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## Criminal Immigrants in Texas in 2019

### Illegal Immigrant Conviction Rates and Arrest Rates for Homicide, Sex Crimes, Larceny, and Other Crimes

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**C**hildren committed by illegal immigrants is an important public policy issue that should affect the allocation of federal immigration enforcement resources, state and local law enforcement resources, and policies toward arresting, detaining, and removing illegal immigrants.<sup>1</sup> This brief uses Texas Department of Public Safety data to measure the rate at which individuals were convicted and arrested by crime and immigration status in Texas in 2019. This brief is an update, expansion, and improvement of earlier publications that measured criminal conviction and arrest rates by immigration status in Texas in 2015, 2017, and 2018 using the same data source.

The results in this updated brief show that in Texas in 2019, illegal immigrants were 37.1 percent less likely to be convicted of a crime than native-born Americans and legal immigrants were about 57.2 percent less likely to be convicted of a crime than native-born Americans. The conviction and arrest rates for illegal immigrants were lower than those for native-born Americans but higher than those for legal immigrants. This result holds for just about every type of crime, including homicide, sex crimes, larceny, and most other crimes.

### BACKGROUND

The vast majority of research finds that immigrants do not increase local crime rates and that they are less likely to

commit crime or be incarcerated than native-born citizens.<sup>2</sup> There is less research on illegal immigrant criminality, but it shows that illegal immigrants have lower incarceration rates nationwide relative to native-born Americans, had lower conviction and arrest rates in Texas in earlier years, and had the same rates of re-arrest in Los Angeles County in 2002.<sup>3</sup> New research inspired by the Cato Institute's earlier findings on illegal immigrant crime in Texas, but based on more-granular crime data in Texas, found that illegal immigrants have a *lower* criminal conviction rate than native-born Americans and legal immigrants.<sup>4</sup> In other words, Cato's earlier versions of this brief could have exaggerated illegal immigrant crime in Texas. Recent peer-reviewed empirical studies on illegal immigrant criminality have found no link between violent crime and the size of the illegal immigration population. It also found a negative relationship between the number of illegal immigrants and most types of nonviolent crime at the local level.<sup>5</sup>

### METHODOLOGY

This brief uses data from the Texas Department of Public Safety (DPS) obtained through a Public Information Act request.<sup>6</sup> The Texas DPS data separately show the number of convictions and arrests of legal immigrants, illegal immigrants, and native-born Americans in Texas for the calendar year 2019. This brief reports the conviction rates and arrest

rates for the subpopulations of native-born Americans, illegal immigrants, and legal immigrants. Calculating conviction and arrest rates in this way allows for a comparison of rates between these subpopulations.

Texas is the only state that records criminal convictions and arrests by immigration status. Texas has this information because its law enforcement agencies cooperate with federal immigration enforcement authorities at the Department of Homeland Security (DHS) who check the biometrics of arrestees in the state and track them through to their convictions.<sup>7</sup> The Texas DPS keeps the results of these DHS checks, which then allow a more direct look at immigrant criminality by immigration status.<sup>8</sup> The DPS data reveal more arrests in 2019 than another publicly available DPS report recorded for the same year.<sup>9</sup> 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 the other publicly available DPS source.

This brief reports the conviction and arrest rates for 2019 because that is the most recent year for which estimates are available for the legal immigrant, native-born, *and* illegal immigrant populations residing in Texas. This brief uses a method created by economist Christian Gunadi to estimate the size of the illegal immigrant population.<sup>10</sup> Gunadi imputed legal immigrant status and identified those remaining as illegal immigrants, which is different from the residual statistical methods that identify illegal immigrants first and then count the remaining people as legal immigrants.<sup>11</sup> The Department of Homeland Security's method for estimating the size of the illegal immigrant population is conceptually similar to Gunadi's, but it estimates a larger illegal immigrant population.<sup>12</sup> Using Gunadi's method for estimating the size of the illegal immigrant population would thus result in slightly higher illegal immigrant criminal conviction rates and slightly lower legal immigrant criminal conviction rates. According to Gunadi's methods, people are counted as legal immigrants if they met any of the following criteria as recorded in the 2019 American Community Survey: the immigrant arrived after 1980; is a U.S. citizen; received welfare benefits such as Social Security, Supplemental Security Income, Medicaid, Medicare, or military insurance; served in the Armed Forces; worked for the government; resided in public housing or received rental subsidies or was the spouse of someone who resided in public housing or received rental subsidies; had occupational licenses; or was born in Cuba and had a spouse who was a legal immigrant or U.S. citizen. Other applications of the Gunadi method drop the occupational license requirement because some states do not require

applicants to have legal immigration status to obtain occupational licenses. The number of legal immigrants estimated from this method includes those residing in Texas on temporary nonimmigrant work visas and those who have naturalized and earned American citizenship.

