

Immigration

RESEARCH AND POLICY BRIEF

CATO
INSTITUTE

FEBRUARY 26, 2018 | NUMBER 4

Criminal Immigrants in Texas

Illegal Immigrant Conviction and Arrest Rates for Homicide, Sexual Assault, Larceny, and Other Crimes

BY ALEX NOWRASTEH

President Donald Trump signed an executive order directing the Department of Homeland Security (DHS) to deport most illegal immigrants who encounter law enforcement, and Attorney General Jeff Sessions is attempting to withhold federal funds from local police departments that do not cooperate with DHS in that effort.¹ Underlying both actions is the belief that illegal immigrants are a significant source of crime.² This brief uses Texas Department of Public Safety data to measure the conviction and arrest rates of illegal immigrants by crime. In Texas in 2015, the criminal conviction and arrest rates for immigrants were well below those of native-born Americans. Moreover, the conviction and arrest rates for illegal immigrants were lower than those for native-born Americans. This result holds for most crimes.

BACKGROUND

The vast majority of research finds that immigrants do not increase local crime rates and that they are less likely to cause crime and less likely to be incarcerated than their native-born peers.³ There is less research on illegal immigrant criminality, but what research there is shows that illegal immigrants have lower incarceration rates nationwide and in the state of Texas relative to native-born Americans, although they have the same rates of re-arrest in Los Angeles County.⁴ Consistent

with those findings, immigration enforcement programs targeting illegal immigrant criminals have no effect on local crime rates, which indicates that they are about as crime prone as other residents.⁵

METHODOLOGY

This brief uses data from the Texas Department of Public Safety (DPS) obtained through a Public Information Act (PIA) request.⁶ The Texas DPS data separately show the number of convictions and arrests of illegal and legal immigrants for 42 and 46 different crimes, respectively, in the state of Texas by year from January 1, 2011, to November 15, 2017. This brief reports the conviction and arrest rates for each subpopulation of natives, illegal immigrants, legal immigrants, and all immigrants combined. This allows for a comparison of conviction and arrest rates between these subpopulations. This brief additionally displays conviction and arrest rates by select crimes.

Texas has these data because its law enforcement agencies cooperate with federal immigration enforcement authorities at the Department of Homeland Security (DHS) that check the biometrics of arrestees in the state.⁷ The Texas DPS keeps the results of these DHS checks that then allow a more direct look at immigrant criminality by immigration status.⁸ The DPS data released by the PIA request revealed slightly more arrests in 2015 than were reported by another

publicly available DPS report for the same year.⁹ The quality of the Texas DPS data is excellent and, if it errs, it is likely to overcount the convictions and arrests of illegal immigrants because it counts more total arrests than another DPS source.

This brief reports the conviction and arrest rates for 2015 because that is the most recent year for which estimates are available for the sizes of the legal immigrant, native-born, and illegal immigrant populations residing in the state of Texas.¹⁰ The numbers in this brief do not represent the total number of criminal immigrants in the state of Texas in 2015, but merely the number of convictions and arrests of illegal immigrants, legal immigrants, and natives. There were 22,797,819 native-born Americans, 1,758,199 illegal immigrants, and 2,913,096 legal immigrants living in Texas in 2015.¹¹ In that year, natives made up about 83 percent of the Texas population, illegal immigrants about 6.4 percent of the population, and legal immigrants about 10.4 percent. The conviction and arrest rates for the entire period of January 1, 2011, through November 15, 2017, are nearly identical to those of 2015, so the choice of year makes little difference. The DPS data that this brief analyzes are for all arrests and convictions that occurred in the year 2015, regardless of the year in which the crime was actually committed.

Controlling for the size of the population is essential to comparing relative conviction and arrest rates between groups. Thus, government agencies generally report the conviction rate as the number of convictions per 100,000 members of that particular group.¹² The three subgroups this brief analyzes are illegal immigrants, legal immigrants, and native-born Americans. It is important to note that the Texas DPS data report the number of convictions and arrests, not the *number of people* actually convicted or arrested. For instance, if a Texas court convicts a single person of two different offenses or of the same offense twice, then the Texas DPS data will count that as two convictions.

