

FOR RELEASE MARCH 18, 2014

The Rise of Federal Immigration Crimes

Unlawful Reentry Drives Growth

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About This Report

This report examines trends in convictions by offense type in U.S. federal courts. The data for this report are from the United States Sentencing Commission’s (USSC) Monitoring of Federal Criminal Sentences data for fiscal years 1992 to 2012. The findings presented are for those sentenced offenders for whom the sentencing guideline used is known. The USSC data is the main source of information about the characteristics of offenders sentenced in federal courts. The report does not provide an examination of trends in state or local courts, or in U.S. civil courts, such as immigration courts.

This report was written by [Michael T. Light](#), Assistant Professor of Sociology, Purdue University, and Mark Hugo Lopez and Ana Gonzalez-Barrera of the Pew Research Center. The authors thank Alan Murray, Paul Taylor, Claudia Deane, Michael Dimock and Jens Manuel Krogstad for comments on earlier drafts of the report. Anna Brown number checked the report. Caroline Klibanoff was the copy editor. Find related reports from the Pew Research Center’s Hispanic Trends Project online at pewresearch.org/Hispanic.

A Note on Terminology

The terms “Latino” and “Hispanic” are used interchangeably in this report.

The terms “unauthorized immigrant” and “undocumented immigrant” are used interchangeably in this report to describe immigrants who are living in the U.S. illegally.

Non-U.S. citizens are individuals who are legal (resident) aliens, unauthorized immigrants or individuals without U.S. citizenship whose immigration status is unknown.

U.S. citizens are citizens by birth or are naturalized citizens.

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Table of Contents

About This Report	1
A Note on Terminology	1
About Pew Research Center	2
1. Overview	4
More Criminal Convictions, Fewer Voluntary Returns	5
Growth in Unlawful Reentry Cases Changing the Federal Case Load	7
2. Changing Composition of Federal Convictions	9
Immigration Offenses a Larger Share of All Offenses	9
Types of Sentences	10
3. Changing Demographics of Sentenced Offenders	11
4. The Geography of Unlawful Reentry Cases	13
References	15
Appendix A: Additional Data and Charts	17
Appendix B: Classification of Federal Offenses	19
Appendix C: Classification of Sentences Imposed	23
Appendix D: Statutory Provisions for USSC §2L1.2 – Unlawfully Entering or Remaining in the United States	24

1. Overview

Dramatic growth over the past two decades in the number of offenders sentenced in federal courts has been driven primarily by enforcement of a particular immigration offense—unlawful reentry into the United States—according to an analysis of data from the United States Sentencing Commission (USSC) by the Pew Research Center.

Between 1992 and 2012, the number of offenders sentenced in federal courts more than doubled, rising from 36,564 cases to 75,867.¹ At the same time, the number of unlawful reentry convictions increased 28-fold, from 690 cases in 1992 to 19,463 in 2012.² The increase in unlawful reentry convictions alone accounts for nearly half (48%) of the growth in the total number of offenders sentenced in federal courts over the period. By contrast, the second fastest growing type of conviction—for drug offenses—accounted for 22% of the growth.

Immigrants charged with unlawful reentry—a federal crime—have entered or attempted to enter the U.S. illegally more than once. They may also have attempted to reenter the U.S. after having been officially deported.³ Many of those charged with unlawful reentry were apprehended at the U.S. border by the U.S. Border Patrol ([Rosenblum, 2013](#)).

¹ These figures reflect only sentenced offender cases for which a sentencing guideline was applied. In 2012, there were 84,173 offenders convicted in federal courts. Among them, according to USSC data, 75,867 offenders had a USSC sentencing guideline applied while 8,306 offenders did not.

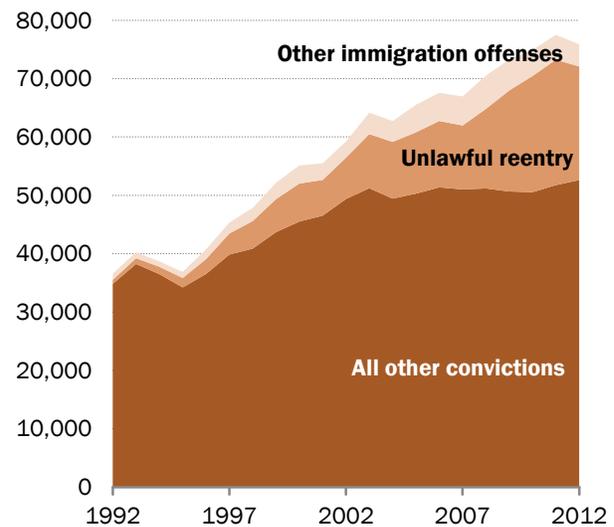
² Not all criminal prosecutions filed in federal courts lead to a criminal conviction. According to an analysis by the Transactions Records Access Clearinghouse (TRAC) at Syracuse University, of all the federal criminal prosecutions filed between 2008 and 2011, more than half were immigration related. (Cited by [Meissner et al., 2013](#))

³ Immigrants apprehended at the border may face federal criminal charges for illegal entry (8 U.S.C. §1325) or illegal reentry (8 U.S.C. §1326). They may also face charges related to human smuggling (8 U.S.C. §1324), or document fraud (8 U.S.C. §1546). For more on immigration offenses and federal courts, see Appendix D.

FIGURE 1

Federal Convictions, 1992-2012

Number of convictions



Note: Analysis is of sentenced offenders for whom a USSC sentencing guideline was applied. "Other immigration offenses" includes smuggling, transportation or harboring of unlawful aliens, trafficking in identity documents or making false statements with respect to citizenship. "All other convictions" includes violent, property, white collar, fraud, firearms, and all other crimes.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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As unlawful reentry convictions increased, the demographic composition of sentenced offenders changed ([Lopez and Light 2009](#)). In 1992, Latinos made up 23% of sentenced offenders; by 2012, that share had grown to 48%. Over the same period, the share of offenders who did not hold U.S. citizenship increased from 22% to 46%. Among federal sentenced offenders in 1992, 12% were unauthorized immigrants. By 2012, that share had increased to 40%.

