

Immigration

RESEARCH AND POLICY BRIEF

CATO
INSTITUTE

AUGUST 27, 2019 | NUMBER 13

Criminal Immigrants in Texas in 2017 Illegal Immigrant Conviction Rates and Arrest Rates for Homicide, Sex Crimes, Larceny, and Other Crimes

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Immigrant criminality is an important public policy concern because some American voters believe that illegal immigrants have a higher crime rate than American citizens.¹ 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 2017. This brief is an update, expansion, and improvement on our previous brief that measured criminal conviction and arrest rates by immigration status in Texas in 2015.

The results in this updated brief show that in Texas in 2017, illegal immigrants were 47 percent less likely to be convicted of a crime than native-born Americans and legal immigrants were about 65 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 in just about every case, 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 cause crime or be incarcerated than native-born citizens.² There is less research on illegal immigrant criminality, but what research

there is shows that illegal immigrants have lower incarceration rates nationwide relative to native-born Americans, had lower conviction and arrest rates in Texas in 2015, and had the same rates of re-arrest in Los Angeles County in 2002.³ Recent peer-reviewed empirical studies on illegal immigrant criminality have found no link between violent crime and the illegal immigration population. They also found a negative relationship between the number of illegal immigrants and most types of nonviolent crime on the local level.⁴

METHODOLOGY

This brief uses data from the Texas Department of Public Safety (DPS) obtained through a Public Information Act (PIA) request.⁵ 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 of 2017. 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) that check the biometrics of arrestees in the state and tracks them through to their convictions.⁶ The Texas DPS keeps the results of these DHS checks that then allow a more direct look at immigrant criminality by immigration status.⁷ The DPS data reveal more arrests in 2017 than another publicly available DPS report recorded for the same year.⁸ 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 2017 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. The previous version of this brief for the year 2015 relied on the Center for Migration Studies (CMS) estimate of the number of illegal immigrants in Texas, so this version uses the same data source for 2017.⁹ Since we published the first version of this brief in early 2018, DHS has restarted publishing its estimate of the number of illegal immigrants on the state level but only for the year 2015.¹⁰ The DHS estimate of illegal immigrants in Texas in 2015 is much higher than the CMS estimate, meaning that the illegal immigrant crime rate would be lower using the DHS estimate. For consistency's sake, this brief uses the CMS estimate of the size of the illegal immigrant population.

The numbers in this brief do not represent the total number of criminal immigrants residing in Texas in 2017 but merely the number who were arrested and convicted. This updated version of the 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 23,450,456 native-born Americans, 1,810,892 illegal immigrants, and 3,043,248 legal immigrants living in Texas in 2017.¹¹ In that year, native-born Americans made up about 82.9 percent of the Texas population, illegal immigrants made up about 6.4 percent of the population, and legal immigrants made up about 10.8 percent. The DPS data that this brief analyzes are for all individuals arrested and convicted in 2017, regardless of the year in which the crime was committed.

Controlling for the size of the population is essential to comparing relative conviction and arrest rates between subpopulations. 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.¹² 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; in 2017 it did not have jurisdictions that limited its cooperation with federal immigration enforcement; and it has a law-and-order reputation for severely and strictly enforcing its criminal laws.