Texas is an ideal state to study criminality by immigration status for multiple reasons: the state of Texas borders Mexico; it has a large illegal immigrant population; it is a politically conservative state governed by Republicans; in 2015 it did not have jurisdictions that limited its cooperation with federal immigration enforcement; and it has a law and order reputation for severely enforcing its criminal laws.

CONVICTIONS

Natives were convicted of 409,063 crimes, illegal immigrants were convicted of 13,753 crimes, and legal immigrants were convicted of 7,643 crimes in Texas in 2015. Thus, there

were 1,749 criminal convictions of natives for every 100,000 natives, 782 criminal convictions of illegal immigrants for every 100,000 illegal immigrants, and 262 criminal convictions of legal immigrants for every 100,000 legal immigrants (Figure 1). As a percentage of their respective populations, there were 56 percent fewer criminal convictions of illegal immigrants than of native-born Americans in Texas in 2015. The criminal conviction rate for legal immigrants was about 85 percent below the native-born rate.

Homicides supposedly committed by illegal immigrants garner the most public attention.¹³ On November 30, 2017, a San Francisco jury acquitted José Inés García Zárate, an illegal immigrant from Mexico previously deported five times, of murdering Kate Steinle.¹⁴ Her tragic killing galvanized public support for harsher immigration enforcement and the construction of a border wall and provided anecdotal evidence for then-candidate Trump's claim that illegal immigrants are responsible for a large number of crimes in the United States.¹⁵

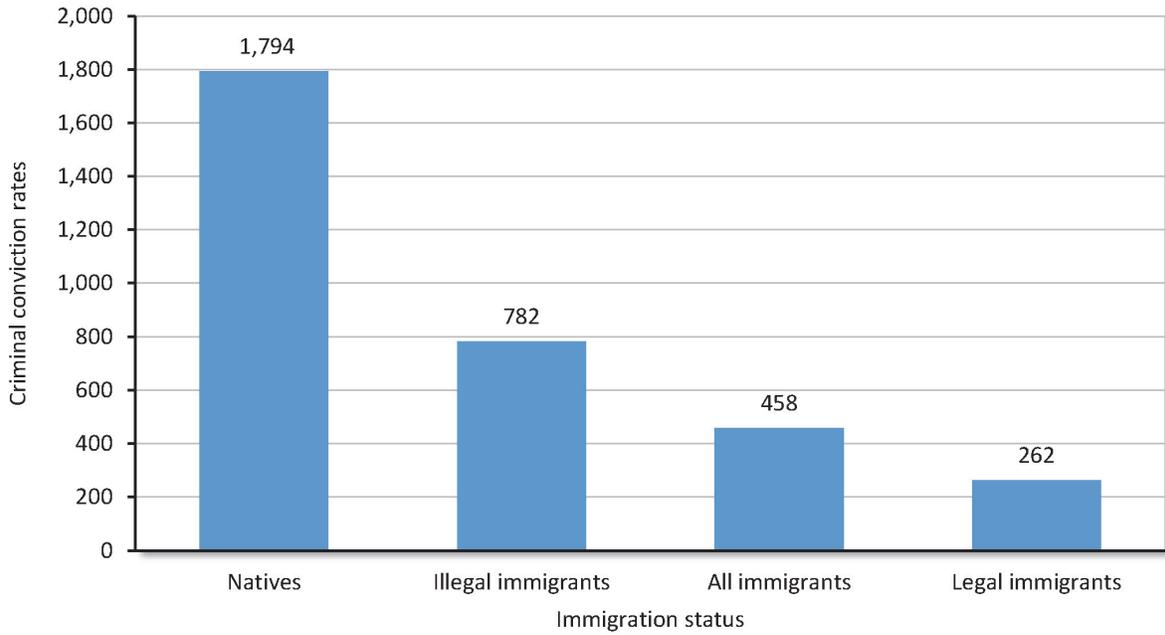
There were 951 total homicide convictions in Texas in 2015. Of those, native-born Americans were convicted of 885 homicides, illegal immigrants were convicted of 51 homicides, and legal immigrants were convicted of 15 homicides. The homicide conviction rate for native-born Americans was 3.88 per 100,000, 2.9 per 100,000 for illegal immigrants, and 0.51 per 100,000 for legal immigrants (Figure 2). In 2015, homicide conviction rates for illegal and legal immigrants were 25 percent and 87 percent below those of natives, respectively.

