Annual Report

JULY 2009

Immigration Enforcement Actions: 2008

Each year, the Department of Homeland Security (DHS) undertakes immigration enforcement actions involving hundreds of thousands of foreign nationals (for definitions of immigration enforcement action terms, see Box 1). These actions include the arrest, detention, return, and removal from the United States of foreign nationals who are in violation of the Immigration and Nationality Act (INA). Violations include losing legal status by failing to abide by the terms and conditions of entry or by engaging in crimes such as violent crimes, document fraud, terrorist activity, and drug smuggling. Primary responsibility for the enforcement of immigration law within DHS rests with U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). CBP is responsible for the inspections of all arriving persons and conveyances at ports of entry and the deterrence or apprehension of illegal immigrants between ports of entry. ICE is responsible for enforcing immigration laws within the interior of the United States.

This Office of Immigration Statistics *Annual Report* presents information on the apprehension, detention, return, and removal of foreign nationals during 2008.[1] Key findings in this report include the following:

- DHS apprehended 792,000 foreign nationals; 88 percent were natives of Mexico.
- The number of foreign nationals apprehended by the Border Patrol decreased 17 percent from 2007 to 2008.
- ICE detained approximately 379,000 foreign nationals.
- Nearly 359,000 aliens[2] were removed from the United States—the sixth consecutive record high. The leading countries of origin of those removed were Mexico (69 percent), Honduras (8 percent) and Guatemala (7.7 percent).
- 811,000 foreign nationals accepted an offer to return to their home countries without a removal order.
- Expedited removals accounted for 113,500 or 32 percent of all removals.
- DHS removed 97,100 known criminal aliens from the United States.

ENFORCEMENT PROGRAM ACTIVITIES

Inspections

CBP Officers determine the admissibility of aliens who are applying for admission to the U.S. at designated ports of entry. CBP Officers may permit inadmissible aliens the opportunity to withdraw their application for admission, or they can refer an alien to an immigration judge for removal proceedings. Officers have the authority to order certain aliens removed under expedited removal proceedings without further hearings or review by an immigration judge. The expedited removal order carries the same penalties as a removal order issued by an immigration judge.

cited in U.S. v. Raya-Vaca, no. 13-50129 archived on November 24, 2014

Border Patrol

The primary mission of the Border Patrol is to secure approximately 7,000 miles of international land border with Canada and Mexico and 2,000 miles of coastal border of the United States. Its major objectives are to prevent entry into the United States of illegal aliens and foreign nationals suspected of terrorism and other criminal activity, to interdict drug smugglers and other criminals, and to compel those persons seeking admission to present themselves legally at ports of entry for inspection. Border Patrol operations are divided into geographic regions referred to as sectors.

Investigations

The ICE Office of Investigations conducts criminal investigations that focus on the enforcement of a wide variety of laws that include immigration statutes. Special agents plan and conduct complex investigations of organizations and serious violators subject to the administrative and criminal provisions of the INA as well as other sections of the United States Code. ICE Special Agents also work as team members in multi-agency task forces combating

[1] In this report, years are fiscal years (October 1 to September 30).

[2] ICE physically removed approximately 263,000 foreign nationals during 2008. CBP physically removed the remainder, 96,000.

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terrorism, violent crime, document fraud, narcotic trafficking, human trafficking and smuggling, and various forms of organized crime. In addition, the ICE Office of Investigations conducts worksite enforcement operations that are focused on the criminal prosecution of employers who knowingly hire illegal workers.

Detention and Removal

Officers and agents of the Detention and Removal Operations (DRO) program serve as the primary enforcement arm within ICE for the identification, apprehension, and removal of illegal aliens from the United States. DRO identifies and apprehends illegal aliens, fugitive aliens, and criminal aliens; manages cases in immigration proceedings; and enforces orders of removal from the United States. DRO officers conduct reviews to determine appropriate custody conditions, which may include release of detained aliens on parole, bond, recognizance, or pursuant to orders of supervision where appropriate. DRO officers enforce the departure of removable aliens from the United States under final removal orders.

The Removal Process. Removal proceedings include the actions that lead to the removal of an alien in violation of Sections 237 or 212 of the INA. Most removal proceedings are conducted before an immigration judge. Possible outcomes of an immigration hearing include removal, adjustment to legal status, or a termination of proceedings. Decisions of the immigration judge can be appealed to the Board of Immigration Appeals.