The numbers in this brief do not represent the total number of criminal immigrants residing in Texas in 2019 but merely the number of individuals who were arrested and convicted. This current brief analyzes the number of individuals convicted, compared to our first brief, which analyzed the number of convictions. The results are nearly identical but this brief focuses on the number of people convicted and arrested because most readers will interpret our results that way. There were 24,046,883 native-born Americans, 1,871,115 illegal immigrants, and 3,077,883 legal immigrants living in Texas in 2019.<sup>13</sup> In that year, native-born Americans made up about 82.9 percent of the Texas population, illegal immigrants made up about 6.5 percent of the population, and legal immigrants made up about 10.6 percent. The DPS data that this brief analyzes are for all individuals arrested and convicted in 2019, regardless of the year in which the crime was committed.

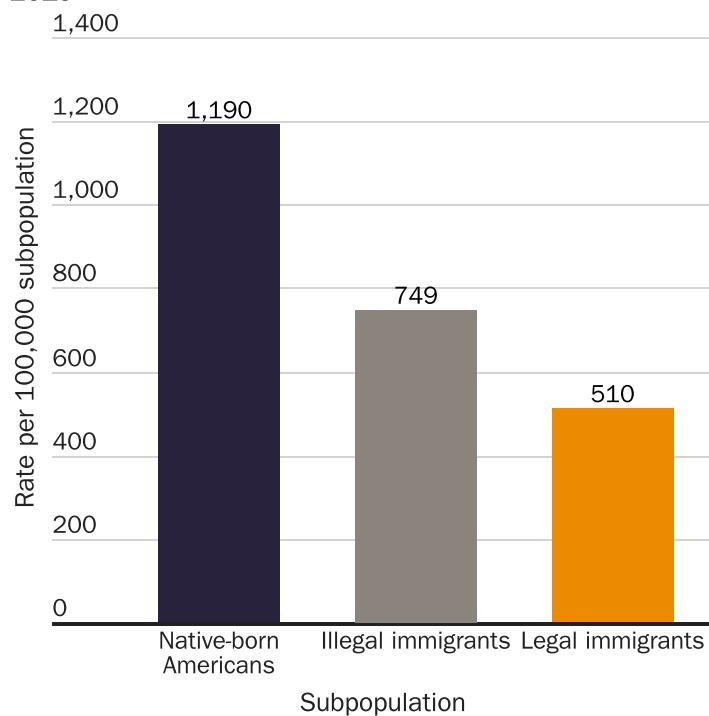
Controlling for the size of the population is essential for comparing relative conviction and arrest rates between groups. This brief copies the methods of government agencies, as they generally report the conviction and incarceration rates per 100,000 members of each particular subpopulation.<sup>14</sup> The three subpopulations this brief analyzes are illegal immigrants, legal immigrants, and native-born Americans.

Texas is an ideal state to study criminality by immigration status for multiple reasons: it borders Mexico; it has the second-largest illegal immigrant population of any state; it is a politically conservative state governed by Republicans; it did not have jurisdictions in 2019 that limited its cooperation with federal immigration enforcement; and it has a reputation for severely and strictly enforcing its criminal laws.

## CONVICTIONS

In 2019, 286,248 native-born Americans, 14,010 illegal immigrants, and 15,692 legal immigrants were convicted of crimes in Texas. Thus, 1,190 natives were convicted for every 100,000 natives, 749 illegal immigrants for every 100,000 illegal immigrants, and 510 legal immigrants for every 100,000 legal immigrants (Figure 1). As a percentage of their respective populations, illegal immigrants were more than 37.1 percent less likely to be convicted of a crime than native-born Americans. Legal immigrants were about 57.2 percent less likely to be convicted of a crime than native-born Americans.

Figure 1

**Criminal conviction rates by immigration status in Texas, 2019**

Sources: Author's analysis of data from the Texas Department of Public Safety and the American Community Survey.