Illegal immigrants made up about 6.4 percent of the Texas population in 2015 but only accounted for 5.4 percent of all homicide convictions. Legal immigrants made up 10.4 percent of the Texas population but accounted for only 1.6 percent of homicide convictions. Native-born Americans made up 83 percent of the Texas population but accounted for 93 percent of all homicide convictions (Figure 3).

Sexual assault is another serious crime that commentators disproportionately blame on immigrants.¹⁶ However, there were only 12.68 sexual assault convictions of illegal immigrants per 100,000 in 2015, about 11.5 percent fewer than for native-born Americans in the same year (Figure 4). The sexual assault conviction rate for legal immigrants was 83 percent below that of natives. There were many fewer sexual assault convictions against immigrants, including illegal immigrants, than against native-born Americans in Texas in 2015.

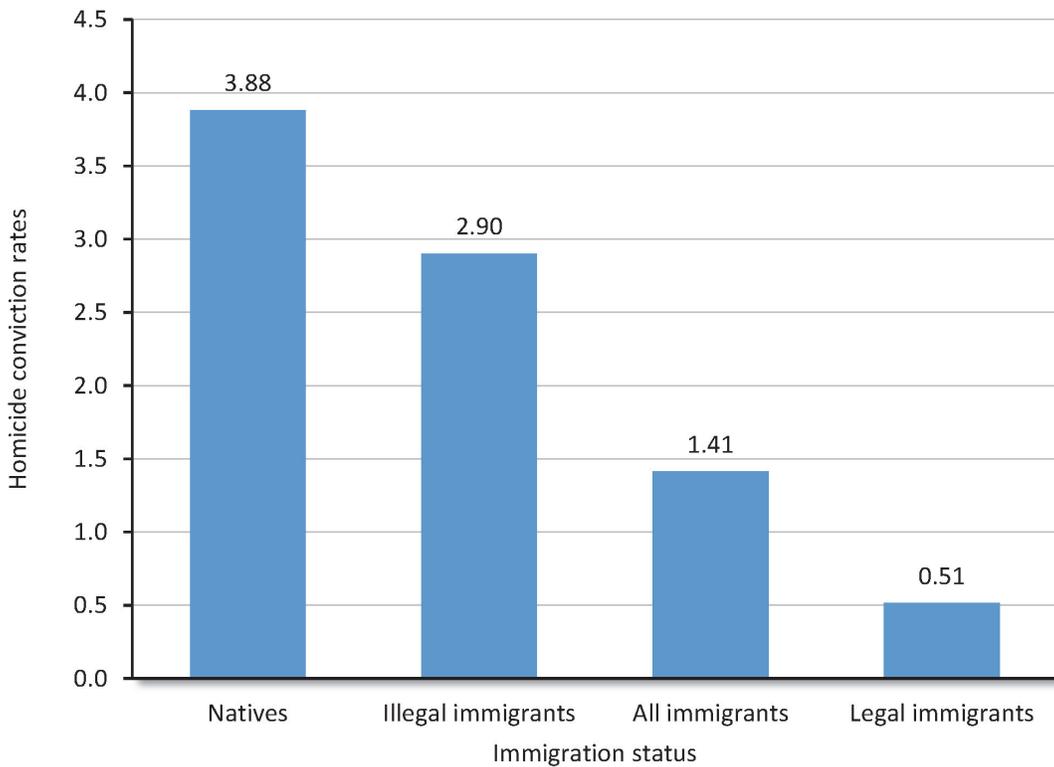
There were fewer larceny convictions of illegal immigrants and legal immigrants than there were of natives in 2015. There were 292 larceny convictions of natives per 100,000 while there were only about 61 convictions against