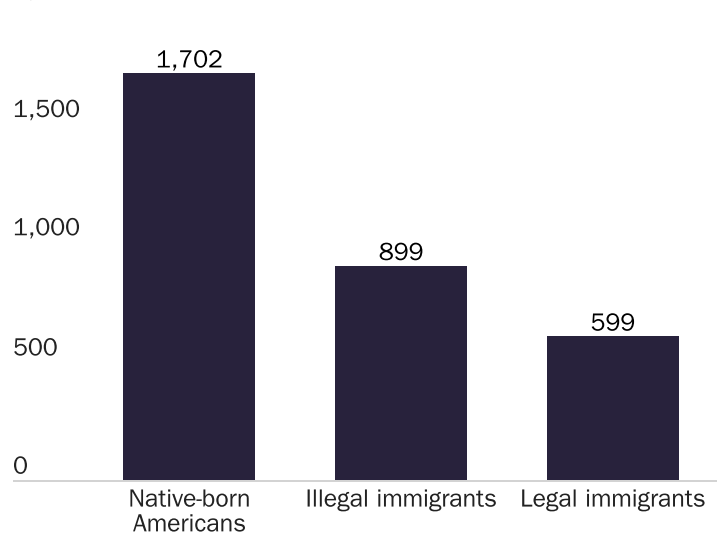
CONVICTIONS

In 2017 in Texas, 399,155 native-born Americans, 16,275 illegal immigrants, and 18,235 legal immigrants were convicted of crimes. Thus, 1,702 natives were convicted for every 100,000 natives, 899 illegal immigrants for every 100,000 illegal immigrants, and 599 legal immigrants for every 100,000 legal immigrants (Figure 1). As a percentage of their respective subpopulations, illegal immigrants were over 47 percent less likely to be convicted of a crime than native-born Americans. Legal immigrants were about 65 percent less likely to be convicted of a crime than native-born Americans.

Homicides

Homicides supposedly committed by illegal immigrants garner the most public attention.¹³ On November 30, 2017,

Figure 1
Criminal conviction rates by immigration status in Texas, 2017



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

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

a San Francisco jury acquitted José Inés García Zárate, an illegal immigrant from Mexico who was previously deported five times, of murder in the killing of Kate Steinle.¹⁴ The 2018 murder of Mollie Tibbetts also ignited a public debate over illegal immigration and crime after police arrested illegal immigrant Cristhian Bahena Rivera and charged him with first-degree murder.¹⁵ These tragic killings galvanized

public support for harsher immigration enforcement and provided anecdotal evidence for President Trump's claim that illegal immigrants are responsible for a large number of crimes in the United States.¹⁶

There were 937 people convicted of homicide in Texas in 2017. Of those, 844 were native-born Americans, 46 were illegal immigrants, and 47 were legal immigrants. The homicide conviction rate was 3.6 per 100,000 for native-born Americans, 2.5 per 100,000 for illegal immigrants, and 1.5 per 100,000 for legal immigrants (Figure 2). In 2017, homicide conviction rates for illegal and legal immigrants were 29 percent and 57 percent below those of natives.

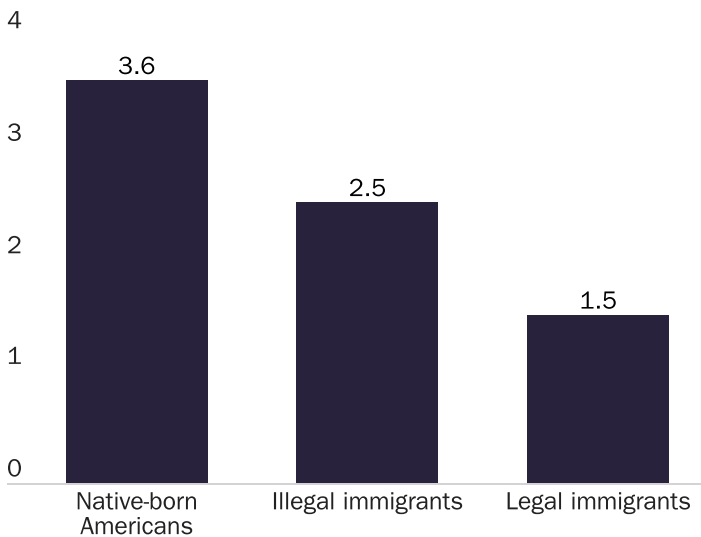
Illegal immigrants made up about 6.4 percent of the Texas population in 2017 but accounted for only 4.9 percent of all people convicted of homicide. Legal immigrants made up 10.8 percent of the Texas population but accounted for only 5 percent of people convicted of homicide. Native-born Americans made up 82.9 percent of the Texas population but accounted for 90.1 percent of people convicted of homicide (Figure 3).

Sex Crimes

Sex crimes, for the purposes of this brief, are the combined numbers of convictions for sexual assaults, sexual offenses, and commercial sex. For every 100,000 illegal immigrants, 31.6 were convicted for sex crimes in 2017, about 14 percent below the conviction rate for native-born Americans in the same year (Figure 4). The sex crime conviction rate for legal immigrants was 60 percent below that of natives.