Nearly all of those sentenced for unlawful reentry in federal courts received a prison sentence. On average, the sentence length for these offenders was about two years. As the number of offenders sentenced in federal courts for unlawful reentry increased, so too did the number of immigration offenders incarcerated in federal prisons. Between 1998 and 2010 alone, growth in the number of immigration offenders accounted for 56% of the increase in federal prison admissions ([Mallik-Kane, Parthasarathy and Adams, 2012](#)).

The data for this report comes from the USSC and covers all federal felony and misdemeanor cases between 1992 and 2012 for which the offense category is known and the offender is sentenced in federal courts.⁴ These data include all criminal immigration offenses sentenced under the U.S. Sentencing Guidelines, but do not include civil immigration charges that are heard before U.S. immigration courts.⁵

More Criminal Convictions, Fewer Voluntary Returns

Unlawful reentry convictions in federal courts are part of a broader stepped up enforcement effort from the U.S. Border Patrol begun in 2005.⁶ Prior to this change, immigrants apprehended at the border were largely allowed to voluntarily return to Mexico—without any penalty.⁷

The United States Sentencing Commission

The United States Sentencing Commission (USSC) was established in 1984 to create sentencing guidelines for the federal courts as part of the Sentencing Reform Act. One of its missions is to collect data on all federal criminal cases sentenced under the Federal Sentencing Guidelines (USSC, 2012). The data files available from the USSC include all cases that resulted in a sentence from fiscal 1992 through fiscal 2012.

⁴ The USSC files only include Class A misdemeanors. Other misdemeanor cases or cases brought before immigration courts are not included. Under 18 U.S. Code § 3559, a Class A misdemeanor includes cases where the statutory maximum term of imprisonment authorized is one year or less but more than six months.

⁵ Immigration courts generally determine removability and adjudicate applications for relief from removal. Unlike federal district courts that are responsible for handling criminal immigration charges, immigration courts do not have the authority to issue prison sentences.

⁶ See testimony of Michael J. Fisher, U.S. Border Patrol Chief before the U.S. House Committee on Homeland Security, Subcommittee on Border and Maritime Security on October 4, 2011. <https://www.dhs.gov/news/2011/10/04/written-testimony-cbp-house-homeland-security-subcommittee-border-and-maritime>

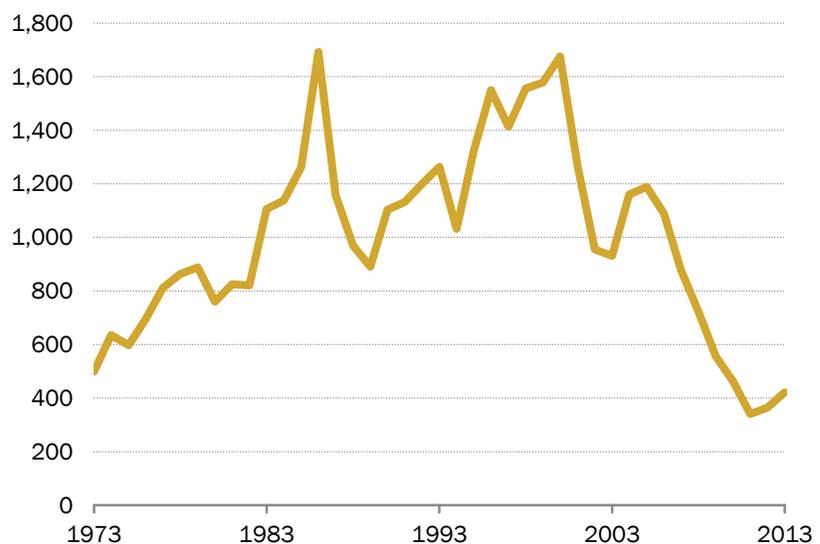
Since 2005, however, the Border Patrol has reduced voluntary returns for immigrants it apprehends, while increasing the use of other strategies. These include criminally charging immigrants apprehended at the border with unlawful reentry and increasing the use of expedited removals (which do not require a judicial review). And for those immigrants who are apprehended at the border and removed, the Border Patrol has used remote repatriation as an additional strategy, sending deported immigrants to border ports many miles away from where they were apprehended, or, in the case of Mexican nationals, repatriating immigrants into the interior of Mexico ([Rosenblum, 2013](#)). These strategies are intended to break the smuggling cycle and deter an apprehended immigrant from attempting further illegal entries into the U.S.

Many immigrants convicted in federal courts of unlawful reentry in recent years were processed under a Border Patrol program called “Operation Streamline.” This program, implemented in five Border Patrol Southwest sectors⁸ in conjunction with federal courts and attorneys, allows up to 40 unauthorized immigrants charged with unlawful reentry to be prosecuted at the same time. This program alone has accounted for nearly half (45%) of all federal immigration-related prosecutions in Southwest border districts between 2005 and 2012 ([Rosenblum, 2013](#)).

FIGURE 2

Border Apprehensions, 1973-2013

In thousands



Source: [United States Border Patrol, Fiscal Year 2013 Statistics](#)

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⁷ For more on voluntary return trends, see Appendix A.

⁸ Operation Streamline was first established in the Border Patrol’s Del Rio Section of the western District of Texas in December 2005. Subsequently, it was expanded to the Yuma Sector in Arizona (December 2006), the Laredo Sector in Texas (October 2007), the Tucson Sector in Arizona (January 2008) and the Rio Grande Valley Sector in Texas (June 2008).