Figure 1
Criminal conviction rates by immigration status in Texas, 2015



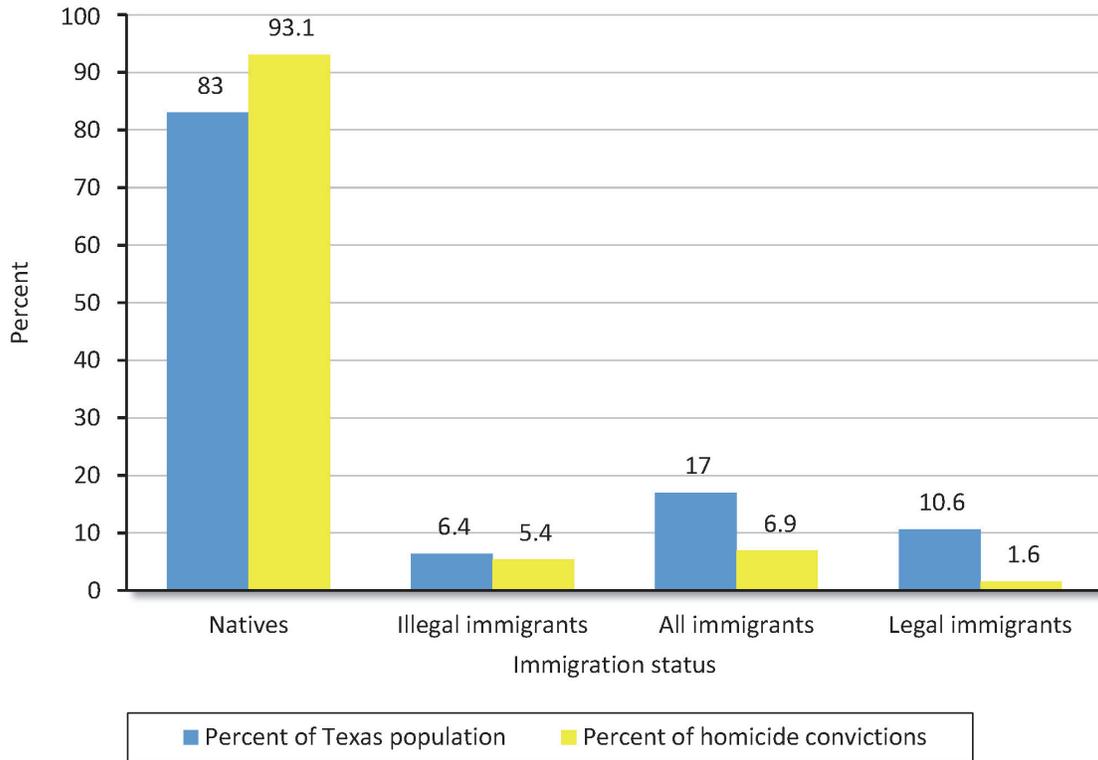
Sources: Author's analysis of Texas Department of Public Safety data, the American Community Survey, and the Center for Migration Studies.
Note: Rates are per 100,000 residents in each subpopulation.

