 2010. These data do not include criminal alien inmates for which BOP does not have country of citizenship. BOP obtains country of citizenship data from presentence investigation reports, which may be based on documentation such as a birth certificate or immigration documents, or be self-reported.

**Figure 2: Country of Citizenship for Criminal Aliens Incarcerated in Federal Prisons as of December 2010**



Source: GAO analysis of BOP data.

Note: Percentages do not add to 100 due to rounding.

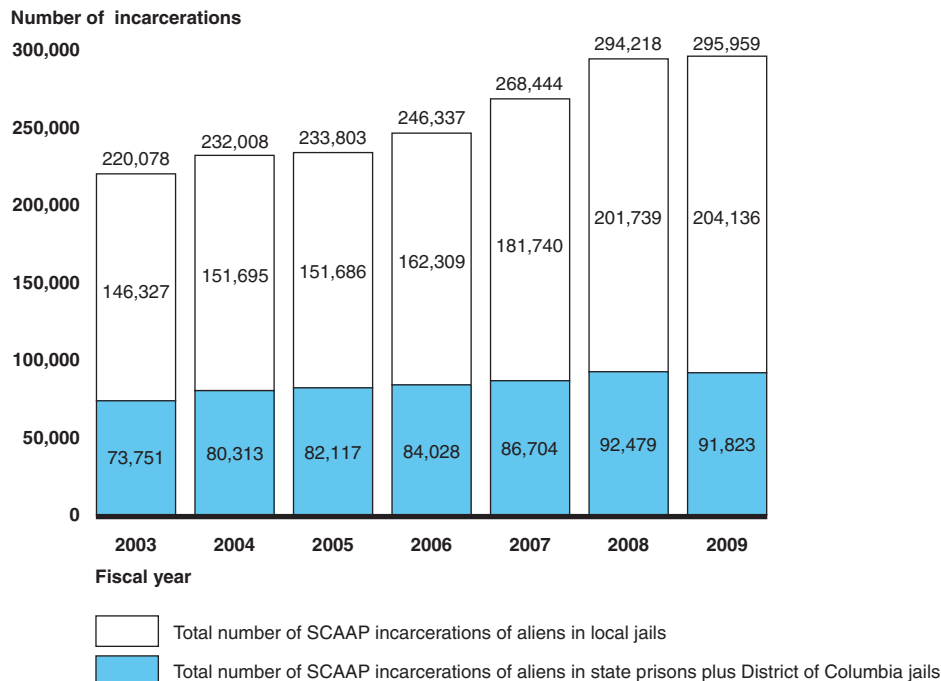
These data are similar to what we reported in 2005.<sup>14</sup> Specifically, in 2005, we reported that about 63 percent of the approximately 49,000 criminal aliens incarcerated in federal prison at year-end 2004 were citizens of Mexico and about 90 percent were citizens of the same eight countries in figure 2.

<sup>14</sup>See [GAO-05-337R](#).

## Number of State and Local SCAAP Criminal Alien Incarcerations Increased from Fiscal Years 2003 through 2009

From fiscal years 2003 through 2009, the number of SCAAP criminal alien incarcerations in state prison systems and local jails increased from about 220,000 in fiscal year 2003 to about 296,000 in fiscal year 2009. Specifically, the number of SCAAP criminal alien incarcerations in state prison systems increased by about 25 percent and the number of SCAAP criminal alien incarcerations in local jails increased by about 40 percent, as shown in Figure 3.<sup>15</sup>

**Figure 3: Number of State and Local SCAAP Criminal Alien Incarcerations from Fiscal Year 2003 through Fiscal Year 2009**



Source: GAO analysis of DOJ Bureau of Justice Assistance data.

Note: These fiscal years represent data on SCAAP criminal alien incarcerations from July 1 through June 30 for the respective fiscal year. For example, fiscal year 2009 includes incarcerations from July 1, 2008, through June 30, 2009. Fiscal year 2009 data are the most recent data available from DOJ.

<sup>15</sup>The following state prison systems did not apply for SCAAP reimbursement: Illinois, Montana, and Oregon in fiscal year 2003; Montana in fiscal year 2004; Alaska in fiscal year 2005; Virginia and West Virginia in fiscal year 2006; and West Virginia in fiscal years 2007, 2008, and 2009. SCAAP data do not represent the number of unique individuals since these individuals could be incarcerated in multiple SCAAP jurisdictions during the reporting period.



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In addition, 49 state prison systems and the District of Columbia received reimbursement in fiscal year 2009 compared to 47 state prison systems and the District of Columbia for fiscal year 2003. Of the total number of inmate days spent by all inmates in state prisons that received SCAAP reimbursements, SCAAP criminal aliens accounted for about 5 percent of all days in fiscal year 2009 and about 4 percent in fiscal year 2003. The number of local jurisdictions receiving reimbursement under SCAAP increased about 16 percent from about 700 local jails in fiscal year 2003 to about 810 local jails in fiscal year 2009. In fiscal year 2009, SCAAP criminal aliens accounted for about 6 percent of the total number of days spent by all inmates in these 810 local jails compared to about 5 percent in fiscal year 2003.

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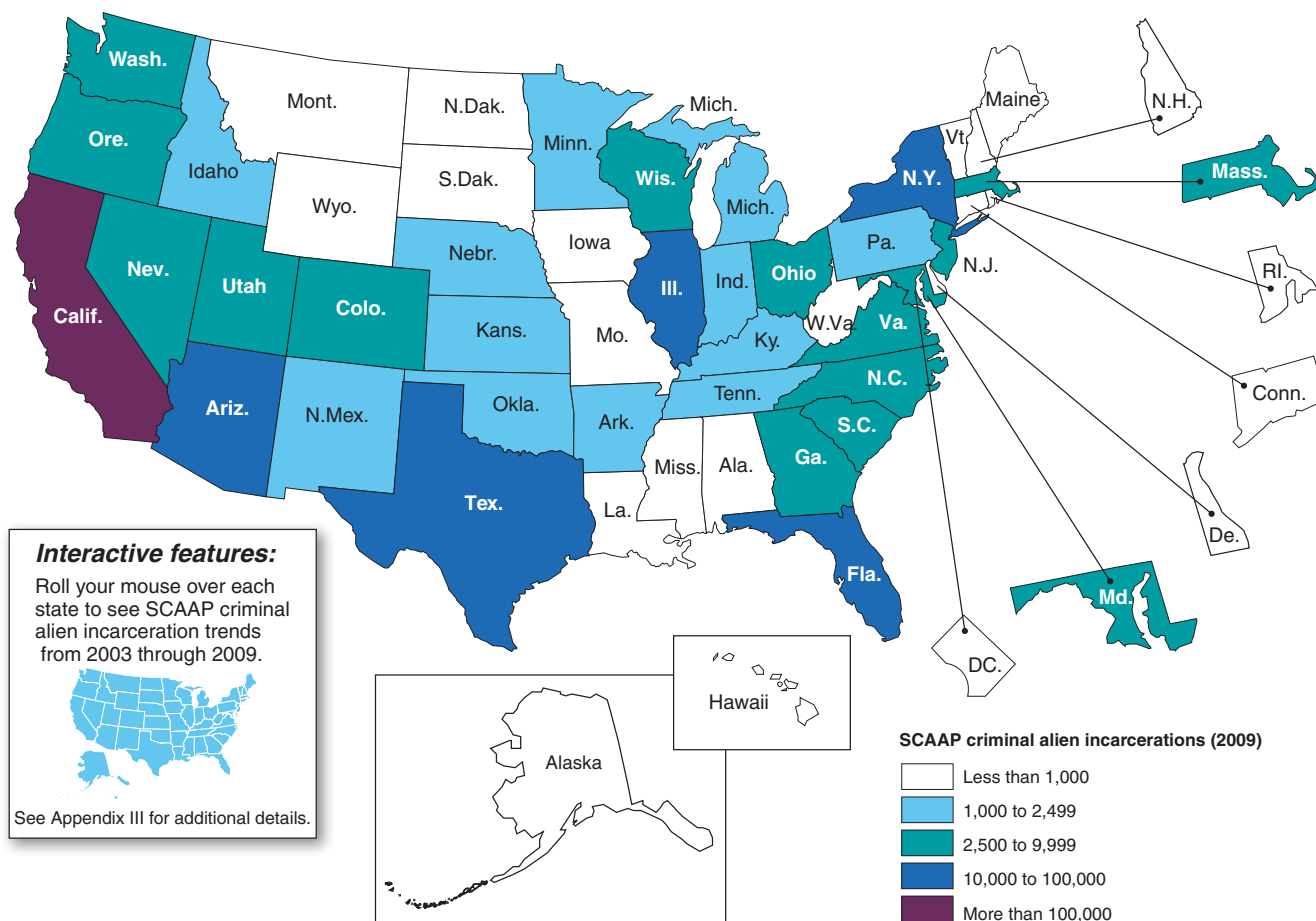
About 70 Percent of  
SCAAP Criminal Alien  
Incarcerations in State  
Prison Systems and Local  
Jails Were in Six States—  
California, Texas, Arizona,  
Florida, New York, and  
Illinois—in Fiscal Year  
2009

Six states—California, Texas, Arizona, Florida, New York, and Illinois—incarcerated 66 percent of the nearly 296,000 SCAAP criminal alien incarcerations nationwide in fiscal year 2009, as shown in figure 4.<sup>16</sup> See appendix III for additional information on figure 4.

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<sup>16</sup>Other studies have researched criminal alien populations in certain states. For examples, see Public Policy Institute of California, *Crime, Corrections, and California: What Does Immigration Have to Do with It?* (San Francisco, California: February 2008) and State of New York, *The Impact of Foreign Born Inmates on the New York State Department of Correctional Services* (Albany, New York: July 2008).

Figure 4: Number of SCAAP Criminal Alien Incarcerations in Each State

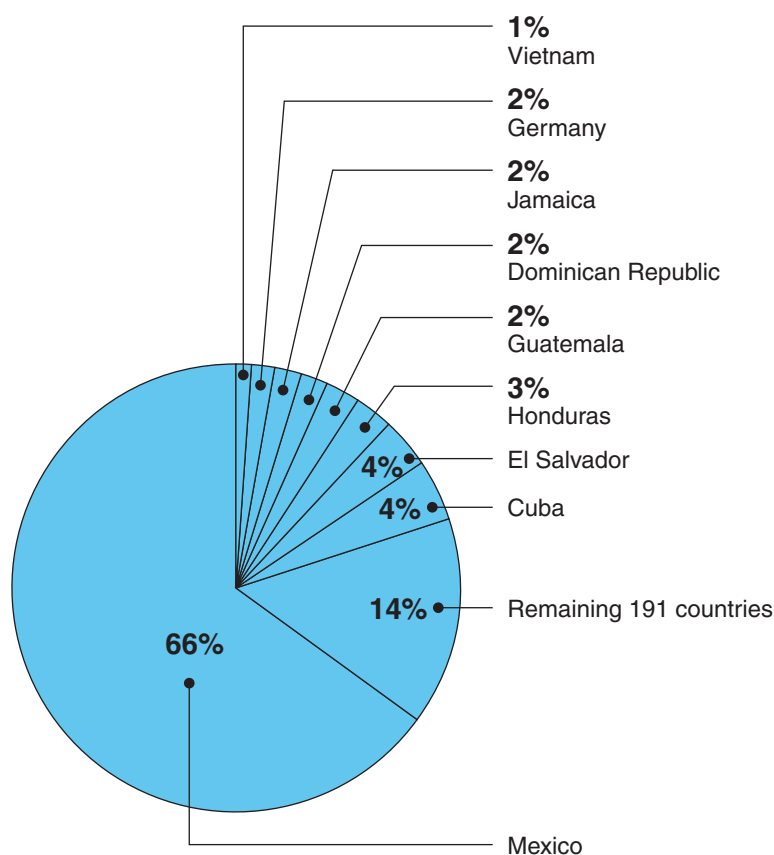


Source: GAO analysis of BJA SCAAP data; Map Resources.

## Mexico Represents the Country of Birth for Most SCAAP Criminal Aliens in State Prison Systems as of Fiscal Year 2009

As shown in figure 5, about 66 percent of the SCAAP criminal aliens incarcerated in state prison systems from July 1, 2008, through June 30, 2009, were born in Mexico and about 85 percent were born in one of nine countries, including Mexico.<sup>17</sup>

**Figure 5: Country of Birth for SCAAP Criminal Aliens in State Prison Systems as of Fiscal Year 2009**



Source: GAO analysis of DOJ Bureau of Justice Assistance data.

Note: Percentages do not add to 100 due to rounding.

<sup>17</sup>Of the inmates we analyzed, about 63,000 were SCAAP illegal aliens and about 28,000 were SCAAP unknown aliens. We did not include about 1,300 inmates of unknown country of birth. SCAAP country of birth data are provided to DOJ by jurisdictions. According to DOJ, these data may be provided directly from inmates, the jurisdiction's database, or ICE. SCAAP criminal aliens from the District of Columbia were included in our analysis of SCAAP criminal aliens in state prison systems.

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Similarly, we reported in 2005 that about 58 percent of approximately 52,000 SCAAP criminal aliens incarcerated in five state prison systems with the most criminal aliens—Arizona, California, Florida, New York, and Texas—as of mid-year 2004 were born in Mexico.<sup>18</sup> At that time, about 80 percent of these SCAAP criminal aliens were born in one of six countries—Mexico, the Dominican Republic, Cuba, El Salvador, Jamaica, and Vietnam.

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**Mexico Represents the  
Country of Birth for Most  
SCAAP Criminal Aliens in  
Local Jails as of Fiscal  
Year 2009**

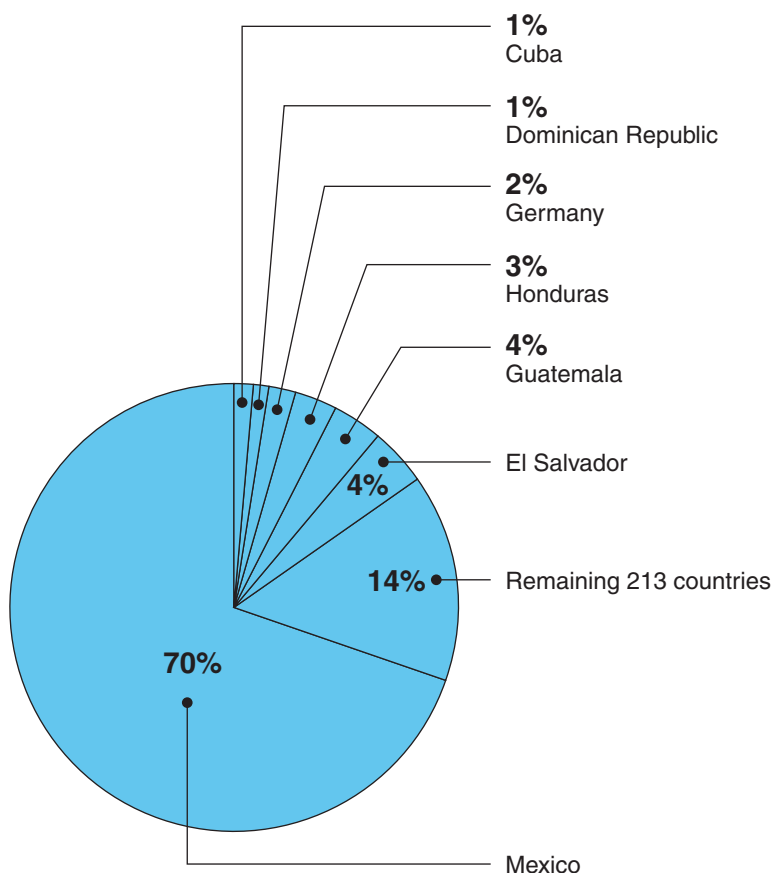
As shown in figure 6, about 70 percent of the SCAAP criminal aliens incarcerated in local jails from July 1, 2008, through June 30, 2009, were born in Mexico and about 85 percent were born in one of seven countries, including Mexico.<sup>19</sup>

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<sup>18</sup>See [GAO-05-337R](#).