Border enforcement efforts have increased even as the number of apprehensions at U.S. borders declined. Between 2005 and 2011, the number of border apprehensions fell by more than half, from 1.2 million to 340,000.⁹ Since 2011, though, border apprehensions have begun to rise again, reaching 421,000 in 2013. Much of the recent increase is among non-Mexican immigrants ([Passel, Cohn and Gonzalez-Barrera, 2013](#)).

The federal government has deported nearly 400,000 unauthorized immigrants a year since the start of the Obama administration. A growing share of those deported were convicted of a criminal offense, including some related to immigration crimes ([Gonzalez-Barrera, 2014](#)). There were an estimated 11.7 million unauthorized immigrants living in the U.S. in 2012, according to Pew Research Center estimates ([Passel, Cohn and Gonzalez-Barrera, 2013](#)). Most, about three-quarters, are from Latin America.

Growth in Unlawful Reentry Cases Changing the Federal Case Load

The rising number of convictions for unlawful reentry has altered the offense composition of federal offenders. In 2012, immigration offenses—of which unlawful reentry is the largest category—represented 30% of offenders, up from 5% in 1992.

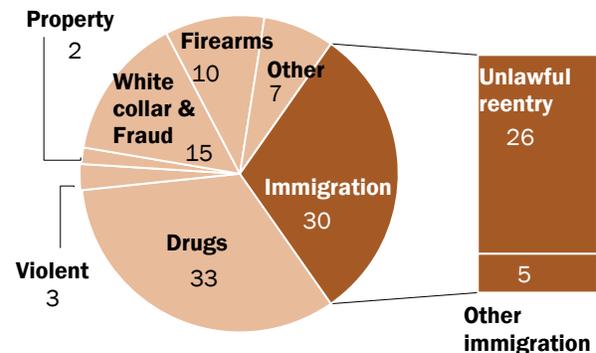
Unlawful reentry cases alone accounted for 26% of sentenced federal offenders—second only to drug offenses in 2012. This is up 13-fold since 1992, when offenders sentenced for unlawful reentry made up just 2% of sentenced offenders. These trends match the population growth in the Federal Bureau of Prisons system.

This report examines the characteristics and trends of offenders sentenced in federal courts. The data for this report are from the United States Sentencing Commission's Monitoring of Federal Criminal Sentences data files for fiscal years 1992 through 2012. These

FIGURE 3

Federal Convictions by Offense Type, 2012

%



Note: Analysis is of sentenced offenders for whom the offense type is known and a USSC sentencing guideline was applied. Other immigration offenses include smuggling, transportation or harboring of unlawful alien, trafficking in identity documents or making false statements with respect to citizenship. Figures may not add to net due to rounding.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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⁹ Border apprehensions by the U.S. Border Patrol peaked in 2000, when 1.7 million immigrants were apprehended ([U.S. Border Patrol, 2013](#)).

files contain information on sentencing decisions for all federal felony and Class A misdemeanor cases. Only those cases with documentation compiled by the USSC are included in the data files.

Among the report's other findings:

Offense Convictions in Federal Courts

- Among unauthorized immigrants sentenced in federal courts in 2012, 68% were convicted of “unlawfully entering or remaining in the United States,” 19% were sentenced for drug offenses, 7% were sentenced for other immigration related offenses and the remainder (6%) were sentenced for other crimes.¹⁰
- In 2012, 74% of all unlawful reentry cases were sentenced in just five of the nation's 94 U.S. district courts. All five were located along the U.S.-Mexico border: the Southern and Western Districts of Texas, the District of Arizona, the District of New Mexico, and the Southern District of California.

Demographics of Sentenced Federal Offenders

- Hispanics accounted for 48% of sentenced federal offenders in 2012, the single largest racial/ethnic group represented. Non-Hispanic whites constituted 27% of federal sentenced offenders and non-Hispanic blacks made up 20%. The remainder (4%) are Asians, Native Americans, and those whose race and ethnicity are indeterminate.
- In 2012, 92% of unlawful reentry offenders were Hispanic.

Prison Sentences

- Non-U.S. citizens sentenced in federal courts were more likely to receive a prison sentence than U.S. citizens—97% versus 86%.
- Unauthorized immigrants were somewhat more likely to be incarcerated after conviction than immigrants who were in the U.S. legally—98% versus 91%.
- Hispanic offenders are more likely than non-Hispanic offenders to receive a prison sentence in 2012—97% versus 87%.

¹⁰ See Appendix B for descriptions of federal offense type categories.

2. Changing Composition of Federal Convictions

The number of convictions in federal courts nearly doubled over the past two decades, from 36,564 to a record 77,506 in 2011, then falling to 75,867 in 2012.¹¹ Most of that growth—54%—was attributable to an increase in immigration offense convictions. As a result, rapid growth in the number of immigration offense convictions changed the composition of offense convictions among federal sentenced offenders.

Immigration Offenses a Larger Share of Offenses

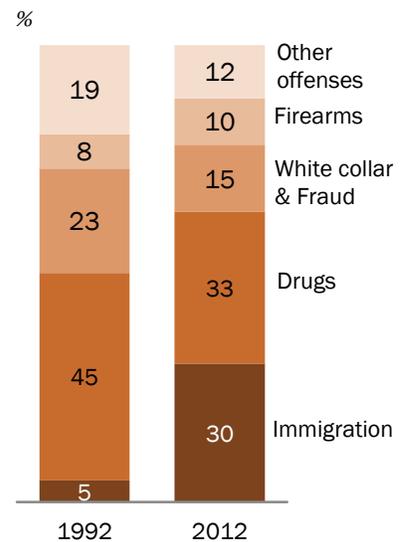
Close to half (48%) of the growth in the number of convictions in federal courts between 1992 and 2012 was driven by unlawful reentry cases alone, and 54% came from an increase in immigration offense convictions generally. By comparison, drug offenses (including possession, trafficking, and manufacturing) accounted for only 22% of the growth in the number of federal convictions over the same period.