Figure 2
Homicide conviction rates by immigration status in Texas, 2015



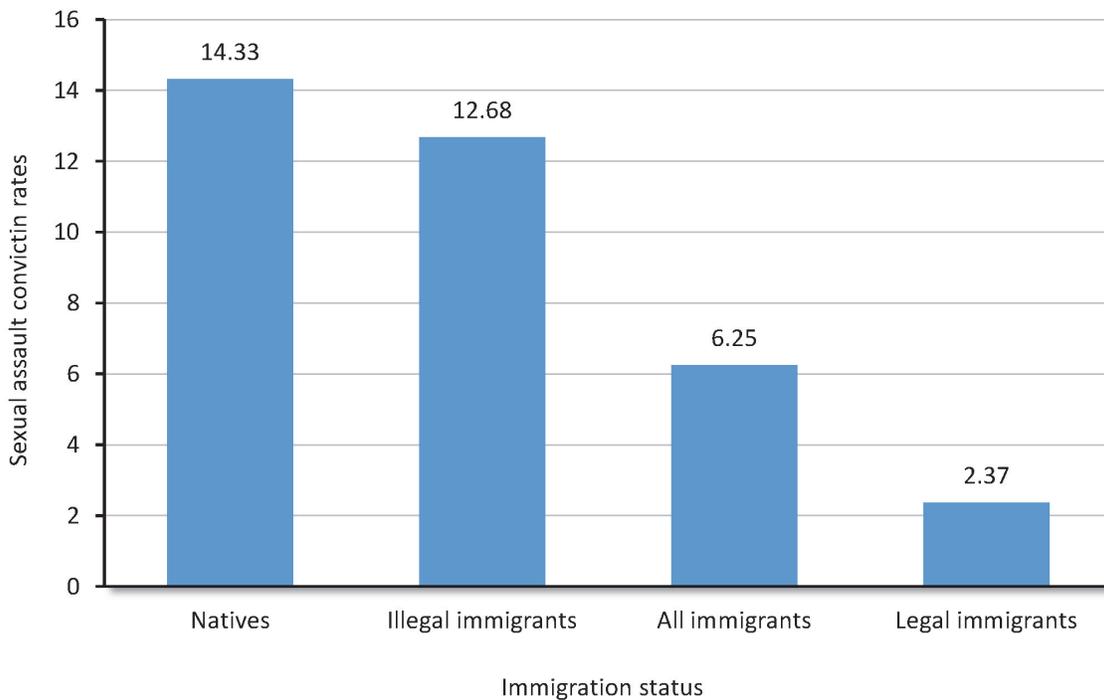
Sources: Author's analysis of Texas Department of Public Safety data, the American Community Survey, and the Center for Migration Studies.
Note: Rates are per 100,000 residents in each subpopulation.

Figure 3
Share of homicide convictions and populations by immigration status in Texas, 2015



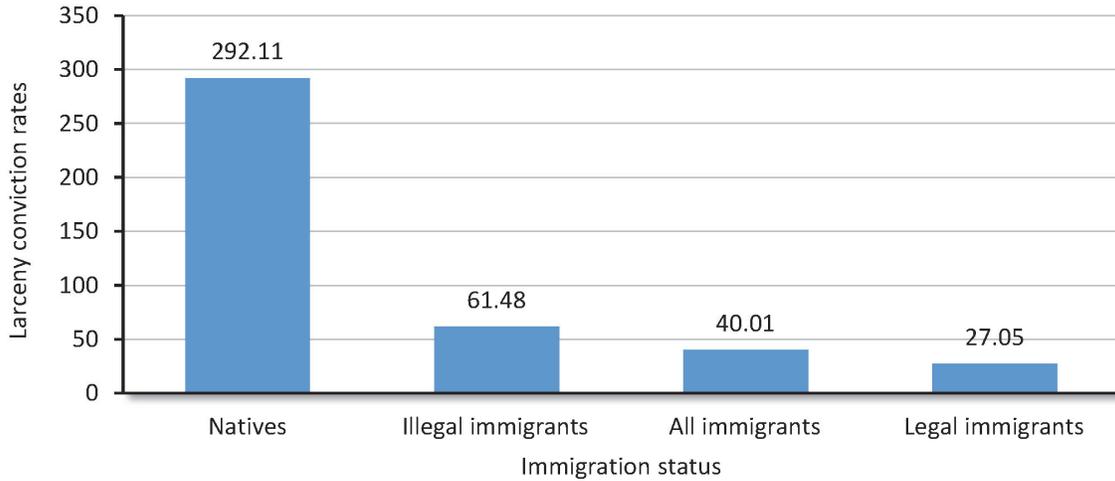
Sources: Author's analysis of Texas Department of Public Safety data, the American Community Survey, and the Center for Migration Studies.