<sup>19</sup>Of the inmates we analyzed, about 60,000 were SCAAP illegal aliens and about 144,000 were SCAAP unknown aliens. We did not include about 1,000 inmates of unknown country of birth. SCAAP country of birth data are provided to DOJ by jurisdictions. According to DOJ, these data may be provided directly from inmates, the jurisdiction's database, or ICE.

**Figure 6: Country of Birth for SCAAP Criminal Aliens in Local Jails as of Fiscal Year 2009**



Source: GAO analysis of DOJ Bureau of Justice Assistance data.

Note: Percentages do not add to 100 due to rounding.

Similarly, we reported in 2005 that about 65 percent of the approximately 170,000 SCAAP criminal aliens in five local jurisdictions—New York City, New York; Los Angeles County, California; Orange County, California; Maricopa County, Arizona; and Harris County, Texas—in fiscal year 2003 were born in Mexico. At that time, about 80 percent of these SCAAP criminal aliens were born in one of eight countries—Mexico, El Salvador, Guatemala, Honduras, South Korea, Vietnam, the Dominican Republic, and the Philippines.<sup>20</sup>

<sup>20</sup>See [GAO-05-337R](#).

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## Number of Criminal Alien Apprehensions and Removals Increased from Calendar Years 2007 through 2010

As shown in figure 7, the number of criminal alien apprehensions by ICE, removal proceedings, and removals ordered<sup>21</sup> increased significantly from calendar years 2007 through 2010.<sup>22</sup> The number of criminal alien

- apprehensions increased by about 85 percent,
- removal proceedings increased by 71 percent, and
- removals ordered increased more than seven fold from about 9,000 in 2007 to about 79,000 in 2010.

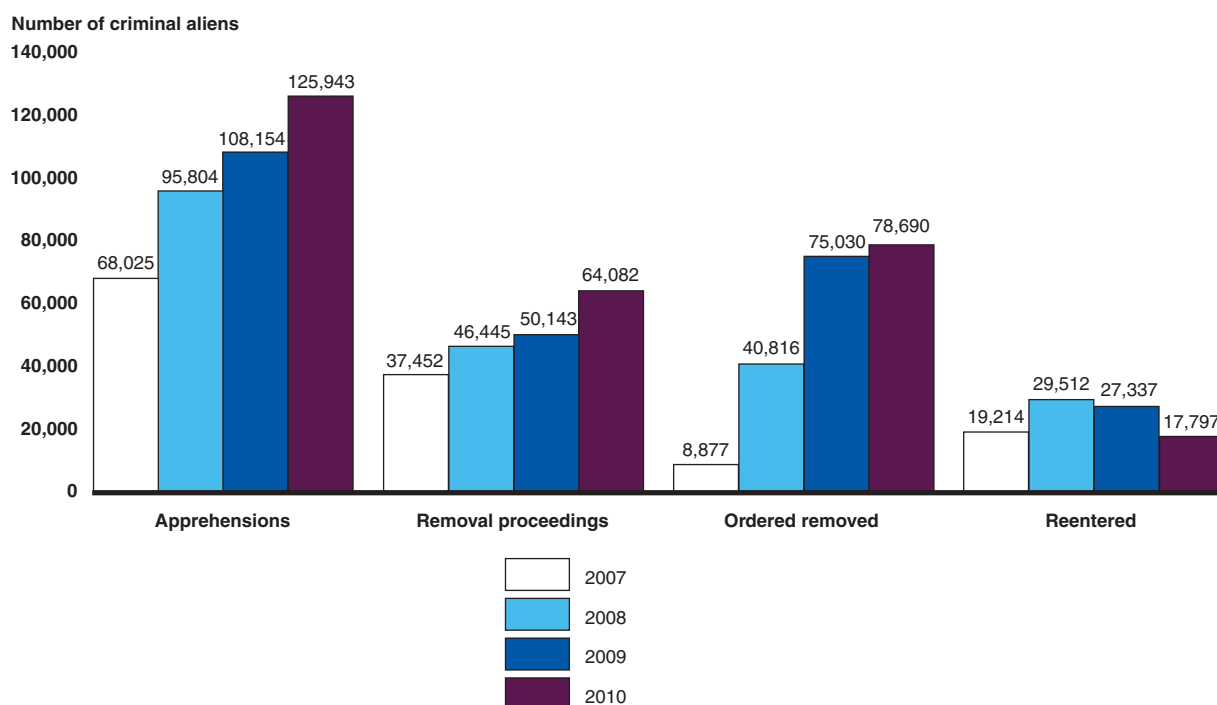
The number of criminal alien removals from the United States in which ICE later recorded an individual was apprehended for reentering the country illegally increased about 42 percent (about 8,000) from calendar years 2007 through 2009, but declined 35 percent (about 10,000) from 2009 to 2010.

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<sup>21</sup>Removal proceedings are administrative hearings before an immigration judge for the purpose of determining the inadmissibility or deportability of aliens. Aliens ordered removed are those who have received an order of removal that is administratively final, or, if the order was judicially reviewed in federal court and the court ordered a stay of removal, those who have received a final order from the court affirming the administrative order of removal.

<sup>22</sup>These data do not represent unique individuals since an individual could be apprehended multiple times in the same year. Also, aliens apprehended in one year may be placed in removal proceedings or removed in a later year. Similarly, aliens placed in removal proceedings in one year may be removed in a later year.

**Figure 7: Number of Criminal Alien Apprehensions, Removals, and Reentries**



Source: GAO analysis of ICE data.

## Criminal Alien Arrests and Convictions

**The Majority of Criminal Aliens in Our Study Population Had from 1 to 5 Arrests and from 1 to 10 Offenses**

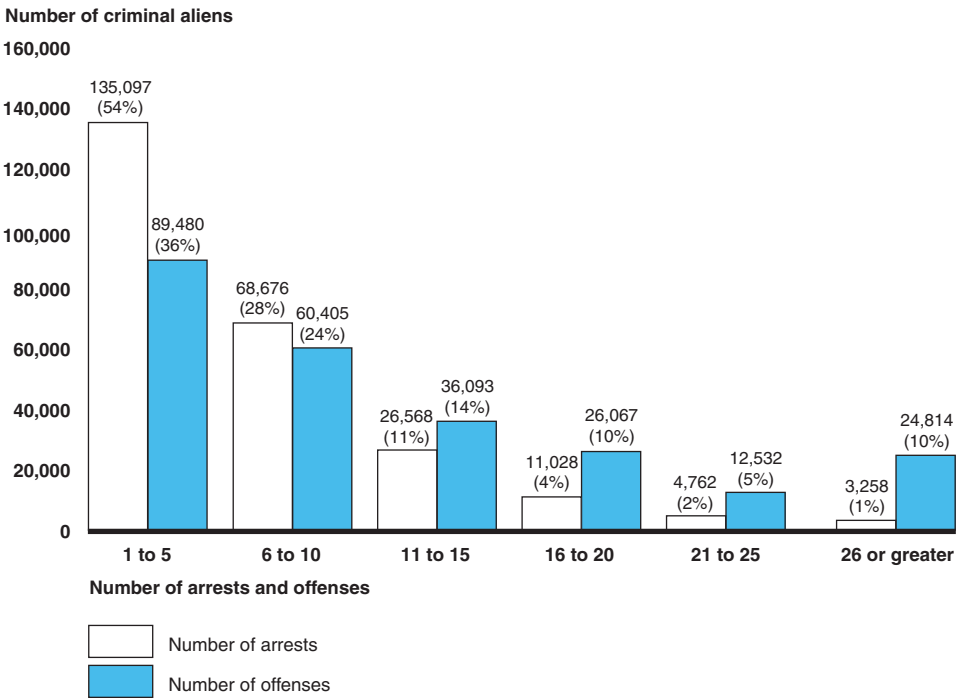
Based on our random sample of 1,000 criminal aliens, we estimate that our study population of about 249,000 criminal aliens were arrested about 1.7 million times, averaging about 7 arrests per criminal alien, slightly lower than the 8 arrests per criminal alien we reported in 2005.<sup>23</sup> They were arrested for a total of about 2.9 million offenses, averaging about 12

<sup>23</sup>See [GAO-05-646R](#). See app. I for information on the margin of error for these estimates.

offenses per criminal alien, slightly lower than the 13 offenses per criminal alien we reported in 2005.<sup>24</sup>

As shown in figure 8, 54 percent of the criminal aliens in our study population had from one to five arrests in their arrest history record. About 9 percent of the criminal aliens in our study population (about 23,000) had one arrest. About 60 percent of the criminal aliens in our study population had from 1 to 10 offenses in their arrest history record. Our analysis includes criminal aliens with arrests dating from August 1955 to April 2010. About 90 percent of the arrests in our study population occurred after 1990.

**Figure 8: Number of Arrests and Offenses per Criminal Alien from August 1955 to April 2010**



Source: GAO analysis of IAFIS data.

Note: For information on the margin of error, see app. I.

<sup>24</sup>A single arrest can be for multiple offenses, if the arrest for each of those offenses occurred within the same jurisdiction on the same date. An arrest does not necessarily result in prosecution or a conviction.

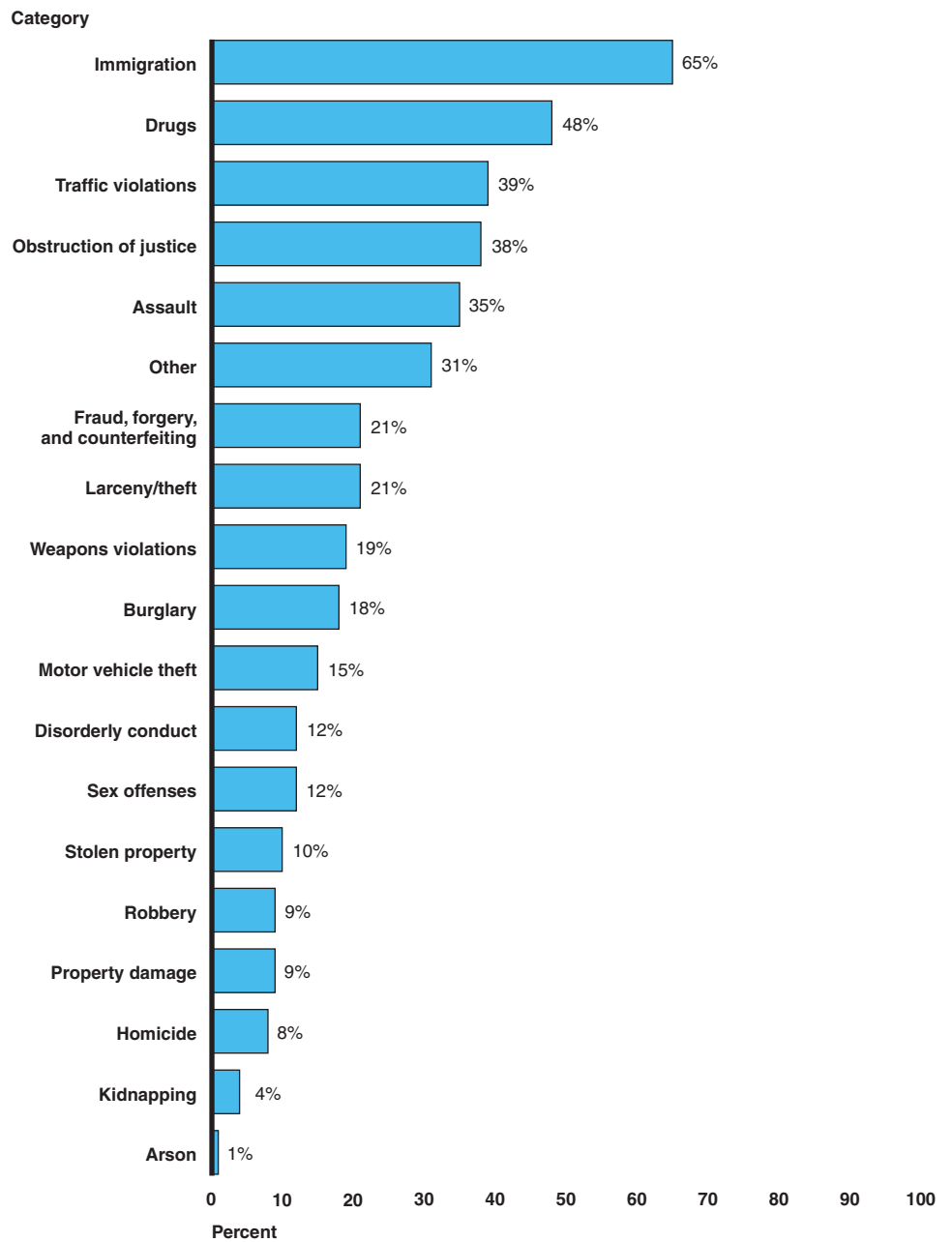


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## 65 Percent of the Criminal Aliens in Our Study Population Were Arrested at Least Once for an Immigration Offense

Sixty-five percent of the 249,000 criminal aliens in our study population were arrested at least once for either a civil or criminal immigration violation. The two types of arrests typically lead to different outcomes: arrests for civil immigration violations are for the purpose of placing individuals into removal proceedings, whereas arrests for criminal violations can lead to criminal prosecution. About 50 percent of the criminal aliens in our study population were arrested at least once for either assault, homicide, robbery, a sex offense, or kidnapping. About half of the criminal aliens were arrested at least once for a drug violation. Figure 9 shows the percentage of criminal aliens arrested at least once by offense category.

**Figure 9: Percentage of Criminal Aliens Arrested At Least Once by Offense Category**



Source: GAO analysis of FBI IAFIS data.

Note: For information on the margin of error, see app. I.

Immigration, Drugs, and Traffic Violations Accounted for about 50 Percent of Offenses in Our Study Population

Of the nearly 3 million arrest offenses in our study population, we estimate that about 50 percent were related to immigration, drugs, or traffic violations, as shown below in table 2.

**Table 2: Estimated Number and Percent of Criminal Alien Arrest Offenses by Type of Offense**

Arrest offense	Number	Percent
Immigration <sup>a</sup>	529,859	18
Drugs	504,043	17
Traffic violations	404,788	14
Obstruction of justice	252,899	9
Assault	213,047	7
Larceny/theft	125,322	4
Fraud, forgery, and counterfeiting	120,810	4
Burglary	115,045	4
Weapons violations	94,492	3
Motor vehicle theft	81,710	3
Sex offenses	69,929	2
Disorderly conduct	52,384	2
Stolen property	49,126	2
Property damage	42,609	1
Robbery	42,609	1
Homicide	25,064	1
Kidnapping	14,788	1
Arson	2,005	<1
Other	151,138	5
<b>Total</b>	<b>2,891,668</b>	<b>100<sup>b</sup></b>

Source: GAO analysis of FBI IAFIS data.

Note: For information on the margin of error, see app. I.