The number of offenders convicted of unlawful reentry in federal courts increased from 690 cases in 1992 to 19,463 in 2012. In 2011, there were 21,489 federal unlawful reentry convictions—a record. The growth in unlawful reentry convictions has dramatically altered the composition of offenses in federal courts over the last two decades. In 1992, the largest offense type by far was drugs, accounting for 45% of convictions while immigration offenses accounted for 5% of offenses. By 2012, there were nearly as many immigration offense convictions as there were drug offense convictions. Immigration offenses made up 30% of offenses in 2012, a 26 percentage point increase over 1992. In 2012, drug convictions also accounted for 33% of offenses, down 12 percentage points since 1992.

All other offense types accounted for 36% of convictions in federal courts in 2012, down from 50% in 1992.

FIGURE 4

Offense Composition, 1992, 2012



Note: Analysis is of sentenced offenders for whom the offense type is known and a USSC sentencing guideline was applied.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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¹¹ These totals are only of cases for which the offense of conviction is known. In 1992, there were 1,694 cases with missing information on the offense of conviction. In 2012, 8,306 cases did not contain this information. In addition, cases involving a corporation or other "organizational" offender are not included. In 2012, there were 187 cases that involved these entities. In total, there were 84,360 federal criminal cases in which the offender was sentenced in 2012 ([Schmitt and Dukes, 2013](#)).

Types of Sentences

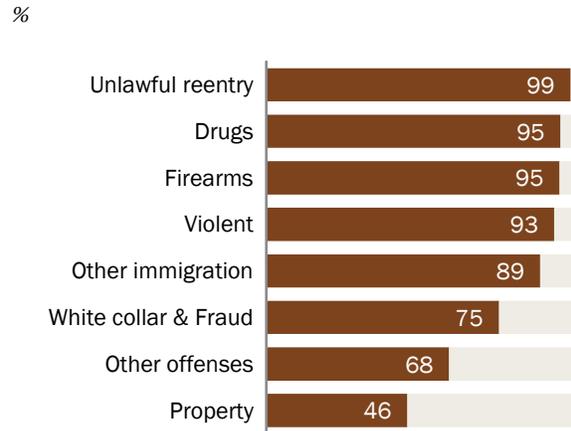
Under USSC sentencing guidelines, offenders sentenced in federal courts typically receive one of five sentences: a fine; a prison-only sentence; a prison sentence plus confinement conditions; a probation sentence plus confinement conditions; or a probation-only sentence. A prison sentence is the most common punishment imposed on offenders sentenced in federal courts. Nearly nine-in-ten (89%) federal offenders were incarcerated in 2012.

Among unlawful reentry offenders, 99% received a prison sentence in 2012, compared with 95% of drug offenders (including manufacture, distribution and possession), 93% of violent offenders, 95% of firearms offenders and 89% of offenders convicted of other immigration offenses. White collar and fraud, property and other offenders, by contrast, were less likely to receive a prison sentence, imprisoned in 75%, 46%, and 68% of cases, respectively.

Of those who received prison sentences, the average prison sentence in 2012 was 55 months, but the length of incarceration varied by offense type. Unlawful reentry offenders received nearly two years of incarceration (23 months) on average, while other immigration offenders received just over one year (15 months). Drug (71 months), other offense (78 months), violent (86 months), and firearms (87 months) offenders received the longest prison sentences. Property, fraud, and other offenders received 2.5 to 3.5 years of incarceration on average.

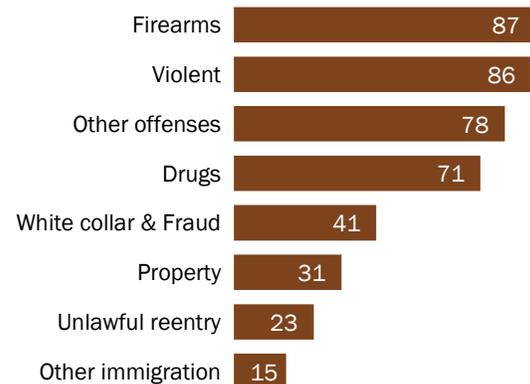
FIGURE 5

Share Sentenced to Prison



Average Prison Sentence Length

In months



Note: For the top panel, analysis is of sentenced offenders for whom a sentence was applied. For the bottom panel, average is calculated among those who received a prison sentence. Those with a prison sentence of more than 470 months are top-coded at 470 months.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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3. Changing Demographics of Sentenced Offenders

As the mix of offenses being convicted in federal courts has changed, so too has the demographic composition of sentenced offenders. Between 1992 and 2012, the share of sentenced offenders that are Hispanic has grown while the share that is non-Hispanic white or non-Hispanic black has decreased, even though the number of offenders in each group grew.