The penalties associated with removal include not only the removal itself but also possible fines, imprisonment for up to 10 years for aliens who do not appear at hearings or who fail to depart, and a bar to future legal entry. (The bar is permanent for aggravated felons and up to 20 years for certain other aliens.) The imposition and extent of these penalties depend upon the circumstances of the case.

cited in U.S. v. Reyes-Vaca, No. 13-50129 archived on November 24, 2014

Expedited Removal. Under expedited removal, an immigration officer may determine that an arriving alien is inadmissible because the alien engaged in fraud or misrepresentation or lacks proper documents. The officer can order the alien removed without further hearing or review, unless the alien states a fear of persecution or an intention to apply for asylum. Officers refer aliens who make such pleas to an asylum officer, and the case may eventually be argued before an immigration judge.

Return. In some cases, apprehended aliens may be offered the opportunity to return to their home country without being placed in immigration proceedings. This procedure is common with noncriminal aliens who are apprehended by the Border Patrol. Aliens agree that their entry was illegal, waive their right to a hearing, remain in custody, and are returned under supervision. Some aliens apprehended within the United States agree to voluntarily depart and pay the expense of departing. These departures may be granted by an immigration judge or, in some circumstances, by a DRO Field Office Director. In certain instances, aliens who have agreed to a return may be legally admitted in the future without penalty.

Box 1.

Definitions of Immigration Enforcement Terms

Administrative Removal: The removal of an alien under a DHS order based on the determination that the individual has been convicted of an aggravated felony or certain other serious criminal offenses. The alien may be removed without a hearing before an immigration court.

Deportable Alien: An alien who has been admitted into the United States but who is subject to removal pursuant to provisions of the Immigration and Nationality Act (INA § 237).

Detention: The seizure and incarceration of an alien in order to hold him/her while awaiting judicial or legal proceedings or return transportation to his/her country of citizenship.

Inadmissible Alien: An alien seeking admission into the United States who is ineligible to be admitted according to the provisions of the Immigration and Nationality Act (INA § 212).

Removal: The compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal.

Return: The confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal.

Expedited Removal: (INA § 235(b)) A process by which DHS may order an alien removed. This requires a finding that the alien is inadmissible pursuant to INA § 212(a)(6)(C) or (a)(7) based on having fraudulent documents or not having proper entry documents. Such aliens are generally removed without further hearing or review.

Withdrawal: An arriving alien's voluntary retraction of an application for admission to the United States in lieu of a removal hearing before an immigration judge or an expedited removal.

DATA[3]

Apprehension data are collected in the Enforcement Case Tracking System (ENFORCE) using Form I-213 and in the Traveler Enforcement Communications System (TECS). Data on individuals detained are collected through the ICE ENFORCE Alien Detention Module (EADM) and the ENFORCE Alien Removal Module (EARM). Data on individuals removed or returned are collected through both EARM and ENFORCE.

The data provided on removals or returns, apprehensions, or detention all relate to events. For example, if an individual alien has been apprehended three times during the year, that individual will appear three times in the data.

Changes in Definitions and Reporting Requirements. Recent changes in data systems, definitions, and reporting requirements have affected the annual removal and apprehension data series. The annual numbers of removals were revised in 2006 (for the 2001–2006 period) to additionally include all aliens ordered removed

[3] CBP data (apprehensions, removals, and returns) are current as of December 2008. ICE removal data are current as of February 2009.

under expedited removal by CBP, as well as those removed by the Border Patrol under administrative removal procedures. In addition, a change in ICE administrative arrests between 2006 and 2007 was largely attributable to the internal transfer of the Criminal Alien Program (CAP) from Investigations to Detention and Removal Operations (DRO). What would have been previously recorded as a "CAP administrative arrest" is now recorded as "Charging Documents Issued" and not included in this report.