Figure 4
Sexual assault conviction rates by immigration status in Texas, 2015



Sources: Author's analysis of Texas Department of Public Safety data, the American Community Survey, and the Center for Migration Studies.
Note: Rates are per 100,000 residents in each subpopulation.

Figure 5
Larceny conviction rates by immigration status in Texas, 2015



Sources: Author's analysis of Texas Department of Public Safety data, the American Community Survey, and the Center for Migration Studies.
 Note: Rates are per 100,000 residents in each subpopulation.

illegal immigrants and 27 against legal immigrants (Figure 5). The larceny conviction rate for illegal immigrants was 79 percent below that of natives.

The conviction rate for illegal immigrants was higher than for native-born Americans for four Texas crimes in 2015: gambling, kidnapping, smuggling, and vagrancy. There were only 786 convictions for all four types of crimes in Texas in 2015; that number accounts for 0.18 percent of all convictions that year. Only 71 convictions for these four crimes were against illegal immigrants. Legal immigrants were more likely to be convicted of violating state tax law and gambling, but those convictions amounted to a total of only 47.

ARRESTS

Some commentators argue that there is “immigrant privilege” in the criminal justice system whereby immigrants face fewer criminal convictions even though they are arrested for more crimes.¹⁷ However, the arrest rate for illegal immigrants is lower than for natives overall but higher for just a handful of individual crimes—very similar to the conviction rate.

In 2015, Texas police made 815,689 arrests of natives, 37,776 arrests of illegal immigrants, and 20,323 arrests of legal immigrants. For every 100,000 people in each subgroup, there were 3,578 arrests of natives, 2,149 arrests of illegal immigrants, and 698 arrests of legal immigrants (Table 1). The arrest rate for illegal immigrants was 40 percent below that of native-born Americans. The arrest rate for all immigrants

and legal immigrants was 65 percent and 81 percent below that of native-born Americans, respectively.

Per 100,000 people in their respective groups, there were more arrests of natives for homicide and larceny than there were arrests of illegal immigrants. The illegal immigrant arrest rate for sexual assault was about 3 percent higher than for native-born Americans. Of the 46 crimes for which we have arrest data, there were higher arrest rates for illegal immigrants relative to natives for the seven crimes of commercial sex, federal offenses, gambling, kidnapping, sexual assault, violations of Texas tax law, and vagrancy. Arrests for those seven crimes totaled just 1.9 percent of all state and local arrests in Texas in 2015.

CONCLUSION

The homicide conviction rate for illegal immigrants was 25 percent below that of native-born Americans in Texas in 2015. The conviction rates for illegal immigrants were 11.5 percent and 79 percent below that of native-born Americans for the crimes of sexual assault and larceny, respectively. Illegal immigrants were more likely to be convicted of gambling, kidnapping, smuggling, and vagrancy than natives, but those crimes constituted only 0.18 percent of all convictions that year in Texas. For all criminal convictions in Texas in 2015, illegal immigrants had a criminal conviction rate 56 percent below that of native-born Americans. Legal immigrants had a criminal conviction rate 85 percent below that of native-born Americans.

Table 1
Arrest rates by immigration status and crime in Texas, 2015

	All arrests	Homicide arrests	Sexual assault arrests	Larceny arrests
Natives	3,577.9	5.4	24.6	407.3
Illegal immigrants	2,148.6	3.7	25.4	133.4
All immigrants	1,243.7	2.1	13.9	89.5
Legal immigrants	697.6	1.1	7.0	63.0

Source: Author's analysis of data from the Texas Department of Public Safety, the American Community Survey, and the Center for Migration Studies.
 Note: Rates are per 100,000 residents in each subpopulation.

ENDNOTES

1. "Executive Order: Enhancing Public Safety in the Interior of the United States," Executive Order of the President, January 25, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>; and Maha Ahmed, "Jeff Sessions Gives In and Sends Federal Funds to Sanctuary Cities," *Mother Jones*, November 20, 2017.