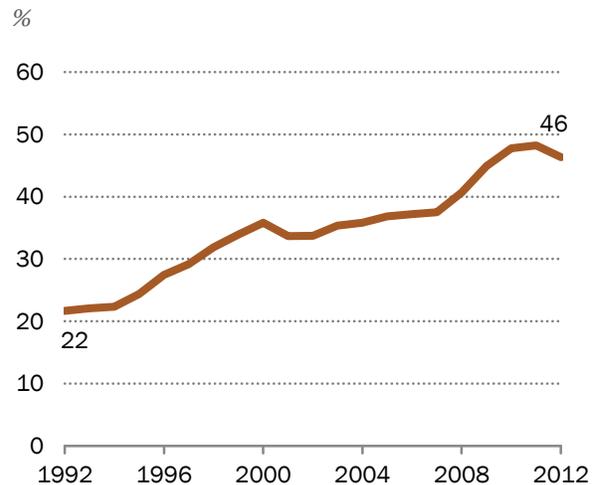
In 2012, 46% of offenders sentenced in federal courts lacked U.S. citizenship. This is a marked change from the composition of offenders sentenced in 1992, when only 22% of offenders were non-U.S. citizens. Of those sentenced offenders who lacked U.S. citizenship in 2012, 87% were unauthorized immigrants. The remaining 13% include legal immigrants (9%), non-U.S. citizens whose legal status is unknown (3%), and extradited aliens (1%).

The increase in immigration prosecutions has also significantly altered the racial and ethnic composition of the federal docket. In 2012, 48% of sentenced offenders were Latino, up from 23% in 1992. By contrast, the share of offenders who are non-Hispanic white was 27% in 2012, down from 46% in 1992. And the share of offenders who are non-Hispanic black was 20% in 2012, down from 29% in 1992.

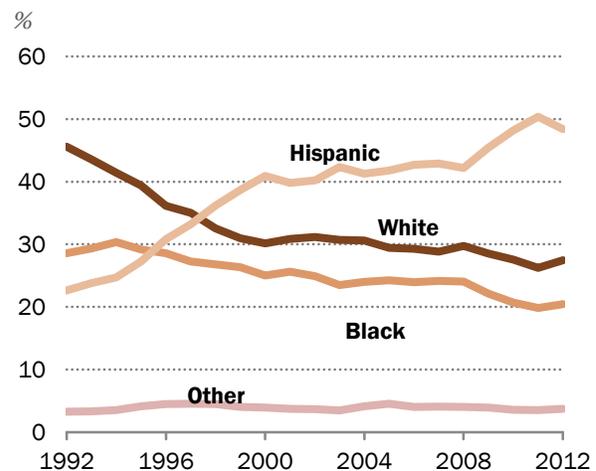
Hispanic sentenced offenders were more likely to be non-U.S. citizens than any other group. Among Hispanics sentenced in 2012, 76% were non-U.S. citizens. By comparison, among

FIGURE 6

Among Sentenced Offenders, The Non-Citizen Share Has More Than Doubled...



As the Share Hispanic Has Surpassed All Other Groups



Note: For the top panel, analysis is of sentenced offenders for whom U.S. citizenship status is known. For the bottom panel, analysis is of sentenced offenders for whom race and Hispanic origin is known. Blacks and whites include only non-Hispanics. Hispanics are of any race.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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non-Hispanic white and non-Hispanic black offenders, only small shares did not hold U.S. citizenship—15% and 6% respectively.

Non-citizen Hispanics, who make up 37% of sentenced offenders, represent the single largest demographic group among sentenced offenders—larger than the share of white or black offenders (regardless of citizenship). They also outnumbered all other minorities sentenced in federal courts combined (including non-Hispanic blacks, other race, and Hispanic U.S. citizens). By contrast, in 1992, non-citizen Hispanics represented only 16% of offenders, while whites comprised 46% and blacks represented 29% of offenders.

4. The Geography of Unlawful Reentry Cases

Of the 19,463 unlawful reentry convictions in 2012, 73% were concentrated in only five U.S. border districts—the Southern District of Texas, the District of Arizona, the Western District of Texas, the District of New Mexico and the Southern District of California. As a result, these districts have the highest average caseload per judgeship of all of the 94 federal district courts, according to Pew Research analysis. Combined, the average number of sentences per judgeship in these districts was 560 compared with 103 for the other 89 districts.¹²

In recent years, many immigrants convicted in federal courts of unlawful reentry were processed under the U.S. Border Patrol’s Operation Streamline program. Implemented in five Border Patrol Southwest sectors¹³ in conjunction with federal courts and attorneys, the program allows up to 40 unauthorized immigrants charged with unlawful reentry to be prosecuted at the same time. This program has accounted for 45% of all federal immigration-related prosecutions in Southwest border districts between 2005 and 2012 ([Rosenblum, 2013](#)).