TRENDS AND CHARACTERISTICS OF ENFORCEMENT ACTIONS

Apprehensions

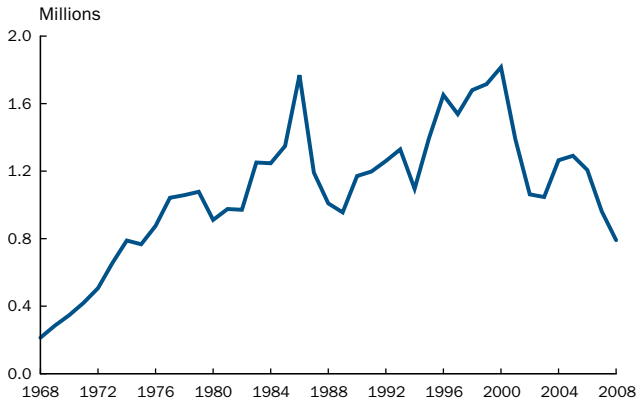
DHS made 791,568 apprehensions in 2008 (see Table 1 and Figure 1). The Border Patrol reported 723,840 or 91 percent of all apprehensions.[4] Ninety-seven percent of Border Patrol apprehensions were along the southwest border. ICE Office of Investigations made 33,573 administrative arrests and ICE's National Fugitive Operations Program (NFOP) made 34,155 arrests of fugitive and non-fugitive aliens.[5] The decrease in the overall and Investigation apprehension totals are partly due to a change in reporting practices.

Southwest Border Apprehensions. Apprehensions by the Border Patrol along the southwest border decreased 18 percent to 705,022 in 2008 from 858,722 in 2007. In 2008, as in every year since 1998, the Tucson, AZ sector had the largest number of apprehensions. Tucson accounted for 317,709 or 45 percent of all southwest border apprehensions in 2008. The next leading sectors were San Diego, CA (162,392), Rio Grande Valley, TX (75,476), Laredo, TX (43,659), El Centro, CA (40,962), and El Paso, CA (30,310).

Nationality of Apprehended Aliens. Mexican nationals accounted for 88 percent of the 791,568 aliens apprehended in 2008. The next largest source countries were Honduras, Guatemala, El Salvador, Cuba, and Brazil (see Table 1).

cited in U.S. v. Rayo-Vaca, No. 13-50129 archived on November 24, 2014

Figure 1.
Apprehensions: Fiscal Years 1968 to 2008*



Source: U.S. Department of Homeland Security.
*Includes administrative arrests by ICE

Detentions

ICE detained a record total of 378,582 aliens during 2008, representing a 22 percent increase from 2007. Although more than 61 percent of all detainees in 2008 were aliens from Mexico (up from 49 percent in 2007), they accounted for only 32 percent of detention bed days, reflecting their relatively short stays in detention. The other leading countries were El Salvador (11 percent of bed days), Honduras (10 percent), Guatemala (10 percent), the Dominican Republic (3 percent), Jamaica, China, Haiti and Brazil (2 percent each).

Removals and Returns

Total and Expedited Removal. The number of removals increased 12 percent to 358,886 in 2008, from 319,382 in 2007 (see Table 2). The number of non-expedited removals increased 15 percent from 2007 to 2008, while the number of expedited removals increased by 7 percent.

Expedited removals represented 32 percent of all removals in 2008. Expedited removal procedures allow DHS to quickly remove certain inadmissible aliens from the United States. In 2008, DHS used these procedures with aliens arriving at ports of entry who illegally attempted to gain admission by fraud or misrepresentation; or with

Table 1.
Apprehensions by Program and Country of Nationality: Fiscal Years 2006 to 2008

Program and Country of Nationality	2008	2007	2006
PROGRAM			
Total	791,568	960,756	1,206,457
Border Patrol	723,840	876,787	1,089,136
Southwest sectors (sub-total)	705,022	858,722	1,072,018
Investigations	33,573	53,562	101,854
Detention and Removal Operations*	34,155	30,407	15,467
COUNTRY OF NATIONALITY			
Total Apprehensions	791,568	960,756	1,206,457
Mexico	693,592	854,261	1,057,253
Honduras	23,789	28,263	33,365
Guatemala	22,670	23,907	25,135
El Salvador	17,911	19,699	46,329
Cuba	3,896	4,932	5,089
Brazil	2,649	2,902	2,957
Ecuador	2,322	1,771	1,932
Dominican Republic	1,934	2,118	3,712
Nicaragua	1,862	2,118	3,228
China, People's Republic	1,772	1,623	2,987
Colombia	1,460	1,893	1,648
Haiti	1,098	1,004	1,214
Peru	949	944	1,020
India	822	795	769
Other countries	14,842	14,526	19,819

*Includes arrests of fugitive and nonfugitive aliens under the Office of Detention and Removal Operations (DRO) National Fugitive Operations Program.