2. Lesley Stahl, "President-Elect Trump Speaks to a Divided Country on *60 Minutes*," CBS News, November 13, 2016.

3. See Daniel P. Mears, "The Immigration-Crime Nexus: Toward an Analytic Framework for Assessing and Guiding Theory, Research, and Policy," *Sociological Perspectives* 44, no. 1 (Spring 2001): 1–19; Kristin F. Butcher and Anne Morrison Piehl, "The Role of Deportation in the Incarceration of Immigrants," in *Issues in the Economics of Immigration*, ed. George J. Borjas (Chicago: University of Chicago Press, 2000): 351–86; Kristin F. Butcher and Anne Morrison Piehl, "Why Are Immigrants' Incarceration Rates So Low? Evidence on Selective Immigration, Deterrence, and Deportation," NBER Working Paper no. 13229, National Bureau of Economic Research, July 2007; Jacob I. Stowell et al., "Immigration and the Recent Violent Crime Drop in the United States: A Pooled, Cross-Sectional Time-Series Analysis of Metropolitan Areas," *Criminology* 47, no. 3 (2009): 889–928; Lesley Williams Reid et al., "The Immigration–Crime Relationship: Evidence across U.S. Metropolitan Areas," *Social Science Research* 34, no. 4 (2005): 757–80; Matthew T. Lee, Ramiro Martinez, and Richard Rosenfeld, "Does Immigration Increase Homicide?," *Sociological Quarterly* 42, no. 4 (2001): 559–80; Butcher and Piehl, "The Role of Deportation in the Incarceration of Immigrants"; Butcher and Piehl, "Why Are Immigrants' Incarceration Rates So Low?"; Walter A. Ewing, Daniel E. Martinez, and Ruben G. Rumbaut, "The Criminalization of Immigration in the United States," American Immigration Council Special Report, July 2015; and

Alex Nowrasteh, "Immigration and Crime—What the Research Says," *Cato at Liberty*, July 14, 2015, <https://www.cato.org/blog/immigration-crime-what-research-says>.

4. Michelangelo Landgrave and Alex Nowrasteh, "Criminal Immigrants: Their Numbers, Demographics, and Countries of Origin," Cato Institute Immigration Research and Policy Brief, no. 1, March 15, 2017, <https://www.cato.org/publications/immigration-reform-bulletin/criminal-immigrants-their-numbers-demographics-countries>; Nicole Cobler, "Less Than 5 Percent of Texas Prison Inmates Are Undocumented," *Texas Tribune*, February 19, 2016; and Laura J. Hickman and Marika J. Suttortp, "Are Deportable Aliens a Unique Threat to Public Safety? Comparing the Recidivism of Deportable and Nondeportable Aliens," *Criminology and Public Policy* 7, no. 1 (2008): 59–82.

5. Thomas J. Miles and Adam B. Cox, "Does Immigration Enforcement Reduce Crime? Evidence from Secure Communities," *Journal of Law and Economics* 57, no. 4 (2014): 937–73; and Elina Treyger, Aaron Chalfin, and Charles Loeffler, "Immigration Enforcement, Policing, and Crime," *Criminology & Public Policy* 13, no. 2 (2014): 285–322.

6. "Public Information Act," Texas Department of Public Safety, <http://www.dps.texas.gov/pia.htm>; and "Texas Criminal Alien Arrest Data," Texas Department of Public Safety, https://www.dps.texas.gov/administration/crime_records/pages/txCriminalAlienStatistics.htm. This information is available on email request made to Alex Nowrasteh at anowrasteh@cato.org.

7. ICE News Releases, "ICE 'Secure Communities' Program Now Activated in All Texas Counties," September 29, 2010, <https://www.ice.gov/news/releases/ice-secure-communities-program-now-activated-all-texas-counties>; and "Texas Criminal Alien Arrest Data," Texas Department of Public Safety,

https://www.dps.texas.gov/administration/crime_records/pages/txCriminalAlienStatistics.htm.

8. Michelangelo Landgrave and Alex Nowrasteh, “Criminal Immigrants: Their Numbers, Demographics, and Countries of Origin.”