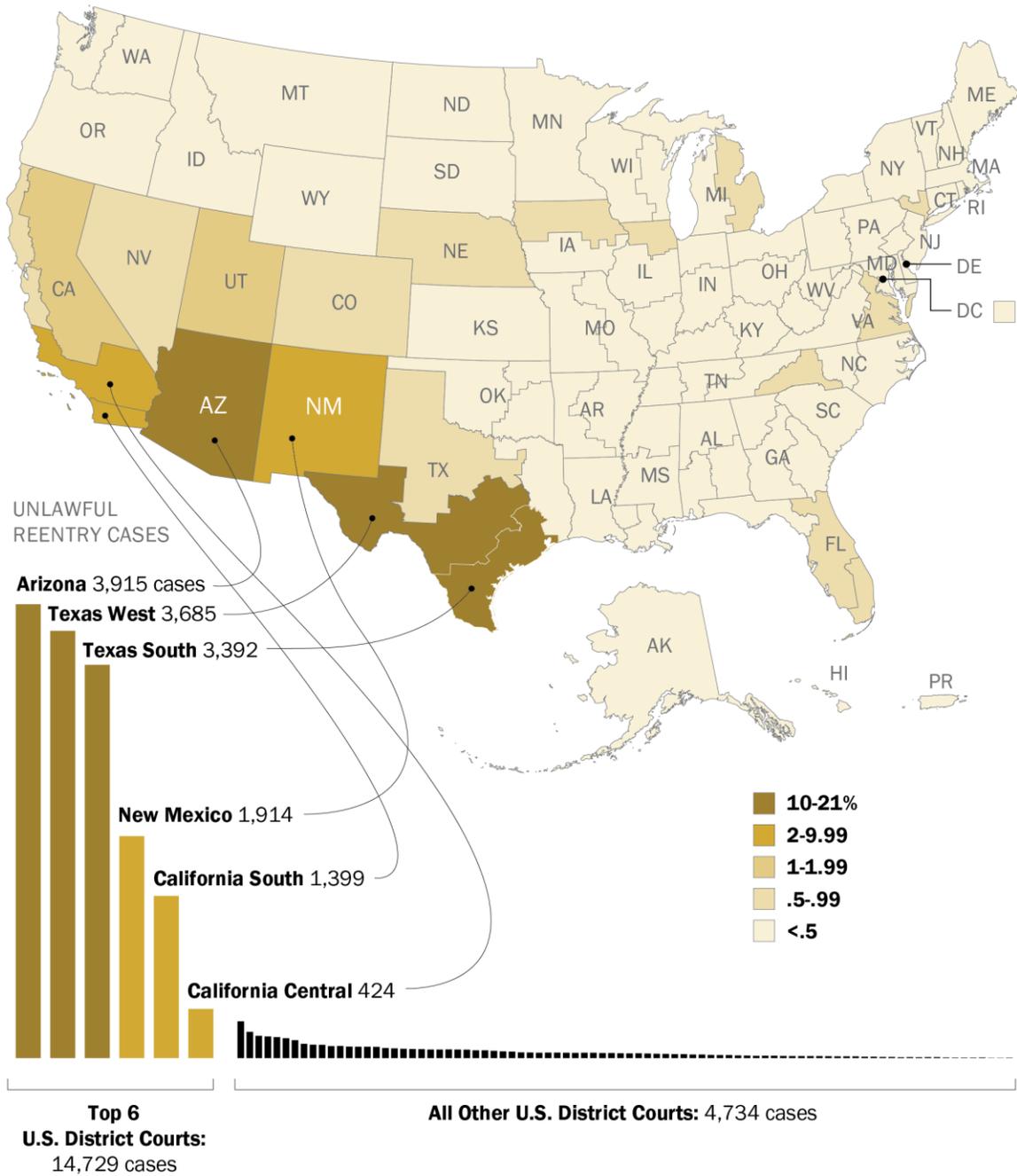
The concentration of unlawful reentry cases in these districts has dramatically skewed the average number of cases per judge across U.S. district courts. In the Washington D.C. district court there were 24 sentences per judgeship in 2012; in the Southern District of New York (Manhattan) there were 55 sentences per judge. By comparison, there were 718 sentences per judgeship in the Western District of Texas.

¹² Data on the number of judgeships per U.S. federal court district in 2012 is available at <http://www.uscourts.gov/Statistics/JudicialFactsAndFigures/judicial-facts-figures-2012.aspx>.

¹³ Operation Streamline was first established in the Border Patrol’s Del Rio Section of the western District of Texas in December 2005. Subsequently, it was expanded to the Yuma Sector in Arizona (December 2006), the Laredo Sector in Texas (October 2007), the Tucson Sector in Arizona (January 2008) and the Rio Grande Valley Sector in Texas (June 2008).

MAP 1

Share of all Unlawful Reentry Convictions in 2012, by U.S. District Court



Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 2012.

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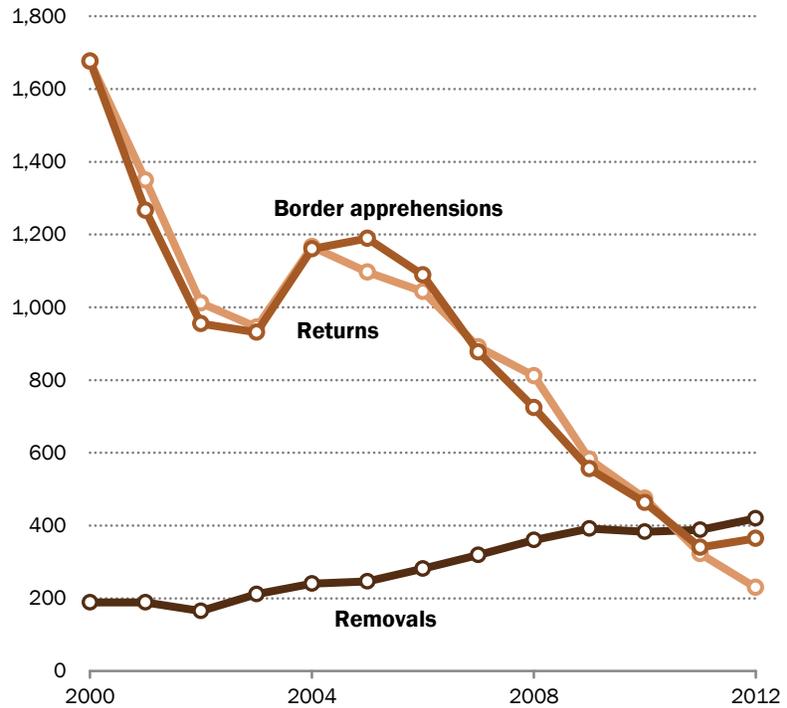
[http://www.ussc.gov/Guidelines/2012 Guidelines/Manual PDF/index.cfm](http://www.ussc.gov/Guidelines/2012_Guidelines/Manual_PDF/index.cfm)

Appendix A: Additional Data and Charts

FIGURE A1

Immigration Enforcement Actions, 2000-2012

In thousands



Note: Years are fiscal years. Removals are 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. Removals includes deportations and expedited removals at the border or in the interior of the U.S. Returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal.

Source: For border apprehensions data, U.S. Border Patrol ([2013](#)). For returns and removals data, U.S. Department of Homeland Security ([2013](#)).