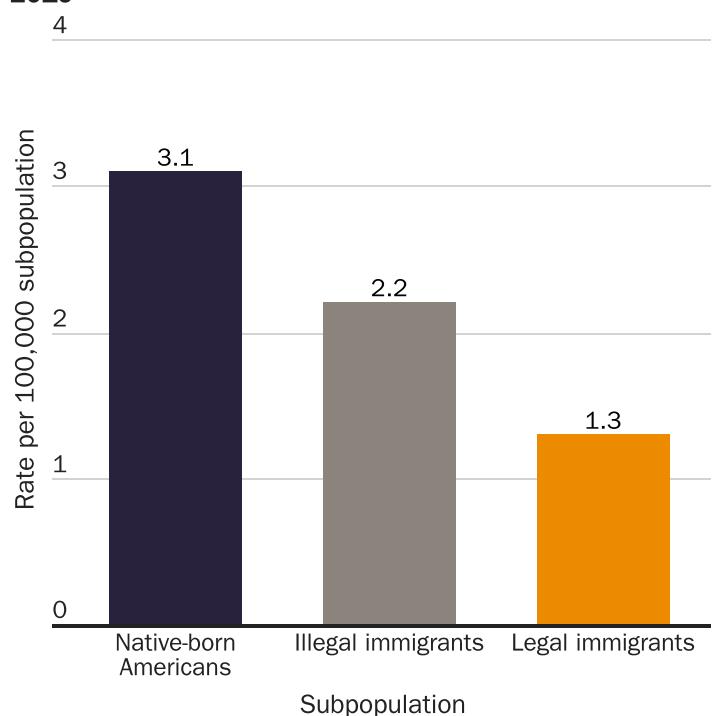
**Homicides**

Homicides committed by illegal immigrants, such as the 2015 killing of Kate Steinle and the 2018 murder of Mollie Tibbetts, garner significant public attention.<sup>15</sup> These tragic killings galvanized public support for harsher immigration enforcement and provided anecdotal evidence for then president Trump's claim that illegal immigrants were responsible for a large number of crimes in the United States.<sup>16</sup>

There were 829 people convicted of homicide in Texas in 2019. Of those, 746 were native-born Americans, 42 were illegal immigrants, and 41 were legal immigrants. The homicide conviction rate was 3.1 per 100,000 for native-born Americans, 2.2 per 100,000 for illegal immigrants, and 1.3 per 100,000 for legal immigrants (Figure 2). In 2019, homicide conviction rates for illegal and legal immigrants were 27.7 percent and 57.1 percent, respectively, below those of natives.

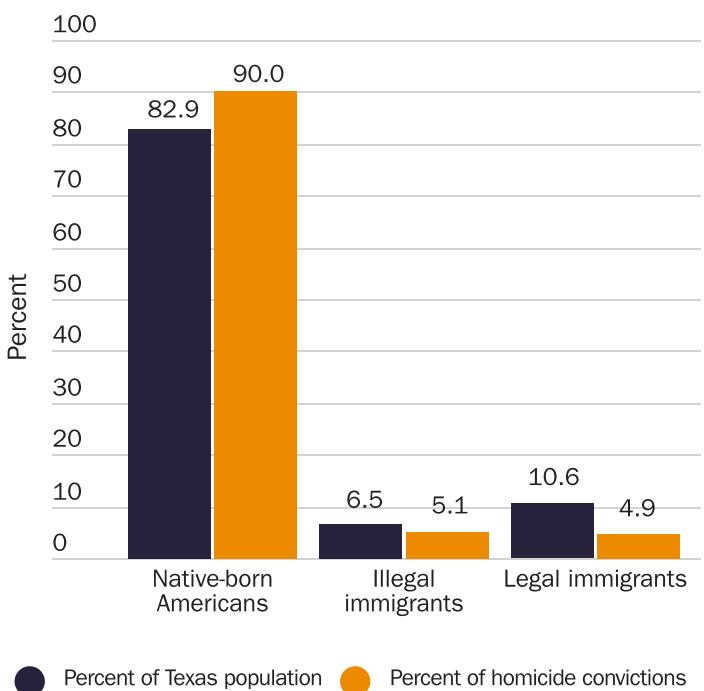
Illegal immigrants made up about 6.5 percent of the Texas population in 2019 but only accounted for 5.1 percent of all people convicted of homicide. Legal immigrants made up 10.6 percent of the Texas population but accounted for only 5 percent of people convicted of homicide. Native-born Americans made up 82.9 percent of the Texas population but accounted for 89.9 percent of people convicted of homicide (Figure 3).