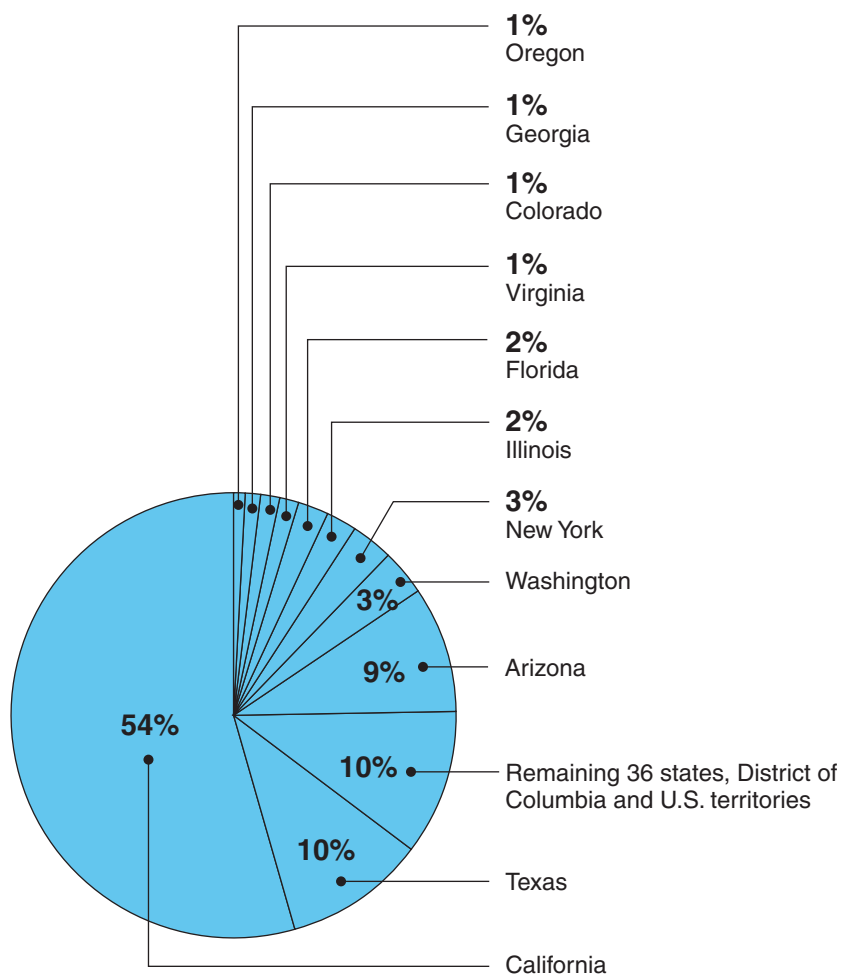
<sup>a</sup>Offenses included in our immigration category included both criminal offenses (63,914) and civil immigration violations—those that lead to removal proceedings (305,784). For 160,161 immigration offenses, we were unable to distinguish whether the offense was criminal or civil. See app. I for information on the margin of error.

<sup>b</sup>Percentages may not add to 100 due to rounding.

## The Majority of Criminal Aliens in Our Study Population Were Arrested in California, Texas, or Arizona

As shown in figure 10, about 75 percent of criminal aliens in our study population were arrested in one of three states—California, Texas, and Arizona.<sup>25</sup>

**Figure 10: Location of Criminal Alien Arrests**



Source: GAO analysis of FBI's IAFIS data.

Note: For information on the margin of error, see app. I. Percentages do not add to 100 due to rounding.

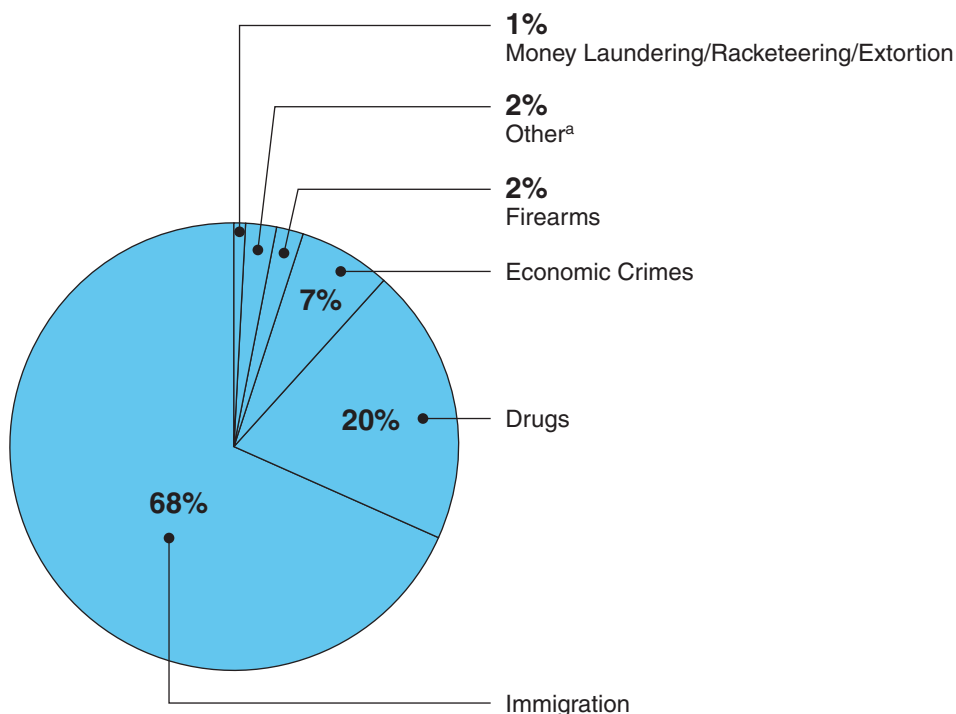
<sup>25</sup> Arrests were made by federal, state, and local authorities. In two arrest histories in our sample, there were arrests made in countries other than the United States.

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## Almost 90 Percent of Primary Federal Convictions Related to Criminal Alien Offenders in Fiscal Year 2009 Were for Immigration or Drug-Related Offenses

In fiscal year 2009, immigration and drug offenses accounted for nearly 90 percent of federal primary convictions for criminal aliens based upon U.S. Sentencing Commission data, as shown in figure 11.<sup>26</sup>

**Figure 11: Primary Convictions Related to Criminal Alien Federal Offenders in Fiscal Year 2009**



Source: GAO analysis of U.S. Sentencing Commission data.

<sup>a</sup>“Other” offenses include homicide, kidnapping, sex offenses, assault, arson, burglary, and auto theft.

Moreover, the number of criminal aliens convicted of immigration violations has increased while the number convicted of drug violations has remained stable. In fiscal year 2004, immigration offenses accounted for about 13,000 primary federal convictions of criminal aliens compared to 24,000 (an 85 percent increase) in fiscal year 2009. In fiscal year 2004, drug

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<sup>26</sup> An offender may be convicted of multiple offenses. For each offender, the U.S. Sentencing Commission tracks the offense that carries the greatest sentence, called the primary conviction. Since these data are of federal convictions, they include offenders who were sentenced to a period of incarceration and those who were not.

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offenses accounted for about 7,000 primary convictions compared to the same number in 2009.

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**Forty-Three Percent of  
Individuals Convicted as a  
Result of Terrorism-  
Related Investigations  
Were Aliens**

In March 2010, DOJ's National Security Division reported information on convictions resulting from international terrorism investigations conducted since September 11, 2001. According to DOJ, the convictions represent cases where defendants were directly linked to international terrorism as well as those who at the time of charging appeared to have a connection to international terrorism.<sup>27</sup> To determine if any of the individuals convicted in these terrorism-related cases were aliens, we requested that U.S. Citizenship and Immigration Services (USCIS) provide us the immigration or citizenship status, if known, of these individuals.

Based on USCIS information, 173 (43 percent) of the 399 individuals included in DOJ's list of convictions resulting from international terrorism-related investigations were, at the time of charging, aliens with or without legal immigration status. The remaining 226 individuals (57 percent) were either U.S. citizens<sup>28</sup>, naturalized U.S. citizens, aliens brought into the United States for prosecution, or unknown. Of the 105 aliens with legal immigration status, 68 (65 percent) were lawful permanent residents. Table 3 shows the immigration or citizenship status related to these individuals.

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<sup>27</sup>See DOJ, *Introduction to National Security Division Statistics on Unsealed International Terrorism and Terrorism-Related Convictions* (Washington, D.C. March 2010). DOJ included individuals identified and detained in the course of a nationwide investigation conducted after September 11, 2001, and subsequently charged with a criminal offense, as well as additional defendants who, at the time of charging, appeared to have a connection to international terrorism even if they were not charged with a terrorism-related offense. We did not verify these individuals' connections to terrorism.

<sup>28</sup>This category includes U.S. citizens who were born in the United States (52 individuals) or derived U.S. citizenship (2 individuals). For 5 of the individuals included in this category, the source of their U.S. citizenship could not be determined. For this analysis, we treated naturalized U.S. citizens as a separate category.

**Table 3: Immigration or Citizenship Status at the Time of Charging of Individuals Convicted as a Result of Terrorism-Related Investigations**

Immigration or citizenship status	Number of individuals	Percent
Aliens with legal immigration status	105	26
Naturalized U.S. citizens	83	21
Aliens without legal immigration status	68	17
U.S. citizens <sup>a</sup>	59	15
Aliens brought into the United States for prosecution	50	13
Unknown <sup>b</sup>	34	9
<b>Total<sup>c</sup></b>	<b>399</b>	<b>100</b>

Source: GAO Analysis of DOJ and USCIS data.

<sup>a</sup>This category includes U.S. citizens who were born in the United States (52 individuals) or derived U.S. citizenship (2 individuals). For 5 of the individuals included in this category, the source of their U.S. citizenship could not be determined. For this analysis, we treated naturalized U.S. citizens as a separate category.

<sup>b</sup>The immigration/citizenship status of some individuals is unknown because of a lack of identifying information needed to determine their status.

<sup>c</sup>Percentages may not add to 100 due to rounding.

**About 20 Percent of Individuals Convicted under Statutes Directly Related to Terrorism Were Aliens**

According to DOJ, some of the defendants on the DOJ list were charged with violations of federal statutes that are directly related to international terrorism, such as hostage taking and bombings of places of public use. Twenty-two individuals (21 percent) of the 107 individuals convicted of statutes identified by DOJ as directly related to terrorism were aliens with or without legal immigration status, as shown in table 4. The remaining 85 individuals (79 percent) were either U.S. citizens, naturalized U.S. citizens, aliens brought into the United States for prosecution, or unknown. Of the 107 individuals, 62 individuals were also convicted under other statutes not directly related to terrorism.

**Table 4: Number of Individuals Convicted under Statutes Directly Related to Terrorism According to DOJ**

Immigration or citizenship status	Number of convicted individuals	Percent
U.S. citizens	30	28
Aliens brought into the United States for prosecution	30	28
Naturalized U.S. citizens	16	15
Aliens with legal immigration status	13	12
Aliens without legal immigration status	9	8
Unknown	9	8
<b>Total<sup>a</sup></b>	<b>107</b>	<b>100</b>

Source: GAO Analysis of DOJ and USCIS data.

<sup>a</sup>Percentages may not add to 100 due to rounding.

#### About 50 Percent of Individuals Convicted under Other Statutes Were Aliens

DOJ also included on its list defendants where the investigation involved an identified link to international terrorism but they were charged with violating other statutes, including fraud, immigration, drugs, false statements, and general conspiracy charges. Of the 292 individuals convicted under other statutes, 151 individuals (52 percent) were aliens with or without legal immigration status. The remaining 141 individuals (48 percent) were either U.S. citizens, naturalized U.S. citizens, aliens brought into the United States for prosecution, or unknown, as shown in table 5.

**Table 5: Number of Individuals Convicted under Other Statutes According to DOJ**

Immigration or citizenship status	Number of convicted individuals	Percent
Aliens with legal immigration status	92	32
Naturalized U.S. citizens	67	23
Aliens without legal immigration status	59	20
U.S. citizens	29	10
Aliens brought into the United States for prosecution	20	7
Unknown	25	9
<b>Total<sup>a</sup></b>	<b>292</b>	<b>100</b>

Source: GAO Analysis of DOJ and USCIS data.

<sup>a</sup>Percentages may not add to 100 due to rounding.



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Three of the Individuals on  
DOJ's List Received U.S.  
Citizenship after Their  
Conviction

An individual applying for naturalization must demonstrate good moral character for a statutory period of time—from 5 years preceding the application up to admission to citizenship. This includes not having been convicted of crimes, such as murder, rape, drug trafficking, or other aggravated felonies prior to or during that period, as well as not having been convicted of other crimes during that period, such as certain drug offenses or convictions that led to 180 days or more of prison time.

Based upon our analysis of USCIS and DOJ data, three of the individuals on the DOJ list received U.S. citizenship after their convictions. Two were convicted of unlawful production of an identity document and one was convicted of transferring funds out of the country in violation of U.S. sanctions.

According to USCIS documentation, in all three cases

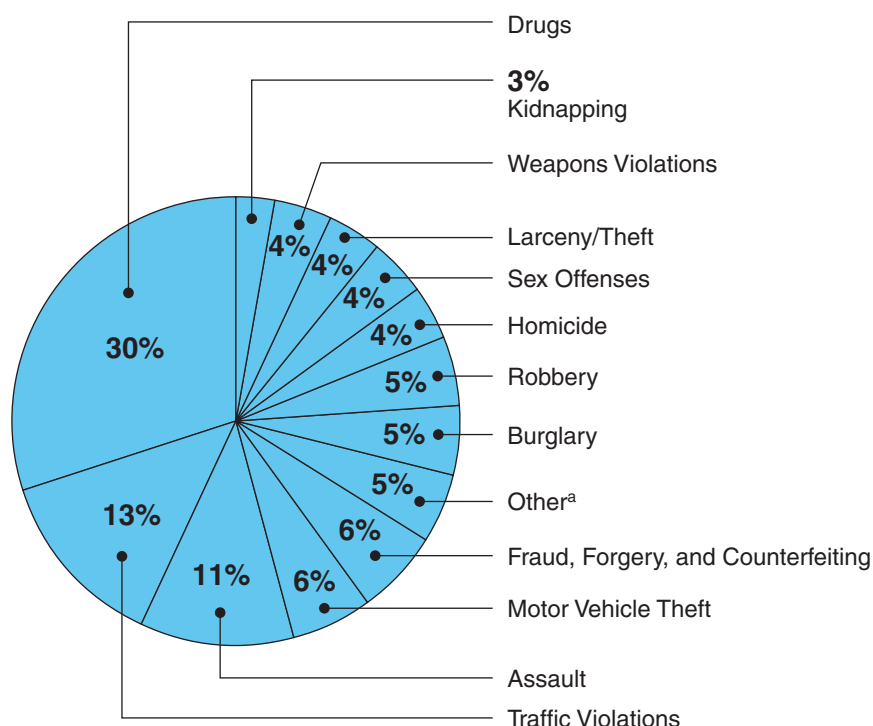
- the convictions were outside of the statutory period, were not aggravated felonies, and resulted in no prison time for the defendants;
- all required background checks were conducted and resolved with appropriate law enforcement agencies; and
- no national security, public safety, or other grounds of ineligibility existed.

As a result, USCIS determined that each of these individuals were able to demonstrate good moral character within the required period of time and met all other requirements for naturalization.

About 50 Percent of All Arizona State Convictions of SCAAP Illegal Alien Inmates in Fiscal Year 2008 Were Related to Drugs, Traffic Violations, and Assault

As shown in figure 12, about 50 percent of all convictions for Arizona's SCAAP illegal alien incarcerations in fiscal year 2008 were related to three offenses: drugs, traffic violations, and assault.<sup>29</sup>

**Figure 12: Arizona State Convictions for SCAAP Illegal Aliens in Fiscal Year 2008 by Offense**



Source: GAO analysis of Arizona Department of Corrections data.

<sup>a</sup>“Other” offenses include obstruction of justice, property damage, disorderly conduct, immigration, stolen property, and arson.

Additionally, the total number of SCAAP illegal aliens incarcerated in Arizona state prisons in fiscal year 2008 was about 6,000, which accounted for about 11 percent of all inmate days. From fiscal years 2005 through

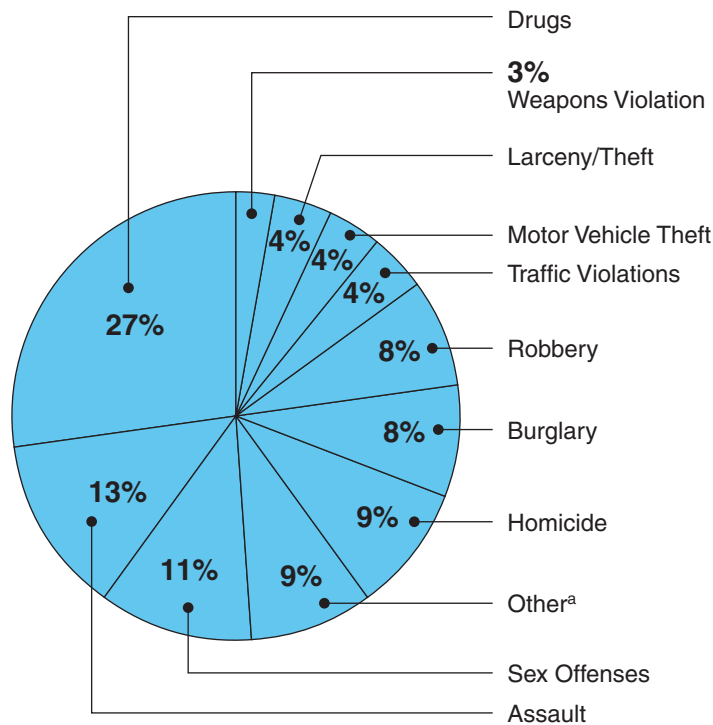
<sup>29</sup>We were not able to distinguish the primary offenses for Arizona convictions, and instead presented our analysis of all offenses provided per inmate (approximately 10,000 convictions). Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations in fiscal year 2008 (incarcerations from July 1, 2007, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis.