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TABLE A1

Types of Offenses, 1992-2012*Number of convictions*

Year	Total offenses	Immigration Offenses					Drug offenses	All other offenses
		Total immigration offenses	Unlawful reentry	Smuggling & Transporting	Other immigration			
2012	75,867	23,250	19,463	2,283	1,504	25,712	26,905	
2011	77,506	25,755	21,489	2,578	1,688	25,664	26,087	
2010	74,907	24,370	19,910	2,633	1,827	24,713	25,824	
2009	73,277	22,621	17,310	3,274	2,037	25,164	25,492	
2008	70,511	19,333	13,627	3,536	2,170	25,500	25,678	
2007	66,931	15,916	10,953	3,376	1,587	25,699	25,316	
2006	67,571	16,199	11,363	3,462	1,374	26,122	25,250	
2005	65,504	15,218	10,507	3,202	1,509	24,874	25,412	
2004	62,723	13,290	9,719	2,338	1,233	24,532	24,901	
2003	64,166	12,950	9,269	2,350	1,331	26,299	24,917	
2002	59,206	9,834	7,076	1,769	989	25,920	23,452	
2001	55,481	8,969	6,121	1,815	1,033	24,492	22,020	
2000	55,119	9,615	6,513	2,070	1,032	23,542	21,962	
1999	52,141	8,454	5,658	1,785	1,011	22,682	21,005	
1998	47,827	6,962	4,721	1,384	857	20,368	20,497	
1997	45,333	5,485	3,612	1,161	712	18,922	20,926	
1996	40,739	4,222	2,543	1,005	674	17,266	19,251	
1995	36,878	2,662	1,620	511	531	15,282	18,934	
1994	38,666	2,168	1,265	422	481	16,870	19,628	
1993	40,262	2,025	987	521	517	18,480	19,757	
1992	36,564	1,753	690	639	424	16,932	17,879	

Note: Analysis is of sentenced offenders for whom a USSC sentencing guideline was applied. Unlawful reentry refers to statute § 2L1.2. Smuggling & transporting refers to statute § 2L1.1. Other immigration offenses include § 2L2.1—Trafficking in a Document Relating to Naturalization; § 2L2.2—Fraudulently Acquiring Documents Relating to Naturalization; and § 2L2.5—Failure to Surrender Canceled Naturalization Certificate. Drug offenses refers to Chapter 2D of the Statutory Provisions of the United States Sentencing Commission. All other offenses include violent, property, white collar, fraud, firearms and all other crimes.

Source: Pew Research Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data.

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Appendix B: Classification of Federal Offenses

Offense categories defined in this report were created by collapsing the primary offense categories utilized by the U.S. Sentencing Commission. The Commission determines an offender's primary offense category by examining the offense conviction with the highest statutory maximum. Below is the description of the primary offense categories used in the analyses for this report.

Drugs

Trafficking includes drug distribution/manufacture, drug distribution/manufacture: conspiracy, continuing criminal enterprise, drug distribution; employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

Communication Facility includes use of a communication facility in a drug trafficking offense.

Simple Possession includes distribution of a small amount of marijuana and simple possession.

Immigration

Immigration includes trafficking in U.S. passports; trafficking in entry documents; failing to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; being an unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

Violent

Murder includes first-degree murder, felony with death resulting, second-degree murder and conspiracy to murder (with death resulting).

Manslaughter includes both involuntary and voluntary manslaughter.

Sexual Abuse includes sexual abuse of a minor, transportation of minor for sex, sexual abuse of a ward, criminal sexual abuse and abusive sexual contact.

Assault includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault and conspiracy that includes assault with attempt to murder.

Robbery includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery and carjacking.

Property

Arson also includes damage by explosives.

Burglary/Breaking & Entering includes post office burglary, burglary of Drug Enforcement Administration premises (pharmacy), burglary of other structure, bank burglary and burglary of a residence.

Auto Theft includes auto theft (including parts), receipt/possession of stolen auto or parts and altered identification numbers/trafficking in altered (auto).

Larceny includes bank larceny, theft from benefit plans, other theft: mail/post office, receipt/possession of stolen property (not auto), other theft; property, larceny/theft-mail/post office, larceny/theft; property (not auto) and theft from labor union.

White Collar and Fraud

Fraud includes odometer laws and regulations, insider trading, and fraud and deceit.

Embezzlement includes embezzlement: property, embezzlement from labor unions, embezzlement; mail/post office, embezzlement from benefit plans and bank embezzlement.

Forgery/Counterfeiting includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

Bribery includes payment to obtain office, bribe involving officials, bribery: bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

Tax Offenses include receipt/trafficking in smuggled property, aid, etc., in tax fraud: fraud, tax returns, statements, etc.; fraud, false statement/perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; and regulatory offenses: taxes; failure to deposit taxes in trust account; nonpayment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

Money Laundering includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report and failure to report monetary transactions.

Extortion/Racketeering includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering and violent crimes in aid of racketeering.

Antitrust includes bid-rigging, price-fixing and market allocation agreement.

Firearms

Firearms includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc., in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

Other

Gambling/Lottery includes engaging in a gambling business, transmission of wagering information, obstruction to facilitate gambling and interstate transportation of wagering paraphernalia.

Civil Rights includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc., of eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude and slave trade; intercept communication or eavesdropping; and conspiracy to deprive an individual of civil rights.

Pornography, Prostitution includes dealing in obscene matter, transportation of minor for prostitution, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

Prison offenses includes contraband in prisons, riots in federal facilities and escape.

Administration of Justice includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of a witness, perjury or subornation of perjury, misprision of a felony and accessory after the fact.

Environmental/Fish and Wildlife includes waste discharge and offenses relating to specially protected fish, wildlife and plants.