Figure 2

**Homicide conviction rates by immigration status in Texas, 2019**

Sources: Author's analysis of data from the Texas Department of Public Safety and the American Community Survey.

Figure 3

**Share of homicide convictions and populations by immigration status in Texas, 2019**

Sources: Author's analysis of data from the Texas Department of Public Safety and the American Community Survey.

## Sex Crimes

For the purposes of this brief, sex crimes are the combined numbers of individuals convicted of sexual assaults, sexual offenses, and commercial sex. For every 100,000 illegal immigrants, 21.6 were convicted for sex crimes in 2019, about 16.1 percent below the conviction rate for native-born Americans in the same year (Figure 4). The sex crime conviction rate for legal immigrants was 53.3 percent below that of natives.

## Larceny

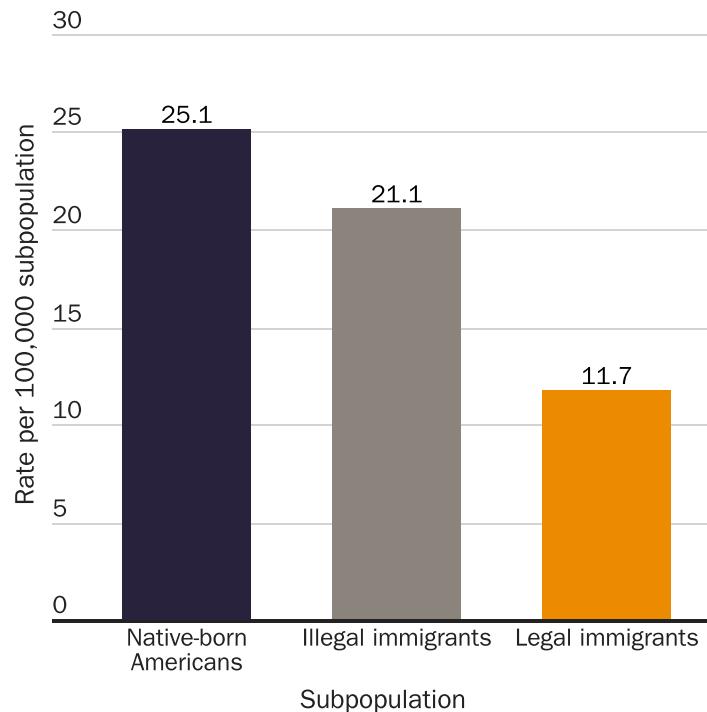
The larceny conviction rate for illegal immigrants was lower than for legal immigrants and native-born Americans in Texas in 2019. For every 100,000 native-born Americans, 111.5 were convicted of larceny, while the conviction rates for illegal immigrants and legal immigrants were 25 and 34.9 per 100,000, respectively (Figure 5). The larceny conviction rate for illegal immigrants was 77.6 percent below that of natives.

## 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

Figure 4

### Sex crime conviction rates by immigration status in Texas, 2019



Sources: Author's analysis of data from the Texas Department of Public Safety and the American Community Survey.

more crimes.<sup>17</sup> However, the overall arrest rate for illegal immigrants is lower than for native-born Americans—very similar to the overall conviction rate.

In 2019, Texas police arrested 696,337 natives, 36,454 illegal immigrants, and 44,124 legal immigrants. For every 100,000 people in each subpopulation, 2,895.7 native-born Americans, 1,948.3 illegal immigrants, and 1,433.6 legal immigrants were arrested (Table 1). The arrest rate for illegal immigrants was 32.7 percent below that of native-born Americans. The arrest rate for legal immigrants was 50.5 percent below that of native-born Americans. Per 100,000 people in their