2008, drug-related offenses led to more convictions than other offenses, increasing about 6 percent.

### About 50 Percent of California State Primary Convictions of SCAAP Illegal Alien Inmates in Fiscal Year 2008 Were Related to Drugs, Assault, and Sex Offenses

As shown in figure 13, about 50 percent of California's primary convictions related to SCAAP illegal aliens were for drugs, assault, and sex offenses.<sup>30</sup>

**Figure 13: California State Primary Convictions of SCAAP Illegal Aliens in Fiscal Year 2008 by Offense**



Source: GAO analysis of California Department of Corrections and Rehabilitation data.

<sup>a</sup>“Other” offenses include stolen property, fraud, forgery, counterfeiting, kidnapping, property damage, arson, and obstruction of justice.

<sup>30</sup>Our analysis is of the primary offense provided per case (some inmates have more than one case associated with them, and as a result the 2008 analysis is of about 34,000 primary offenses related to about 27,000 inmates). Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations in fiscal year 2008 (incarcerations from July 1, 2007, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis.

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Further, the total number of SCAAP illegal aliens incarcerated in California state prisons in fiscal year 2008 was about 27,000, which accounted for about 10 percent of all inmate days. From fiscal years 2005 through 2008, drug-related convictions decreased by about 4 percent. Moreover, in fiscal year 2008, drug-related convictions accounted for about 27 percent of primary convictions for SCAAP illegal aliens in California.

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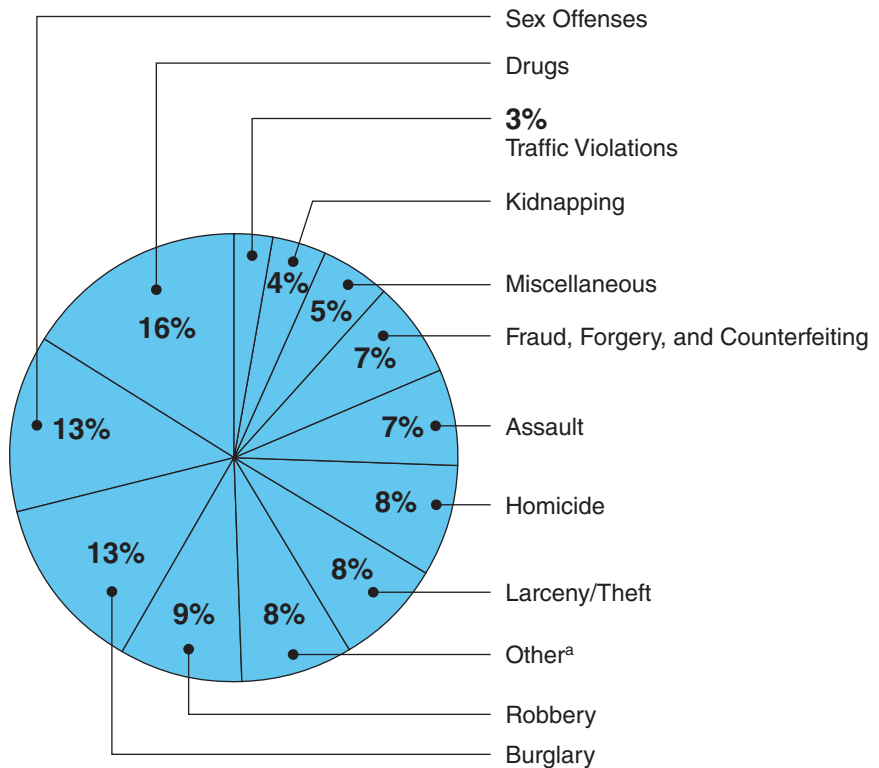
About 50 Percent of All  
Florida State Convictions  
of SCAAP Illegal Alien  
Inmates in Fiscal Year 2008  
Were Related to Drugs, Sex  
Offenses, Burglary, and  
Robbery

As shown in figure 14, about 50 percent of all Florida state convictions of SCAAP illegal alien inmates were for drugs, sex offenses, burglary and robbery in fiscal year 2008.<sup>31</sup>

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<sup>31</sup>We were not able to distinguish the primary offenses for Florida convictions, and instead presented our analysis of all offenses provided per inmate (approximately 25,000 convictions). Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations in fiscal year 2008 (incarcerations from July 1, 2007, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis.

**Figure 14: Florida State Convictions of SCAAP Illegal Aliens in Fiscal Year 2008 by Offense**



Source: GAO analysis of Florida Department of Corrections data.

Note: Percentages do not add to 100 due to rounding.

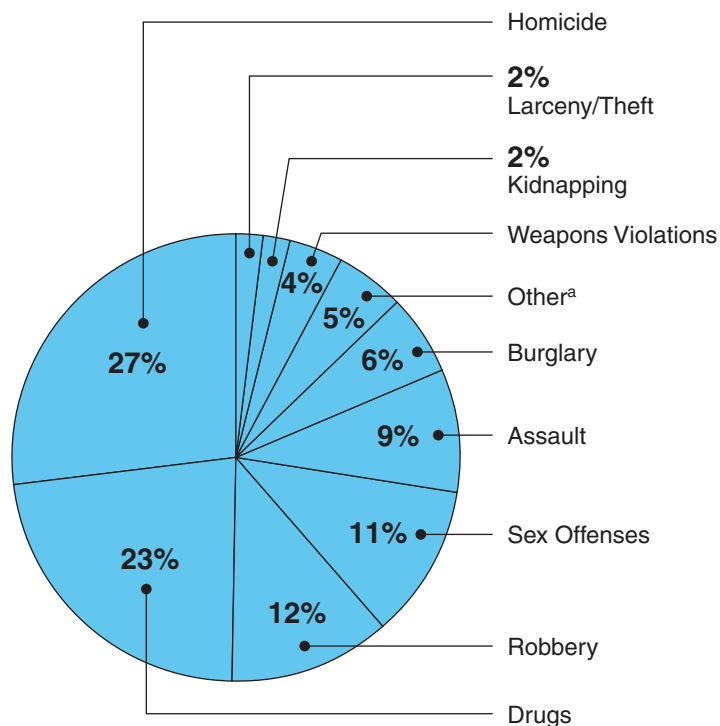
<sup>a</sup>“Other” offenses include motor vehicle theft, weapons violations, obstruction of justice, stolen property, property damage, arson, and disorderly conduct.

Also, the total number of SCAAP illegal aliens incarcerated in Florida state prisons in fiscal year 2008 was about 6,000, which accounted for about 5 percent of all inmate days. From fiscal years 2005 through 2008, drug-related offenses led to more convictions in Florida than other offenses.

## 50 Percent of New York State Primary Convictions of SCAAP Illegal Alien Inmates in Fiscal Year 2008 Were Related to Homicide and Drugs

As shown in figure 15, 50 percent of primary convictions related to SCAAP illegal aliens in New York state prison for fiscal year 2008 were for homicide and drugs.<sup>32</sup>

**Figure 15: New York State Primary Convictions of SCAAP Illegal Aliens for Fiscal Year 2008 by Offense**



Source: GAO analysis of New York State Department of Correctional Services data.

Note: Percentages do not add to 100 due to rounding.

<sup>a</sup>“Other” offenses include fraud, forgery, counterfeiting, traffic violations, obstruction of justice, arson, stolen property, motor vehicle theft, and property damage.

Additionally, the total number of SCAAP illegal aliens incarcerated in New York state prisons in fiscal year 2008 was about 5,000, which accounted for about 5 percent of all inmate days. From fiscal years 2005 through 2006, drugs led to more primary convictions than any other offense. However,

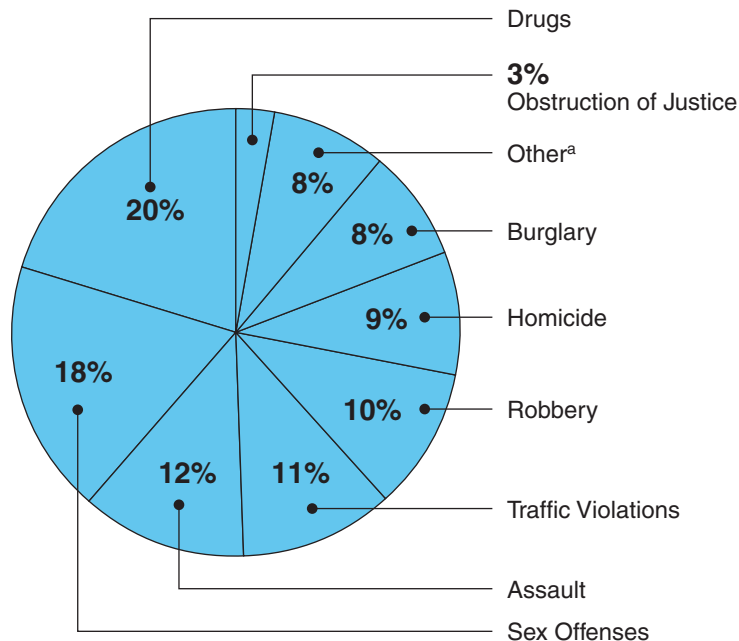
<sup>32</sup> Our analysis is of the primary offense provided per inmate. Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations in fiscal year 2008 (incarcerations from July 1, 2007, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis.

beginning in fiscal year 2007, homicide primary convictions surpassed drug primary convictions as the primary offense resulting in the most convictions in New York.

### 50 Percent of Texas State Primary Convictions of SCAAP Illegal Alien Inmates in Fiscal Year 2008 Were Related to Drugs, Sex Offenses, and Assault

As shown in figure 16, 50 percent of primary convictions related to SCAAP illegal alien inmates in Texas state prisons in fiscal year 2008 were for drugs, sex offenses, and assault.<sup>33</sup>

**Figure 16: Texas State Primary Convictions of SCAAP Illegal Aliens for Fiscal Year 2008 by Offense**



Source: GAO analysis of Texas Department of Criminal Justice data.

Note: Percentages do not add to 100 due to rounding.

<sup>a</sup>“Other” offenses include larceny/theft, kidnapping, motor vehicle theft, weapons violations, fraud, forgery, counterfeiting, arson, property damage, and stolen property.

Further, the total number of SCAAP illegal aliens incarcerated in Texas state prisons in fiscal year 2008 was about 10,000, which accounted for

<sup>33</sup> Our analysis is of the primary offense provided per inmate. Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations in fiscal year 2008 (incarcerations from July 1, 2007, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis.

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about 4 percent of all inmate days. From fiscal years 2005 through 2008, drugs, sex offenses, and assault remained the top three offenses for SCAAP illegal alien incarcerations.

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## Estimated Costs of Criminal Alien Incarcerations

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### Federal Prison and SCAAP Costs to Incarcerate Criminal Aliens Increased from Fiscal Years 2005 through 2009

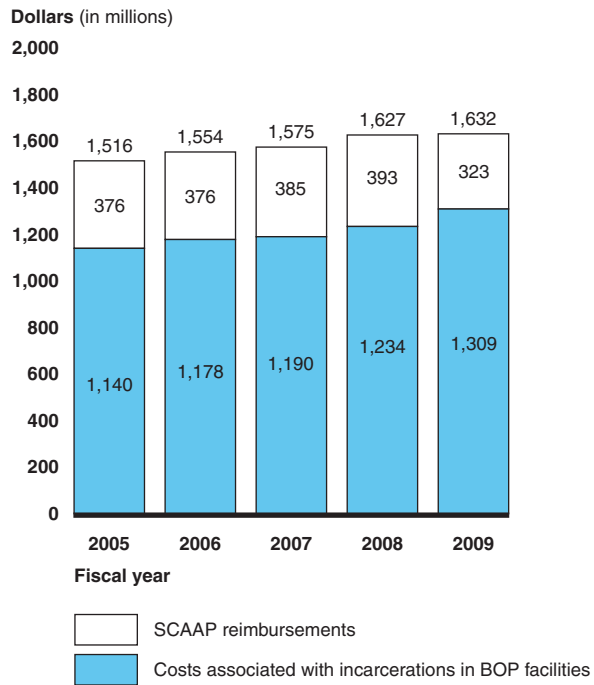
The estimated annual cost to incarcerate criminal aliens in BOP facilities plus SCAAP reimbursements ranged from about \$1.5 billion in fiscal year 2005 to \$1.6 billion in fiscal year 2009, as shown in figure 17. About 77 percent of these costs were associated with incarcerating criminal aliens in BOP facilities. In 2005, we estimated that the costs to incarcerate criminal aliens in BOP facilities along with SCAAP reimbursements ranged from about \$1.5 billion in fiscal year 2001 to about \$1.4 billion in fiscal year 2004.<sup>34</sup> For data in fiscal year 2010 dollars, see appendix II. The cost to incarcerate criminal aliens in BOP facilities increased by about 15 percent from about \$1.1 billion in fiscal year 2005 to about \$1.3 billion in fiscal year 2009 due to increases in both the criminal alien population incarcerated and costs to incarcerate inmates in BOP facilities. SCAAP reimbursements to states and localities increased by about 5 percent from fiscal years 2005 to 2008.

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<sup>34</sup>See [GAO-05-337R](#).



**Figure 17: Federal Prison and SCAAP Costs to Incarcerate Criminal Aliens from Fiscal Years 2005 through 2009**



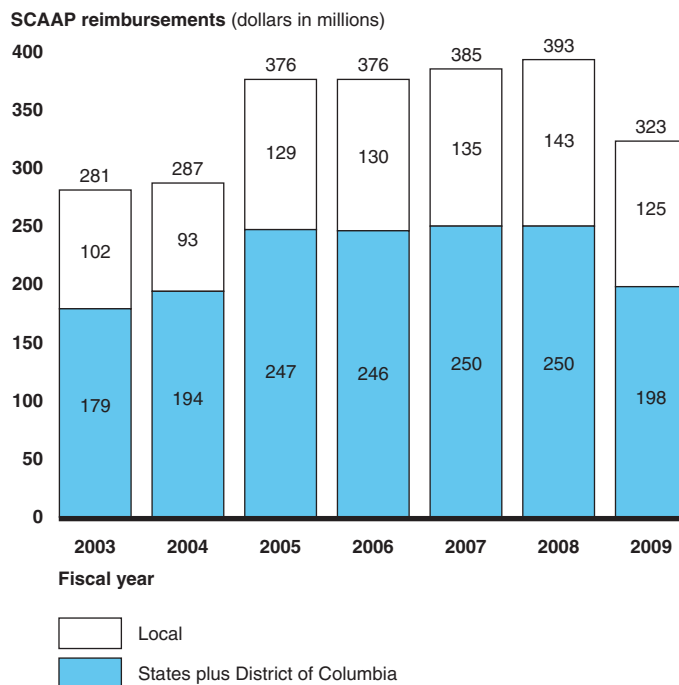
Source: GAO analysis of BOP and BJA SCAAP data.

Note: Forty-nine states and the District of Columbia received SCAAP reimbursement in both fiscal years 2005 and 2009. About 810 local jurisdictions received reimbursement in fiscal year 2009 compared to about 730 local jurisdictions in fiscal year 2005.

## SCAAP Reimbursements to States and Local Jurisdictions Increased from Fiscal Years 2003 through 2008 but Declined in Fiscal Year 2009

As shown in figure 18, SCAAP reimbursements to states and localities increased by about 40 percent from fiscal years 2003 to 2008. SCAAP reimbursements for fiscal year 2009 decreased about 18 percent from fiscal year 2008 due to lower appropriations.<sup>35</sup> For data in fiscal year 2010 dollars, see appendix II.