Source: U.S. Department of Homeland Security, Enforcement Case Tracking System (ENFORCE); CBP Border Patrol data for 2008 are current as of December 2008, 2007 data are current as of May 12, 2008, 2006 data are current as of January 25, 2007; ICE Detention and Removal Operations data for 2008 are current as of June 2009, ICE Office of Investigations data for 2008 are current as of February 2009, ICE 2007 data are current as of July 29, 2008, and 2006 data are current as of August 2007.

[4] Does not include the 221,085 charging documents issued by the ICE Criminal Alien Program.

[5] An administrative arrest refers to the arrest of an alien who is charged with an immigration violation. Administrative arrests are included in the DHS apprehension totals.

no entry documents; or by using counterfeit, altered, or otherwise fraudulent or improper documents. Aliens placed in the expedited removal process have the opportunity to claim a fear of persecution, or an intention to apply for asylum, or they may claim to have certain legal status in the United States. A supervisor reviews all cases, and aliens who have made certain claims may be referred to an asylum officer and ultimately to an immigration judge. Aliens from Mexico accounted for nearly 68 percent of expedited removals in 2008. The next largest source countries were Guatemala, Honduras, El Salvador, Brazil, and Ecuador.

Country of Nationality of Alien Removals. Mexico was the country of nationality of 69 percent of all aliens removed in 2008 (see Table 3). The eight leading countries accounted for 93 percent of all the removals.

Criminal Activity. Criminals accounted for 27 percent of removals in 2008[6] (see Table 3). The most common categories of crime committed by aliens removed in 2008 included illegal drug activity, immigration violations, and assault (see Table 4). These three categories accounted for 62 percent of all criminal alien removals in 2008. DHS continues to increase cooperation with other law enforcement agencies by using the Criminal Alien Program (CAP) to ensure that incarcerated criminal aliens are placed in removal proceedings. CAP is responsible for the identification, processing, and removal of criminal aliens incarcerated in federal, state, and local prisons and jails throughout the United States. In 2008, CAP issued 221,085 charging documents, which is the initial step towards removal.

Returns. More than 811,000 aliens were allowed to return to their home countries in 2008 without an order of removal. Less information is available on the characteristics of those returned as compared to those removed. Seventy percent of returns in 2008, compared to 83 percent in 2007, involved Mexican or Canadian aliens who were apprehended by the Border Patrol. This number includes recidivists and thus is a measure of events rather than unique individuals. The next leading category of returns was for aliens who were allowed to withdraw their application for admission (11 percent).

FOR MORE INFORMATION

For more information about immigration and immigration statistics, visit the Office of Immigration Statistics Web site at www.dhs.gov/immigrationstatistics.

[6] Excludes criminals removed by CBP because ENFORCE does not include such data.

Table 2.

Trends in Total and Expedited Removals: Fiscal Years 2001 to 2008

Year	Total removals	Expedited removals
2008	358,886	113,462
2007	319,382	106,196
2006	280,974	110,663
2005	246,431	87,888
2004	240,665	51,014
2003	211,098	43,920
2002	165,168	34,624
2001	189,026	69,923

Source: U.S. Department of Homeland Security, Enforce Alien Removal Module (EARM), reported as of February 2009, Enforcement Case Tracking System (ENFORCE), reported as of December 2008.

Table 3.

Leading Country of Nationality of Aliens Removed: 2008

Country	Number removed	Number of criminals
Total	358,886	97,133
Mexico	246,851	71,650
Honduras	28,851	4,944
Guatemala	27,594	4,061
El Salvador	20,031	4,795
Brazil	3,814	354
Dominican Republic	3,258	2,128
Colombia	2,480	1,098
Ecuador	2,320	430
All other Countries	23,687	7,673

Source: U.S. Department of Homeland Security, Enforce Alien Removal Module (EARM), reported as of February 2009, Enforcement Case Tracking System (ENFORCE), reported as of December 2008.

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Table 4.

Leading Crime Categories of Criminal Aliens Removed: Fiscal Year 2008

Crime category	Number removed	Percent of total
Total	97,133	100.0
Dangerous Drugs	34,882	35.9
Immigration	17,542	18.1
Assault	7,485	7.7
Burglary	3,292	3.4
Larceny	3,282	3.4
Robbery	3,101	3.2
Sexual Assault	2,929	3.0
Family Offenses	2,343	2.4
Fraudulent Activities	2,059	2.1
Weapon Offenses	2,048	2.1
Other	18,170	18.7

Source: U.S. Department of Homeland Security, Enforce Alien Removal Module (EARM), reported as of February 2009.