Table 1

### Arrest rates by immigration status and crime in Texas, 2019

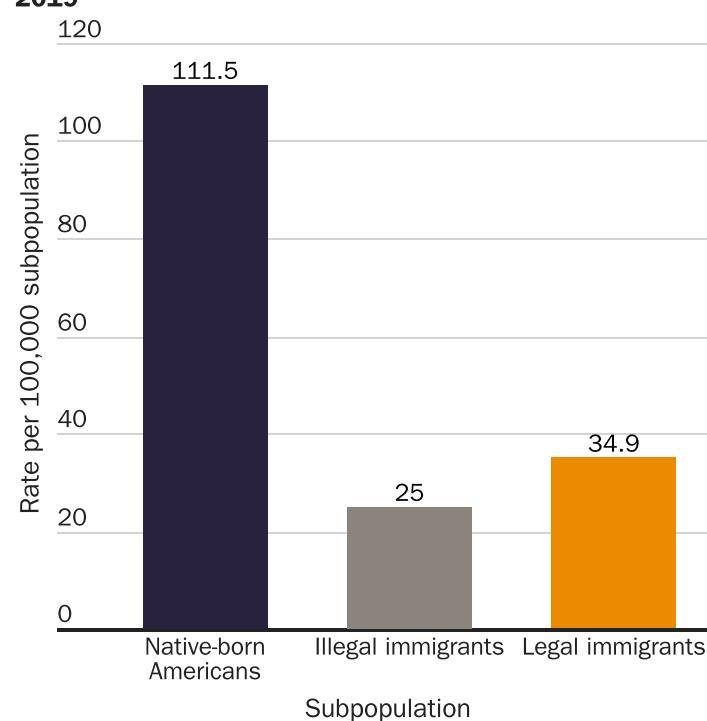
	All arrests	Homicide arrests	Sex crime arrests	Larceny arrests
Native-born Americans	2,895.7	5.4	56.4	224.0
Illegal immigrants	1,948.3	2.8	51.6	76.6
Legal immigrants	1,433.6	2.3	34.4	95.4

Note: Rates are per 100,000 residents in each subpopulation.

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

Figure 5

### Larceny conviction rates by immigration status in Texas, 2019



Sources: Author's analysis of data from the Texas Department of Public Safety and the American Community Survey.

respective groups, there were more arrests of natives for homicide, larceny, and sex crimes than there were arrests of illegal immigrants or legal immigrants.

## ROBUSTNESS CHECK

Texas DPS reports that the DHS checks of arrestees do not identify some illegal immigrants and that Immigration and Customs Enforcement (ICE) identifies these individuals after they are incarcerated in the Texas Department of Criminal Justice (DCJ).<sup>18</sup> There are a few possible reasons for this discrepancy. First, the federal DHS programs that check on immigration status systematically undercount the number of illegal immigrants when they are arrested and convicted but not when they are incarcerated. Second, ICE corrects any human errors that may have occurred during the DHS check after the Texas DCJ incarcerates the illegal immigrants. Third, the additional illegal immigrants identified while in Texas DCJ custody could have been former legal immigrants who lost their immigration status after being convicted. Thus, they were legal immigrants who became illegal immigrants after being convicted of a serious criminal offense.<sup>19</sup>

The source of the discrepancy matters. If, for instance, illegal immigrants are misidentified at the point of arrest, then the numbers in the above figures and tables need to be corrected. This would also mean that the legal immigrant conviction rate is too low because the misidentified illegal immigrants were likely identified as legal immigrants. On the other hand, if Texas DCJ identifies formerly legal immigrants who lost their legal immigration status after being convicted of a crime, which would make them illegal immigrants and deportable upon release, then the Texas DCJ statistic includes

criminal immigrants who were lawfully present when they committed their crimes.

Regardless of the source of the discrepancy between Texas DPS and Texas DCJ numbers, this section updates the findings in Figures 1, 2, and 4 as if all the Texas DCJ-identified illegal immigrants were illegal immigrants when they were arrested.<sup>20</sup> There were no updated Texas DCJ data on the number of larcenies, thus precluding a re-analysis of that crime. Further, this robustness check focuses on the number of convictions rather than those individuals convicted because that is the data presented by the Texas DCJ. The updated findings here raise the rate of illegal immigrants convicted per 100,000 to 756.4 for any crime, 2 for homicide, and 29.5 for sex crimes during the 2011–2021 period. The new higher rates are closer to the native-born American criminal conviction rates for each crime, but are still lower in each case. This robustness check narrows the criminal conviction gap between illegal immigrants and native-born Americans in Texas, but native-born Americans are still more likely to be convicted of crimes than illegal immigrants.

## CONCLUSION

Texas is the only state that keeps the records of the immigration statuses of those arrested and convicted of state-level crimes, thus giving the public its best opportunity to study the crime rates of illegal immigrants compared to other groups. Illegal immigrants were 27.7 percent less likely to be convicted of homicide than native-born Americans in Texas in 2019. For all crimes in Texas in 2019, illegal immigrants had a criminal conviction rate 37.1 percent below that of native-born Americans. Legal immigrants had a criminal conviction rate 57.2 percent below that of native-born Americans.

## NOTES

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