**Figure 18: SCAAP Reimbursements to States and Localities from Fiscal Years 2003 through 2009**



Source: GAO analysis of DOJ Bureau of Justice Assistance data.

<sup>35</sup>For the purposes of our analysis, territories that received SCAAP reimbursement during fiscal years 2003 through 2009 are not included. Figures may not be exact due to rounding. The following state prison systems did not apply for SCAAP reimbursement: Illinois, Montana, and Oregon in fiscal year 2003; Montana in fiscal year 2004; Alaska in fiscal year 2005; Virginia and West Virginia in fiscal year 2006; and West Virginia in fiscal years 2007, 2008, and 2009.

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**Estimated Selected  
Operating Costs to  
Incarcerate SCAAP  
Criminal Aliens in Prisons  
Nationwide Increased  
about 56 Percent from  
Fiscal Years 2003 through  
2009**

We estimated that selected operating costs (i.e., correctional officer salaries, medical care, food service, and utilities) associated with incarcerating criminal aliens in our nation's state prison systems totaled \$7 billion from fiscal year 2003 through fiscal year 2009. These costs ranged from about \$736 million in 2003 to \$1.1 billion in 2009, about a 56 percent increase, as illustrated by the white bars in figure 19. For data in fiscal year 2010 dollars, see appendix II. In the aggregate, states were eligible for reimbursement of about \$4.5 billion in correctional officer salary costs of the estimated \$7 billion, as illustrated by the light blue bars in figure 19.<sup>36</sup> Based on available appropriations, states were reimbursed for about \$1.6 billion of the \$7 billion, about 23 percent, as illustrated by the dark blue bars in figure 19.<sup>37</sup>

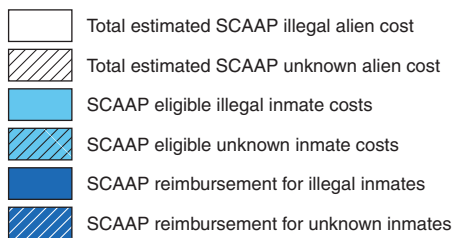
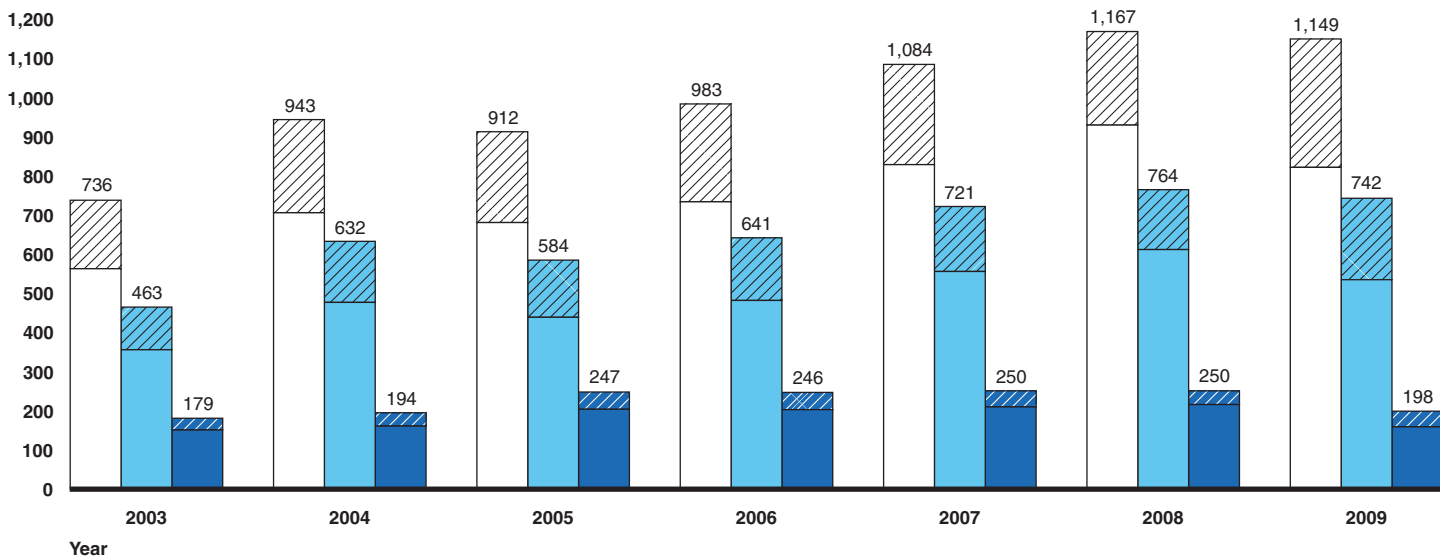
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<sup>36</sup>SCAAP is intended to provide reimbursement to states and localities for a portion of the correctional officer salary costs associated with incarcerating criminal aliens who met the following criteria: (1) had at least one felony or two misdemeanor convictions for violations of state or local law; and (2) were incarcerated for at least 4 consecutive days during the reporting period.

<sup>37</sup>These selected operating costs include correctional officer salaries, medical care, food service, and utilities.

**Figure 19: Estimated Operating Costs to Incarcerate SCAAP Criminal Aliens in All 50 States**

Dollars (in millions)



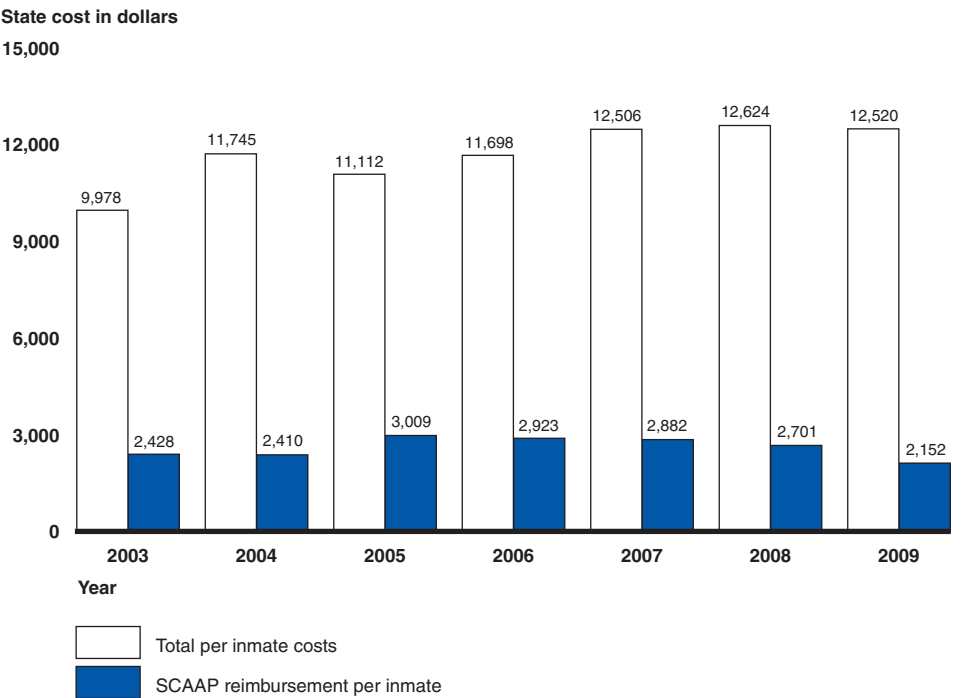
Sources: GAO analysis of DOJ Bureau of Justice Statistics and Bureau of Justice Assistance data.

Note: SCAAP reimbursement figures may not equal appropriation due to rounding. Our analysis includes those states that received SCAAP reimbursement in the associated fiscal year. As a result, not all 50 states may be included in each fiscal year. Our analysis also includes the District of Columbia.

Estimated Operating Costs per Inmate to Incarcerate SCAAP Criminal Aliens in Prisons in All 50 States Ranged from about \$10,000 to \$12,500

We estimated that selected operating costs (i.e., correctional officer salaries, medical care, food service, and utilities) per inmate associated with incarcerating criminal aliens in state prisons ranged from about \$10,000 in fiscal year 2003 to about \$12,500 in fiscal year 2009, as shown in figure 20. We found that, on average, SCAAP reimbursed states about \$2,400 per inmate (about 24 percent) in fiscal year 2003 and about \$2,200 per inmate (about 17 percent) in fiscal year 2009. For data in fiscal year 2010 dollars, see appendix II.

Figure 20: Estimated Operating Costs (i.e., correctional officer salaries, medical care, food service, and utilities) per Inmate to Incarcerate SCAAP Criminal Aliens in All 50 States



Sources: GAO analysis of DOJ Bureau of Justice Statistics and Bureau of Justice Assistance data.

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## California Accounted for about 70 Percent of Total Costs for Selected States to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2008

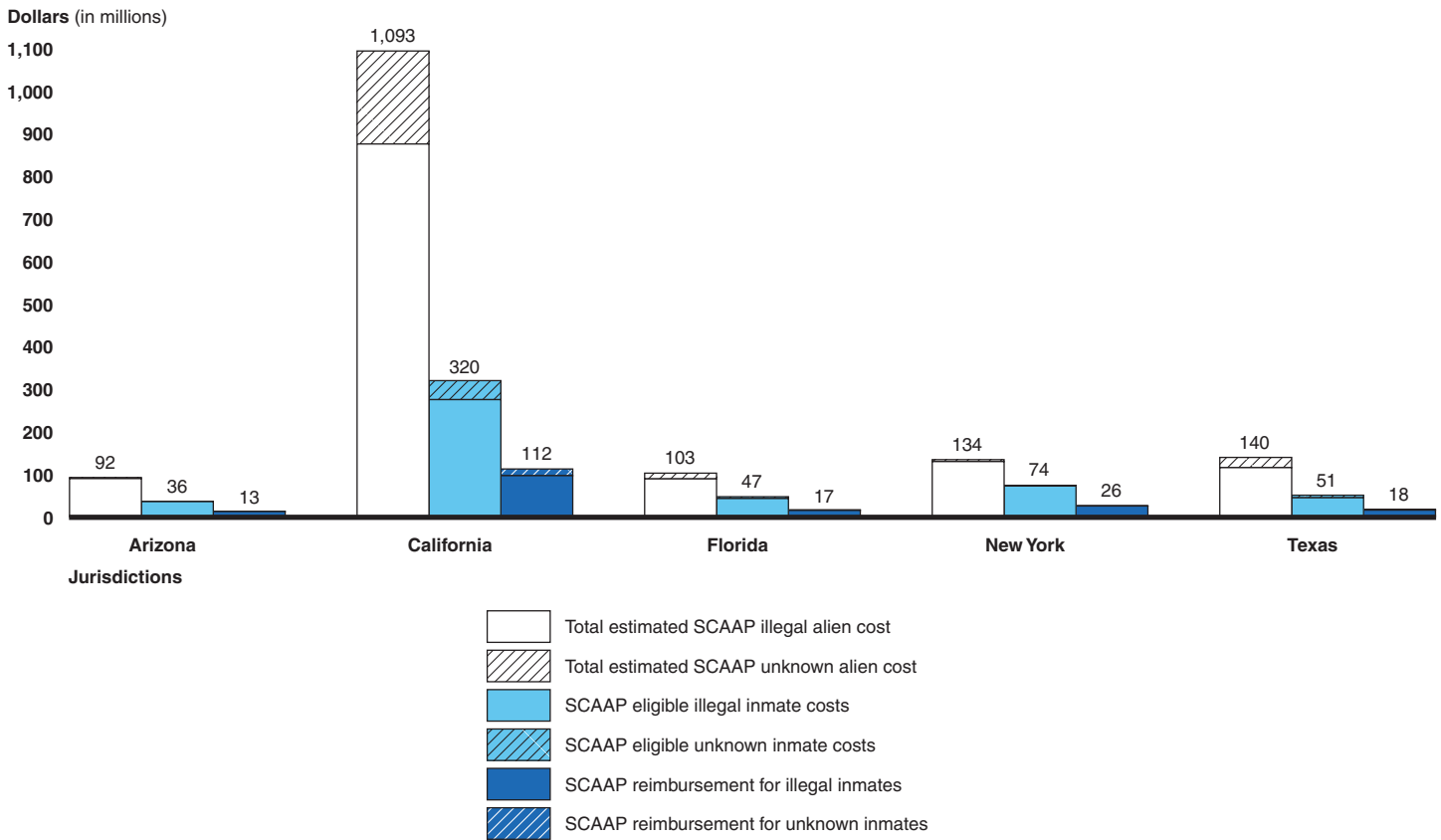
We estimated that California's total cost to incarcerate SCAAP criminal aliens in fiscal year 2008 was about \$1.1 billion. This represents about 70 percent of the \$1.6 billion total estimated costs for the five states we reviewed, as shown in figure 21.<sup>38</sup> California's estimated cost is higher than the other four states due to higher per inmate incarceration costs and the larger number of SCAAP criminal aliens. In 2005, we estimated that California's total cost to incarcerate SCAAP criminal aliens was about \$510 million in fiscal year 2002 and \$635 million in fiscal year 2003.<sup>39</sup>

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<sup>38</sup>We selected the five states based on the number of SCAAP criminal aliens. Collectively, these states accounted for about 70 percent of the SCAAP criminal alien population in fiscal year 2008. We also selected these state prison systems and local jails because they were the same prison systems and local jails that we used in our April 2005 report.

<sup>39</sup>See [GAO-05-337R](#).

**Figure 21: Selected State Costs to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2008**



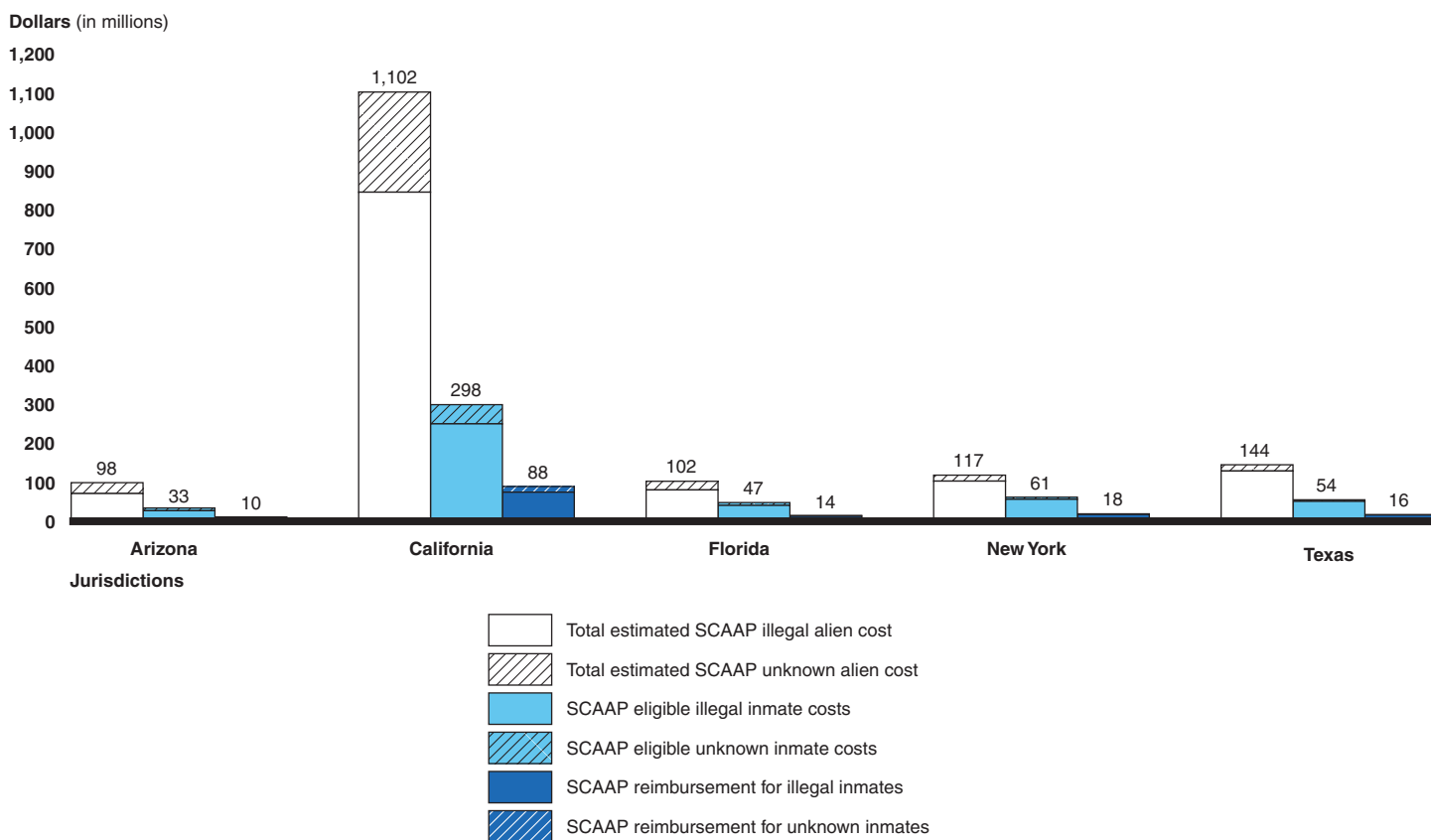
Source: GAO analysis of BJA SCAAP data and Arizona Department of Corrections, California Department of Corrections and Rehabilitation, Florida Department of Corrections, New York State Department of Correctional Services, and Texas Department of Criminal Justice data.