National Defense includes evasion of export controls and exportation of arms, etc., without a license.

Food and Drug includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

Kidnapping/Hostage includes ransom taking and hostage/kidnapping.

Other Miscellaneous Offenses includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; recordkeeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense – aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

Appendix C: Classification of Sentences Imposed

The following classification for the types of sentence imposed comes from the *Variable Codebook for Individual Offenders – Standardized Research Data Files for Fiscal Years 1999-2012* ([U.S. Sentencing Commission, 2013a](#)). These descriptions are those used by the U.S. Sentencing Commission and come from the *2012 Sourcebook of Federal Sentencing Statistics* ([U.S. Sentencing Commission, 2013b](#)), Appendix B.

The Fine Only category includes those offenders that received neither a prison or probation sentence, but only a fine.

The Prison category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The Prison plus confinement conditions category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The Probation Only category includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

The Probation plus confinement conditions category includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

Prison sentences for any offender are expressed in months. Currently the U.S.S.C. assigns life sentences a value of 470 months. Prior to FY 1993, the U.S.S.C. assigned life sentences 360 months. Those who received only a fine, probation or probation plus alternative confinement conditions were not included in mean prison sentence calculations.

Appendix D: Statutory Provisions for USSC §2L1.2 – Unlawfully Entering or Remaining in the United States ¹⁴

8 USC § 1325 - Improper entry by alien (second or subsequent offense only)

- (a) **Improper time or place; avoidance of examination or inspection; misrepresentation and concealment of facts**
- Any alien who
 1. enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or
 2. eludes examination or inspection by immigration officers, or
 3. attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

8 USC § 1326 - Reentry of removed aliens

(a) In general

Subject to subsection (b) of this section, any alien who—

- (1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter
- (2) enters, attempts to enter, or is at any time found in, the United States, unless
 - (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or
 - (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act,
 shall be fined under title 18, or imprisoned not more than 2 years, or both.

(b) Criminal penalties for reentry of certain removed aliens

Notwithstanding subsection (a) of this section, in the case of any alien described in such subsection—

1. whose removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be fined under title 18, imprisoned not more than 10 years, or both;

¹⁴ Statutes are based on the *2012 USSC Guidelines Manual* ([U.S. Sentencing Commission, 2012](#)), Appendix B (Statutory Index)

2. whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both;
3. who has been excluded from the United States pursuant to section [1225 \(c\)](#) of this title because the alien was excludable under section [1182 \(a\)\(3\)\(B\)](#) of this title or who has been removed from the United States pursuant to the provisions of subchapter V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under title 18 and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence. or
4. who was removed from the United States pursuant to section [1231 \(a\)\(4\)\(B\)](#) of this title who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under title 18, imprisoned for not more than 10 years, or both.

For the purposes of this subsection, the term "removal" includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.

(c) Reentry of alien deported prior to completion of term of imprisonment

Any alien deported pursuant to section [1252\(h\)\(2\)](#)^[2] of this title who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.

(d) Limitation on collateral attack on underlying deportation order

In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) of this section or subsection (b) of this section unless the alien demonstrates that—

1. the alien exhausted any administrative remedies that may have been available to seek relief against the order;
2. the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and
3. the entry of the order was fundamentally unfair.

8 USC § 1253 - Penalties related to removal

(a) Penalty for failure to depart

(1) In general

Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section [1227\(a\)](#) of this title, who—

(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section [1227\(a\)](#) of this title), or both.

(2) Exception

It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

(3) Suspension

The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

- (A) the age, health, and period of detention of the alien;
- (B) the effect of the alien's release upon the national security and public peace or safety;
- (C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;
- (D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;
- (E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and
- (F) the eligibility of the alien for discretionary relief under the immigration laws.

(b) Willful failure to comply with terms of release under supervision

An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section [1231\(a\)\(3\)](#) of this title or knowingly give false information in response to an inquiry under such section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(c) Penalties relating to vessels and aircraft

(1) Civil penalties

(A) Failure to carry out certain orders

If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section [1231](#) of this title, the person shall pay to the Commissioner the sum of \$2,000 for each violation.

(B) Failure to remove alien stowaways

If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section [1231\(d\)\(2\)](#) of this title, the person shall pay to the Commissioner the sum of \$5,000 for each alien stowaway not removed.

(C) No compromise

The Attorney General may not compromise the amount of such penalty under this paragraph.

(2) Clearing vessels and aircraft

(A) Clearance before decision on liability

A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

(B) Prohibition on clearance while penalty unpaid

A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

(d) Discontinuing granting visas to nationals of country denying or delaying accepting alien

On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.

8 USC § 1185 - Travel control of citizens and aliens

(a) Restrictions and prohibitions

Unless otherwise ordered by the President, it shall be unlawful—

- (1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

Main Immigration Categories ([U.S. Sentencing Commission, 2012](#))

PART L - OFFENSES INVOLVING IMMIGRATION, NATURALIZATION,
AND PASSPORTS

§2L1.1. Smuggling, Transporting, or Harboring an Unlawful Alien

§2L1.2. Unlawfully Entering or Remaining in the United States

§2L2.1. Trafficking in a Document Relating to Naturalization, Citizenship, or Legal Resident Status, or a United States Passport; False Statement in Respect to the Citizenship or Immigration Status of Another; Fraudulent Marriage to Assist Alien to Evade Immigration Law

§2L2.2. Fraudulently Acquiring Documents Relating to Naturalization, Citizenship, or Legal Resident Status for Own Use; False Personation or Fraudulent Marriage by Alien to Evade Immigration Law; Fraudulently Acquiring or Improperly Using a United States Passport

§2L2.5. Failure to Surrender Canceled Naturalization Certificate