9. Texas Department of Public Safety, “Crime in Texas: 2015,” Chapter 9, 2015, https://www.dps.texas.gov/administration/crime_records/pages/crimestats.htm.

10. Center for Migration Studies, “State-Level Unauthorized Population and Eligible-to-Naturalized Estimates,” Texas, 2015; and American Community Survey, “Selected Characteristics of the Native and Foreign-Born Populations,” Table S0501 1-Year Estimates, 2015.

11. Center for Migration Studies, “State-Level Unauthorized Population and Eligible-to-Naturalized Estimates,” Texas, 2015; and American Community Survey, “Selected Characteristics of the Native and Foreign-Born Populations,” Table S0501 1-Year Estimates, 2015.

12. Bureau of Justice Statistics, “Crime and Justice in the United States and in England and Wales, 1981–1996,” <https://www.bjs.gov/content/pub/html/cjusew96/cpp.cfm>.

13. John Wildermuth and Rachel Swan, “Conservatives Let SF Have It over Verdict in Kate Steinle Case,” *San Francisco Chronicle*, November 30, 2017.

14. Vivian Ho, “Kate Steinle Trial: García Zárate Acquitted in San Francisco Pier Killing,” *San Francisco Chronicle*, December 1, 2017.

15. Donald J. Trump, “Transcript: Donald Trump’s Full Immigration Speech, Annotated,” *Los Angeles Times*, August 31, 2017, <http://www.latimes.com/politics/la-na-pol-donald-trump-immigration-speech-transcript-20160831-snap-htmstory.html>.

16. Ann Coulter, *¡Adios, America!* (Washington, D.C.: Regnery Publishing, 2015); and Ann Coulter, “‘Immigrant Privilege’ Drives Child Rape Epidemic,” Townhall, March 8, 2017.

17. Ann Coulter, “‘Immigrant Privilege’ Drives Child Rape Epidemic,” Townhall, March 8, 2017.

RELATED PUBLICATIONS FROM THE CATO INSTITUTE

Unwelcome Guests? The Effects of Refugees on the Educational Outcomes of Incumbent Students by David N. Figlio and Umut Özek, Cato Institute Research Briefs in Economic Policy no. 95 (January 10, 2018)

The Impact of Immigration on Wages of Unskilled Workers by Giovanni Peri, *Cato Journal* 37, no. 3 (Fall 2017)

How Immigration Affects Workers: Two Wrong Models and a Right One by Ethan Lewis, *Cato Journal* 37, no. 3 (Fall 2017)

Does Immigration Reduce Wages? by Alan de Brauw, *Cato Journal* 37, no. 3 (Fall 2017)

Immigrants and Housing Demand by Gary D. Painter, *Cato Journal* 37, no. 3 (Fall 2017)

Immigration, Housing Markets, and Community Vitality by Jacob L. Vigdor, *Cato Journal* 37, no. 3 (Fall 2017)

Immigration and Segregation by Susan M. Wachter, *Cato Journal* 37, no. 3 (Fall 2017)

Immigrant Entrepreneurship: Trends and Contributions by Magnus Lofstrom, *Cato Journal* 37, no. 3 (Fall 2017)

Economic Freedom and Mass Migration: Evidence from Israel by Benjamin Powell, *Cato Journal* 37, no. 3 (Fall 2017)

Immigration and Its Effects on Economic Freedom: An Empirical Approach by Ryan H. Murphy, *Cato Journal* 37, no. 3 (Fall 2017)

The Counterproductive Consequences of Border Enforcement by Douglas S. Massey, *Cato Journal* 37, no. 3 (Fall 2017)

Illegal Immigration Outcomes on the U.S. Southern Border by Bryan W. Robert, *Cato Journal* 37, no. 3 (Fall 2017)

An Alternative to the H-1B Lottery by Chad Sparber, Cato Institute Research Briefs in Economic Policy no. 84 (September 6, 2017)

The DREAMer Incarceration Rate by Michelangelo Landgrave and Alex Nowrasteh, Cato Institute Immigration Research and Policy Brief no. 3 (August 30, 2017)