Note: SCAAP reimbursement figures may not equal appropriation due to rounding.

## California Accounted for about 70 Percent of Total Costs for Selected States to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2009

We estimated that California's total cost to incarcerate SCAAP criminal aliens in fiscal year 2009 was about \$1.1 billion. This represents about 70 percent of the about \$1.6 billion total estimated costs for the five states we reviewed, as shown in figure 22. California's estimated cost is higher than the other four states due to higher incarceration costs and the larger number of SCAAP criminal aliens.

**Figure 22: Selected State Costs to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2009**



Source: GAO analysis of BJA SCAAP data and Arizona Department of Corrections, California Department of Corrections and Rehabilitation, Florida Department of Corrections, New York State Department of Correctional Services, and Texas Department of Criminal Justice data.

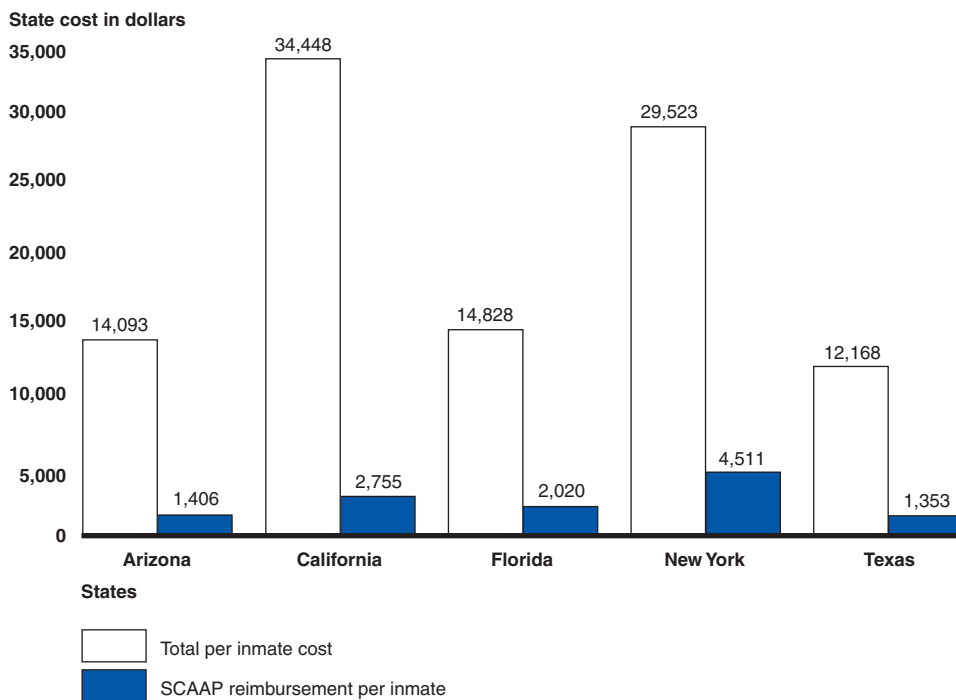
Note: SCAAP reimbursement figures may not equal appropriation due to rounding.



## Selected Total State Costs per Inmate to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2009 Ranged from about \$12,000 to about \$34,000

We estimated that total costs per inmate to incarcerate SCAAP criminal aliens in fiscal year 2009 in five selected states ranged from about \$12,000 for Texas to about \$34,000 for California, as shown in figure 23. SCAAP reimbursements per inmate ranged from about \$1,400 for Texas (about 11 percent) to about \$4,500 for New York (about 15 percent).

**Figure 23: Selected State Costs per Inmate to Incarcerate SCAAP Criminal Aliens in Fiscal Year 2009**



Source: GAO analysis of BJA SCAAP data and Arizona Department of Corrections, California Department of Corrections and Rehabilitation, Florida Department of Corrections, New York State Department of Correctional Services, and Texas Department of Criminal Justice data.

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**Selected Localities' Costs  
to Incarcerate SCAAP  
Criminal Aliens Ranged  
from \$21 Million to \$86  
Million in Fiscal Year 2008**

In fiscal year 2008, the total estimated costs to incarcerate criminal aliens in the localities we reviewed ranged from \$21 million in Harris County, Texas, to \$86 million in New York City, New York, as shown in figure 24.<sup>40</sup> In 2005, we reported that the total estimated costs to incarcerate criminal aliens in the same localities in fiscal year 2003 ranged from \$15 million in Maricopa County, Arizona, to \$95 million in New York City, New York.<sup>41</sup> SCAAP reimbursements ranged from \$3 million to \$15 million in these localities or between about 9 percent (Maricopa County, Arizona) and about 19 percent (Los Angeles County, California) of the localities' total estimated costs, as shown in figure 24.

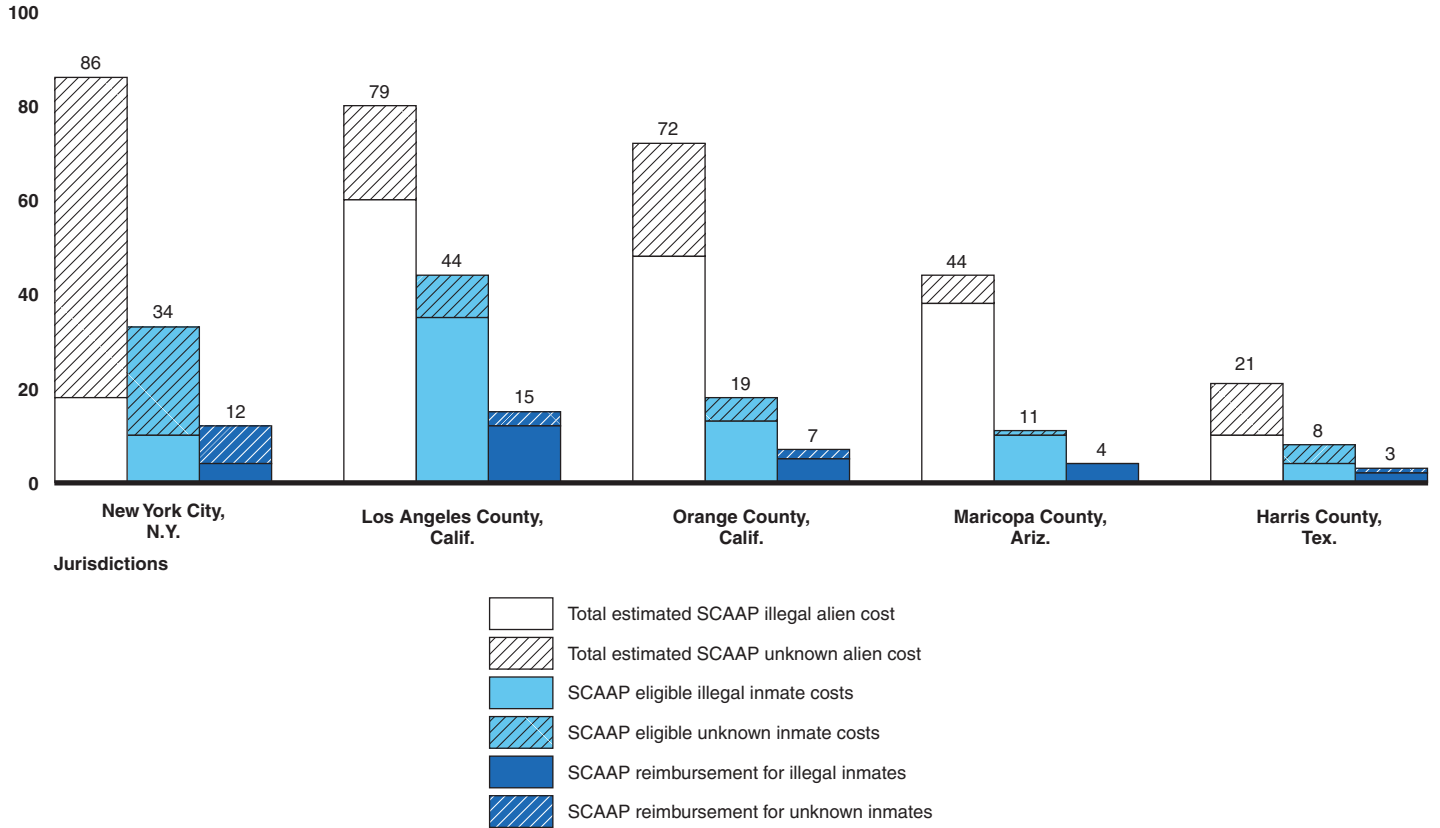
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<sup>40</sup>Fiscal year 2008 includes the period from July 1, 2007, through June 30, 2008.

<sup>41</sup>See [GAO-05-337R](#).

**Figure 24: Selected Localities' Costs and Reimbursements for Incarcerating Criminal Aliens in Fiscal Year 2008**

Dollars (in millions)



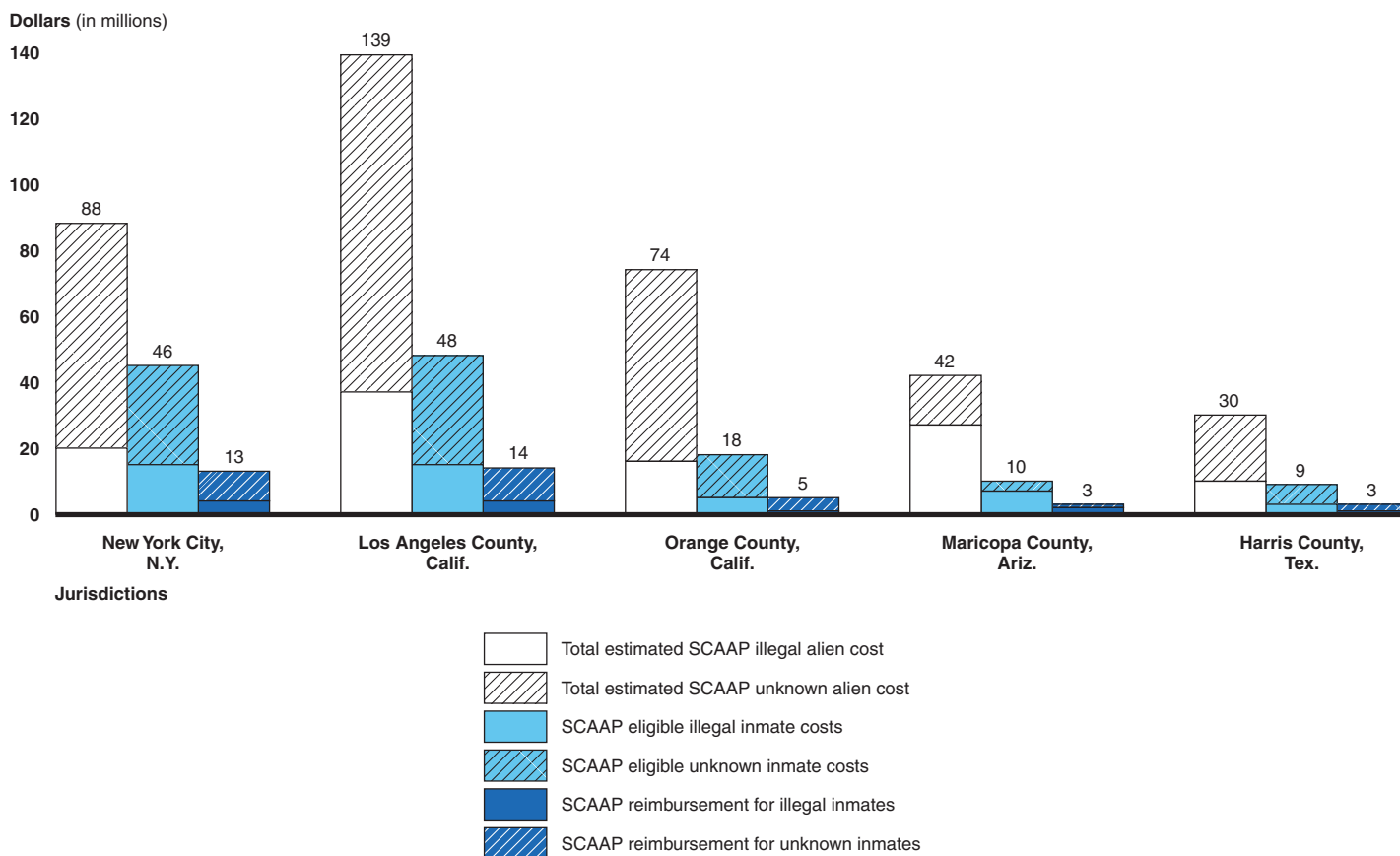
Source: GAO analysis of BJA SCAAP data, and Los Angeles County, California, Sheriff's Department; Maricopa County, Arizona Sheriff's Office; Orange County, California Sheriff's Department; New York City Department of Corrections; and Harris County, Texas Sheriff's Office data.

Note: SCAAP reimbursement figures may not equal appropriation due to rounding.

## Selected Localities' Costs to Incarcerate SCAAP Criminal Aliens Ranged from \$30 Million to \$139 Million in Fiscal Year 2009

In fiscal year 2009, the total estimated costs to incarcerate criminal aliens in the localities we reviewed ranged from \$30 million in Harris County, Texas, to \$139 million in Los Angeles County, California, as shown in Figure 25. SCAAP reimbursements ranged from \$3 million to \$14 million in these localities or between about 7 percent (Orange County, California) and about 15 percent (New York City, New York) of the total estimated costs.

**Figure 25: Selected Localities' Costs and Reimbursements for Incarcerating Criminal Aliens in Fiscal Year 2009**



Source: GAO analysis of BJA SCAAP data, and Los Angeles County, California, Sheriff's Department; Maricopa County, Arizona Sheriff's Office; Orange County, California Sheriff's Department; New York City Department of Corrections; and Harris County, Texas Sheriff's Office data.

Note: SCAAP reimbursement figures may not equal appropriation due to rounding.

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## DOJ Plans to Update Its SCAAP Reimbursement Methodology Consistent with Best Practices

The amount DOJ awards states, counties, and cities (localities) in SCAAP reimbursements depends on, among other things, the extent to which DHS can verify the alien's immigration status at the time of incarceration. States and localities receive the maximum reimbursable amount for criminal aliens for whom DHS can verify their lack of legal status (SCAAP illegal aliens). States and localities also receive partial reimbursement for criminal aliens for whom DHS is unable to verify their immigration status (SCAAP aliens of unknown immigration status). DOJ is to reimburse states for 65 percent, cities for 60 percent, and counties for 80 percent of correctional officer salary costs associated with unknown aliens. According to DOJ officials, this methodology was developed based on analysis that the former Immigration and Naturalization Service (INS) conducted in 2000 where it analyzed the records of aliens submitted for SCAAP reimbursement in 1997 whose immigration status was at that time unknown. Based upon this analysis, INS determined that 65 percent of those unknown aliens submitted for 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.

Best practices in cost estimating and assessment of programs call for new data to be continuously collected so it is always relevant and current. Most programs do not remain static; they tend to change in the natural evolution of the program.<sup>42</sup> During the course of our review, we discussed with DOJ officials the relevancy of the current SCAAP reimbursement methodology since it is based on 1997 data. Thus, in January 2011, DOJ officials said that they had developed plans to update DOJ's SCAAP methodology, as appropriate, using SCAAP data from 2009 to help ensure that this methodology for reimbursing states and localities for unknown aliens is relevant and current. DOJ plans to use this data along with other factors to determine how to update its methodology for its next reimbursement cycle in 2011. DOJ stated that it would like to work with DHS to establish a 3-year update cycle to review the methodology in the future. Updating the SCAAP methodology would provide additional assurance that DOJ reimburses states and localities for such costs consistent with current trends.

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<sup>42</sup>See [GAO-09-3SP](#).

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## Agency and Third-Party Comments

We requested comments on a draft of this report from DHS and DOJ. We also provided relevant portions of a draft 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 Correctional Services, and Texas Department of Criminal Justice for review and comment. DHS, DOJ, and the U.S. Sentencing Commission notified us through e-mails received on March 15, 17, and 16, 2011, respectively, that they had no written comments to include in our report. In addition to these responses, USCIS and DOJ each provided technical comments, which have been incorporated into the report, as appropriate. The five state departments did not provide comments.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until up to 30 days from the report date. At that time, we will send copies of this report to the Attorney General, Secretary of Homeland Security, and other interested congressional committees.

In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have questions concerning this report or wish to discuss the matter further, please contact me at (202) 512-8777 or [jeszeckc@gao.gov](mailto:jeszeckc@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are acknowledged in appendix IV.



Charles A. Jeszeck  
Acting Director, Homeland Security and Justice Issues

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# Appendix I: Scope and Methodology

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This appendix provides additional details on the scope and methodology used to update our 2005 reports.<sup>1</sup> Specifically, our work provides information on the following:

1. The number and nationalities of criminal aliens incarcerated in federal and state prisons and local jails and the number of criminal alien (1) apprehensions, (2) removals, and (3) apprehensions for illegal reentry into the United States after removal.
2. The types of offenses for which criminal aliens were arrested and convicted.
3. The costs associated with incarcerating the criminal alien population and the extent to which the Department of Justice's (DOJ) methodology for reimbursing states and localities for the incarceration of certain criminal aliens is relevant and current.

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## Incarcerated Criminal Alien Population in Federal and State Prison Systems and Local Jails

To determine the number and nationalities of criminal aliens incarcerated in federal and state prison systems and local jails, we analyzed DOJ's Bureau of Prisons (BOP) federal incarceration data on criminal aliens incarcerated in federal prisons from fiscal years 2005 through 2010 and DOJ's State Criminal Alien Assistance Program (SCAAP) incarceration data on criminal aliens incarcerated in state prison systems and local jails from fiscal years 2003 through 2009.<sup>2</sup> BOP incarceration data are based on an average of the 12 monthly population snapshots for each type of BOP institution, such as minimum security, within the fiscal year. These data do not include inmates for whom citizenship is unknown. There are no reliable population data on criminal aliens incarcerated in all state prison systems and local jails. The data we obtained represent a portion of the total population of criminal aliens who may be incarcerated at the state and local levels, since by statute SCAAP does not reimburse states and localities for certain criminal aliens, such as aliens with lawful immigration status, and not all jurisdictions may apply for

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<sup>1</sup>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).

<sup>2</sup>The period of time covered by these data vary because they reflect updates since we last reported on these issues in 2005 (see [GAO-05-337R](#) and [GAO-05-646R](#)). Moreover, they reflect the most recent data available at the time of our analysis. For more information on our prior work, see [GAO-05-337R](#) and [GAO-05-646R](#).

reimbursement.<sup>3</sup> To determine the nationalities of criminal aliens incarcerated in federal and state prison systems and local jails, we analyzed BOP country of citizenship data as of December 2010 for federal prisons, and SCAAP country of birth data from fiscal year 2009 for state prisons and local jails.<sup>4</sup> These data were the most recent as of the time of our analysis. BOP country of citizenship data do not include criminal alien inmates for whom BOP does not have country of citizenship. BOP obtains country of citizenship data from presentence investigation reports, which may be based on documentation such as a birth certificate or immigration documents, or be self-reported. SCAAP country of birth data are provided to DOJ by jurisdictions. According to DOJ, these data may be provided directly from inmates, the jurisdiction's database, or U.S. Immigration and Customs Enforcement (ICE). To determine the number of criminal alien apprehensions, removals, and apprehensions for reentering the country illegally after a prior removal, we analyzed ICE data from fiscal years 2007 through 2010.

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## Types of Criminal Alien Arrest Offenses and Convictions

To determine the types of offenses criminal aliens incarcerated in federal and state prison systems and local jails were arrested for, we selected a random sample of aliens. Specifically, we obtained data from BOP on the population of aliens incarcerated in federal prisons as of December 27, 2008 (approximately 49,000 inmates). We added to this the population of convicted criminal aliens incarcerated in state prison systems and local jails from July 1, 2004, through June 30, 2008, for whom state and local governments sought reimbursement under SCAAP (approximately 460,000 inmates) for a total of about 509,000. These two populations were chosen because they were the most recent population data available when we began our analysis. In order to obtain an alien's arrest history, we needed to first determine which criminal aliens had a Federal Bureau of Investigation (FBI) identification number. The FBI identification number

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<sup>3</sup>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 met 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. The program is not intended to reimburse for all costs associated with criminal alien incarcerations.

<sup>4</sup>For the purposes of our report, data on SCAAP criminal alien incarcerations cover the period from July 1 through June 30 for the respective fiscal year. For example, SCAAP fiscal year 2008 data represents the time frame from July 1, 2007, through June 30, 2008. BOP maintains its nationality data based on country of citizenship and SCAAP maintains its data based on country of birth.



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is a unique identifier the FBI assigns to a set of fingerprints that allows the linking of relevant arrest records and any subsequent activity within the criminal justice system. The arrest histories are stored in the FBI's Integrated Automated Fingerprint Identification System (IAFIS). About 251,000 (about 48,000 BOP inmates and 203,000 SCAAP inmates) of the 509,000 criminal aliens had a valid FBI identification number in the data records we obtained.<sup>5</sup> We provided the FBI number and other identifying information to the FBI and requested the arrest history for these 251,000 criminal aliens. The arrest history record for each criminal alien with a unique FBI identification number contained the dates of arrest, the arresting agency, location of the arrest, and a description of each offense that resulted in the arrest, such as drug possession, burglary, and robbery. We used data available in IAFIS as of May 2010 to determine the arrest history for each alien.

The arrest history records for the 251,000 contained several hundred thousand different descriptions of arrest offenses. From these 251,000 criminal aliens, we selected a simple random sample of 1,000 criminal aliens to analyze. We found that 5 of the criminal aliens from our sample were out of scope because their records did not reflect actual arrests but rather administrative actions (e.g., being booked into a prison or transferred between facilities). As such, our analysis is of 995 criminal aliens, and our estimated study population is about 249,000. Based on this analysis, we determined the estimated numbers of criminal alien arrests and offenses in our study population. We categorized the arrest history records for this sample into 1 of 19 major offense categories, such as immigration, using FBI's *Reference Guide to Aid in Understanding Arrest Abbreviations* on how to categorize different types of crimes (see table 7 below). Because the time period for the federal population of aliens is a single point in time, whereas the time periods for the state prison and local jail population are over four SCAAP years, our combined population understates the federal population of aliens since it does not account for federal prisoners that flowed in and out of BOP facilities. Given this difference in time period for these populations, we are not reporting comparisons between federal and state and local prisons, except in cases where we note that the subpopulations may differ as a result of the time difference rather than as a result of a difference between the two subpopulations. For the study population, the analysis includes criminal

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<sup>5</sup>States and localities applying for SCAAP reimbursement are not required to submit an individual's FBI identification number to verify the individual's immigration status.

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aliens with arrests submitted to the FBI dating from August 1955 to April 2010.

Because our estimates regarding criminal alien arrests and offenses are based on a probability sample, each estimate we report has a measurable margin of error due to sampling. The 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, which for estimates in this report are 95 percent. For the estimated number of criminal aliens in our study population, total arrests, total offenses, and the average number of arrests and offenses per criminal alien, the margin of error is no more than  $\pm 6$  percent. For estimates of the number of arrests and offenses per criminal alien (see figure 8 of this report), the margin of error for percentage estimates is no more than  $\pm 3$  percentage points and the margin of error for the estimated numbers of criminal aliens is no more than  $\pm 30$  percent of the estimate unless otherwise noted.<sup>6</sup> For estimated percentages of criminal aliens with at least 1 arrest per offense category (see figure 9 of this report), the margin of error is no more than  $\pm 3$  percentage points. For estimated offenses by arrest offense categories (see table 2 of this report), the margin of error for percentage estimates is no more than  $\pm 2$  percentage points, and the margin of error for the estimated numbers of arrest offenses is no more than  $\pm 20$  percent of the estimated number unless otherwise noted.<sup>7</sup> For estimates related to arrest locations (see figure 10 of this report), the margin of error for the percentage estimates is no more than  $\pm 1$  percentage point.

To determine offenses for which criminal aliens were convicted, we analyzed federal data from the U.S. Sentencing Commission on federal court convictions from fiscal years 2003 through 2009; and data from five states—Arizona, California, Florida, New York, and Texas—on state

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<sup>6</sup>For our 21 to 25 arrest category in fig. 8 of this report, the confidence interval is from 2,642 through 6,882 criminal aliens. For our 26 or greater arrest category in fig. 8 of this report, the confidence interval is from 1,499 through 5,018 criminal aliens.

<sup>7</sup>For our kidnapping category in table 2 of this report, the confidence interval is from 11,112 through 18,464 offenses. For our arson category in table 2 of this report, the confidence interval is from 648 through 3,362.

convictions from fiscal years 2005 through 2008.<sup>8</sup> We selected these five states because they are the states with the largest number of SCAAP criminal aliens. Collectively, these states accounted for about 70 percent of the SCAAP criminal alien population in fiscal year 2008. Criminal aliens may be convicted of multiple offenses. For federal court convictions, we analyzed data on the primary offense per offender—the offense with the longest maximum sentence when an individual is convicted of multiple offenses. Table 6 describes the multiple offense categories for federal court convictions.

**Table 6: Major Offense Categories for Federal Convictions**

Major offense category	Category includes
Immigration	Alien smuggling; trafficking in documents needed for entry into the United States, such as U.S. passports; fraudulently acquiring entry documents; unlawfully entering the United States.
Drugs	Drug distribution, manufacture, possession.
Economic crimes	Larceny, fraud, embezzlement, forgery/counterfeiting, tax offenses, and antitrust (i.e., price fixing).
Firearms	Unlawful possession/transportation of firearms or ammunition, use of firearms or ammunition to commit crime.
Money Laundering/Racketeering/Extortion	Monetary transaction from unlawful activity, failure to report monetary transactions, violent crimes in aid of racketeering, blackmail, extortion by force or threat.

Source: GAO analysis of U.S. Sentencing Commission data.

Our analysis of state conviction data was based on convictions related to SCAAP illegal alien incarcerations from fiscal years 2005 through 2008 (incarcerations from July 1, 2004, through June 30, 2008), which were the most recent SCAAP data available at the time of our analysis. The data provided by Arizona and Florida did not distinguish primary convictions, thus we presented our analysis of all offenses provided per inmate. For California, New York, and Texas, we analyzed the primary conviction

<sup>8</sup>We analyzed federal data from fiscal years 2003 through 2009 to determine trends in federal convictions, if any, since our past work. We analyzed state data from fiscal years 2005 through 2008 to determine trends in selected state convictions, if any, using the 4 most recent fiscal years at the time of our analysis.

provided per inmate. Table 7 describes the multiple offense categories for state convictions.

**Table 7: Major Offense Categories for Arrest Offenses and State Convictions**

Major 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
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

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Major offense category	Category includes
Other	Includes trespassing, gang participation, littering, child cruelty, racketeering, and illegal waste dumping

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Source: GAO analysis of FBI data.

Note: All offenses include any attempt or conspiracy to commit the respective offense. We developed the criminal offense categories using the FBI's classification for offense codes as our guidance.

To determine the immigration or citizenship status of individuals identified by DOJ as having been convicted as a result of international terrorism investigations, we obtained unique identifiers (alien identification number or U.S. Marshals identification number) for these individuals, as available, from the U.S. Sentencing Commission and BOP.<sup>9</sup> An alien identification number is a unique number assigned to an alien who has come into contact with immigration authorities. The U.S. Marshals identification number is a unique number assigned to individuals who have been processed into the federal prison system. Based on the identifying information, the U.S. Citizenship and Immigration Services (USCIS) provided information on the immigration or citizenship status of these individuals. We analyzed this information to determine the immigration status of these individuals at the time charges were filed against them as a result of an international terrorism investigation. We also analyzed additional information provided by USCIS on three individuals who were naturalized after their conviction dates, including the offenses of conviction, sentence imposed, and steps taken to vet these individuals prior to their naturalization. We interviewed USCIS officials on the immigration and citizenship status information provided for all individuals on the DOJ list and the actions taken to vet the three individuals who were naturalized. We did not independently verify these individuals' links to terrorism.

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<sup>9</sup>We analyzed information including the individuals' names, charges, conviction charges, date of conviction and sentence, and sentence description from DOJ, *Introduction to National Security Division Statistics on Unsealed International Terrorism and Terrorism-Related Convictions* (Washington, D.C.: March 2010).

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## Costs Associated with Incarcerating the Criminal Alien Population

To determine the costs associated with incarcerating the criminal alien population, we obtained and analyzed cost and inmate data from BOP, data on SCAAP reimbursements to states for incarcerating criminal aliens, and cost and inmate data from five states (Arizona, California, Florida, New York, and Texas) and five localities (Maricopa County, Arizona; Orange County, California; Los Angeles County, California; New York City, New York; Harris County, Texas). We selected these five states based on the number of SCAAP criminal aliens. Collectively, these states accounted for about 70 percent of the SCAAP criminal alien population in fiscal year 2008. We selected the five localities based on the localities with the largest criminal alien populations in SCAAP for fiscal year 2003, which allowed us to compare our current analysis to our work conducted in 2005. We also selected these state prison systems and local jails because they are the same prison systems and local jails that we used in our April 2005 report.<sup>10</sup> To estimate the total costs for incarcerating criminal aliens in these selected states and localities, we used the average daily cost data provided by the states and localities and the number of SCAAP illegal alien and unknown inmate days submitted by these states and localities for reimbursement. While our analysis provides insight into the costs associated with incarcerating criminal aliens in these states and localities, the results of this analysis are not generalizable to other states and localities. In addition, we did not independently evaluate the accuracy of the cost data provided by these states and localities.

To calculate the total BOP and SCAAP costs, we added the BOP and SCAAP data for each year. For all 50 states, we estimated selected operating costs associated with incarcerating criminal aliens from fiscal years 2003 through 2009 using Bureau of Justice Statistics (BJS) and SCAAP reimbursement data as well as inflation factors.<sup>11</sup> 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 BJS data and HIS Global Insight price deflators for the corresponding categories. Our estimation may not include all related costs and therefore may not reflect actual costs but rather a lower-bound cost estimation that is consistent across the reporting time frame. Our analysis includes those states that received SCAAP reimbursement in the associated fiscal year. As a result, not all 50 states may be included in each

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<sup>10</sup>See [GAO-05-337R](#).

<sup>11</sup>BJS, *State Prison Expenditures, 2001* (Washington, D.C.: June 2004).

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fiscal year. Our analysis also includes the District of Columbia. The following state prison systems did not apply for SCAAP reimbursement: Illinois, Montana, and Oregon in fiscal year 2003; Montana in fiscal year 2004; Alaska in fiscal year 2005; Virginia and West Virginia in fiscal year 2006; and West Virginia in fiscal years 2007, 2008, and 2009. We used federal inflation factors to present criminal alien costs in fiscal year 2010 dollars. To determine estimated operating costs and total state costs per inmate, we divided the total estimated operating costs and total state costs by the number of related SCAAP illegal and unknown inmates. To determine the extent to which DOJ's SCAAP reimbursement methodology was relevant and current, we analyzed agency documentation and spoke with DOJ officials regarding the methodology. We evaluated this methodology using best practices in cost estimating.<sup>12</sup>

We determined that the data used in our study 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, to address any questions.

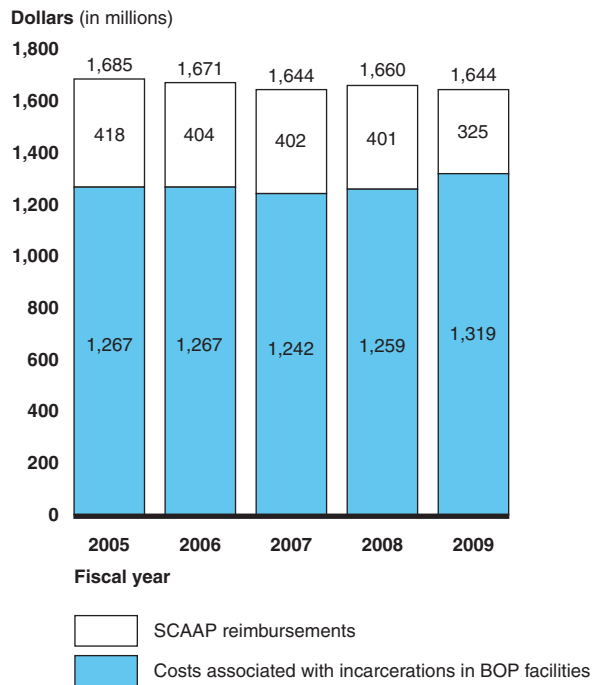
We conducted this performance audit from October 2009 through March 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions 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.

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<sup>12</sup>See GAO, *GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, [GAO-09-3SP](#) (Washington, D.C.: March 2009).

# Appendix II: Criminal Alien Costs in Fiscal Year 2010 Dollars

**Figure 26: Federal Prison and State Criminal Alien Assistance Program (SCAAP) Costs in Fiscal Year 2010 Dollars to Incarcerate Criminal Aliens from Fiscal Years 2005 through 2009**

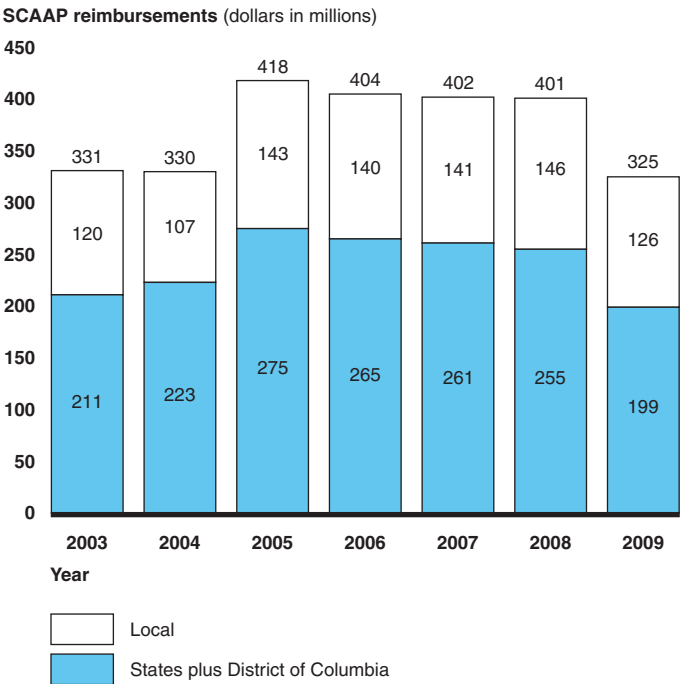


Source: GAO analysis of BOP and BJA SCAAP data.

Note: Forty-nine states and the District of Columbia received SCAAP reimbursement in both fiscal years 2005 and 2009. About 810 local jurisdictions received reimbursement in fiscal year 2009 compared to about 730 local jurisdictions in fiscal year 2005. Numbers may not be exact due to rounding.



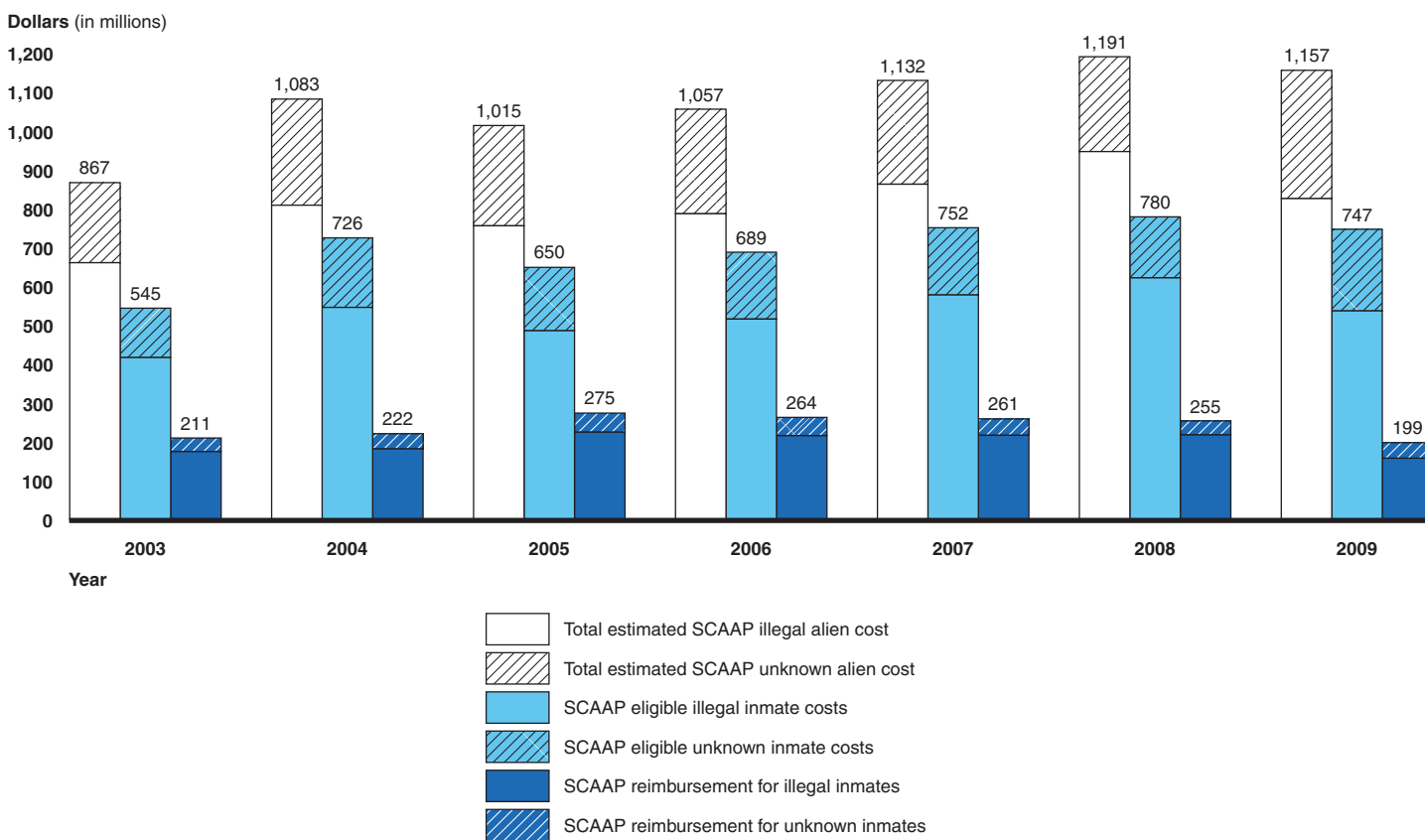
**Figure 27: SCAAP Reimbursements to States and Localities in Fiscal Year 2010 Dollars from Fiscal Years 2003 through 2009**



Source: GAO analysis of DOJ Bureau of Justice Assistance data.

Note: Numbers may not be exact due to rounding.

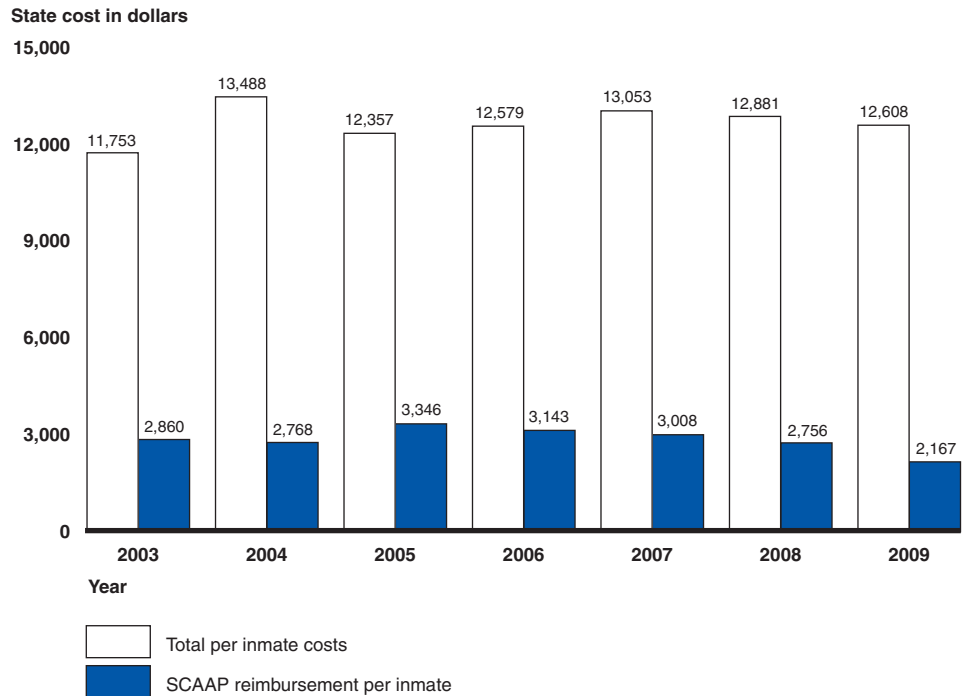
**Figure 28: Estimated Operating Costs in Fiscal Year 2010 Dollars to Incarcerate SCAAP Criminal Aliens in All 50 States**



Sources: GAO analysis of DOJ Bureau of Justice Statistics and Bureau of Justice Assistance data.

Note: Our analysis includes those states that received SCAAP reimbursement in the associated fiscal year. As a result, not all 50 states may be included in each fiscal year. Our analysis also includes the District of Columbia. Numbers may not be exact due to rounding. SCAAP illegal aliens are noncitizens whom Immigration and Customs Enforcement (ICE) verified were illegally in the United States at the time of incarceration and for whom state and local jurisdictions received federal reimbursement through SCAAP. SCAAP unknown aliens are individuals whom states and local jurisdictions believe to be illegally in the United States. However, ICE lacks documentation to confirm their immigration status.

**Figure 29: Estimated Operating Costs per Inmate in Fiscal Year 2010 Dollars to Incarcerate SCAAP Criminal Aliens in All 50 States**



Sources: GAO analysis of DOJ Bureau of Justice Statistics and Bureau of Justice Assistance data.

Note: Our analysis includes those states that received SCAAP reimbursement in the associated fiscal year. The following state prison systems did not apply for SCAAP reimbursement: Illinois, Montana, and Oregon in fiscal year 2003; Montana in fiscal year 2004; Alaska in fiscal year 2005; Virginia and West Virginia in fiscal year 2006; and West Virginia in fiscal years 2007, 2008, and 2009.

# Appendix III: SCAAP Criminal Alien Incarcerations in State Prisons and Local Jails (Corresponds to Fig. 4)

This appendix provides additional details on figure 4: Number of SCAAP Criminal Alien Incarcerations in Each State.

**Table 8: Number of State Criminal Alien Assistance Program (SCAAP) Criminal Alien Incarcerations in Each State**

State	2003	2004	2005	2006	2007	2008	2009
Alaska	77	87	-	93	107	101	87
Alabama	98	113	102	214	259	295	313
Arkansas	493	488	486	788	1,007	1,353	1,342
Arizona	10,941	11,985	12,200	13,268	14,613	18,357	17,488
California	85,210	91,614	89,381	93,048	99,189	102,121	102,795
Colorado	5,761	5,857	6,968	6,487	7,174	7,340	7,574
Connecticut	409	422	432	476	469	481	517
District of Columbia	48	107	33	96	168	251	432
Delaware	40	49	99	57	44	38	36
Florida	10,383	11,473	12,416	16,203	15,186	16,935	17,229
Georgia	2,319	2,889	3,075	3,449	4,361	6,062	7,371
Hawaii	101	171	179	174	198	253	286
Iowa	659	591	492	523	691	543	501
Idaho	1,238	1,214	1,315	1,250	1,262	1,134	1,271
Illinois	4,967	7,271	7,528	7,499	8,335	11,114	10,677
Indiana	553	953	1,138	1,410	1,534	1,684	1,793
Kansas	973	1,090	841	1,048	1,043	1,252	1,328
Kentucky	681	652	692	626	623	1,139	1,343
Louisiana	236	213	174	172	228	204	246
Massachusetts	1,897	2,509	2,789	2,778	2,639	2,731	2,523
Maryland	1,730	1,488	1,644	1,635	1,971	2,369	2,710
Maine	35	53	60	119	103	100	406
Michigan	1,723	1,523	1,736	1,831	1,829	1,850	1,700
Minnesota	1,594	1,418	1,049	1,472	1,866	2,193	2,140
Missouri	725	786	607	661	707	805	723
Mississippi	72	66	100	78	78	183	342
Montana	19	41	50	42	54	39	24
North Carolina	4,084	4,753	6,126	6,297	7,439	8,150	8,948
North Dakota	29	28	41	37	55	43	46
Nebraska	1,082	1,064	1,142	737	1,328	1,424	1,754
New Hampshire	167	164	116	106	103	104	185
New Jersey	5,455	5,085	6,006	6,305	8,434	9,693	9,971
New Mexico	1,732	2,220	2,507	2,067	2,021	2,675	2,112

**Appendix III: SCAAP Criminal Alien  
Incarcerations in State Prisons and Local  
Jails (Corresponds to Fig. 4)**

<b>State</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Nevada	4,957	4,923	5,623	5,369	6,605	6,148	6,918
New York	16,130	14,536	14,286	12,962	12,138	13,192	11,096
Ohio	756	792	901	924	1,240	1,777	3,879
Oklahoma	1,751	1,429	1,397	1,993	2,471	4,128	1,666
Oregon	2,056	3,464	3,892	4,307	4,755	5,158	3,609
Pennsylvania	1,414	1,162	1,232	1,516	1,615	2,054	2,169
Rhode Island	663	400	352	402	429	359	421
South Carolina	925	1,117	1,472	1,721	2,649	2,051	3,750
South Dakota	292	267	317	352	486	547	93
Tennessee	764	1,148	1,196	1,409	1,630	2,499	1,993
Texas	32,127	31,047	27,980	30,689	33,221	36,065	37,021
Utah	2,338	2,574	2,316	2,395	2,648	2,018	3,438
Virginia	2,432	2,882	3,743	3,298	4,554	5,819	4,968
Vermont	20	24	25	17	20	28	13
Washington	5,668	5,375	4,891	5,164	6,050	6,384	5,976
Wisconsin	2,174	2,362	2,592	2,724	2,756	2,882	2,690
West Virginia	5	6	8	-	-	22	5
Wyoming	75	63	56	49	59	71	65

Source: GAO analysis of Bureau of Justice Assistance (BJA) SCAAP data.

Note: This is not an exhaustive list of all state prison systems and local jails, nor does it capture all criminal aliens incarcerated in the United States. Submission to the SCAAP program for reimbursement is voluntary, and as such, not all state prison systems and local jails will be included.

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

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