Figure 2

Homicide conviction rates by immigration status in Texas, 2017

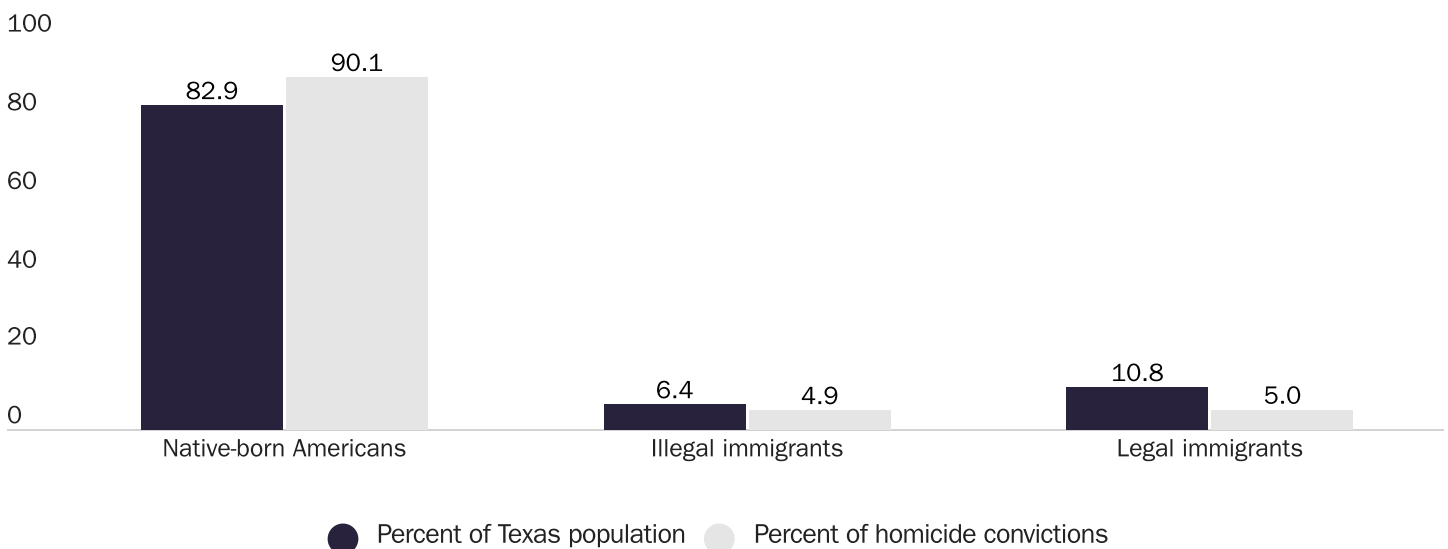


Sources: Author's analysis of data from the Texas Department of Public Safety, the American Community Survey, and the Center for Migration Studies.

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

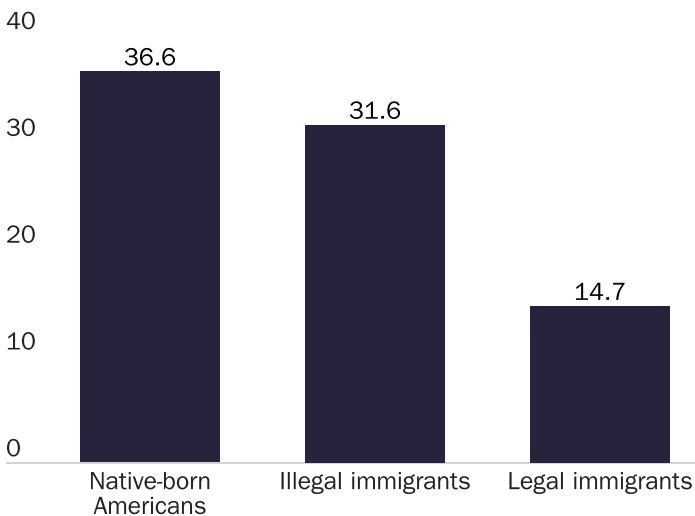
Figure 3

Share of homicide convictions and populations by immigration status in Texas, 2017



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

Figure 4
Sex crime conviction rates by immigration status in Texas, 2017



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

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

Larceny

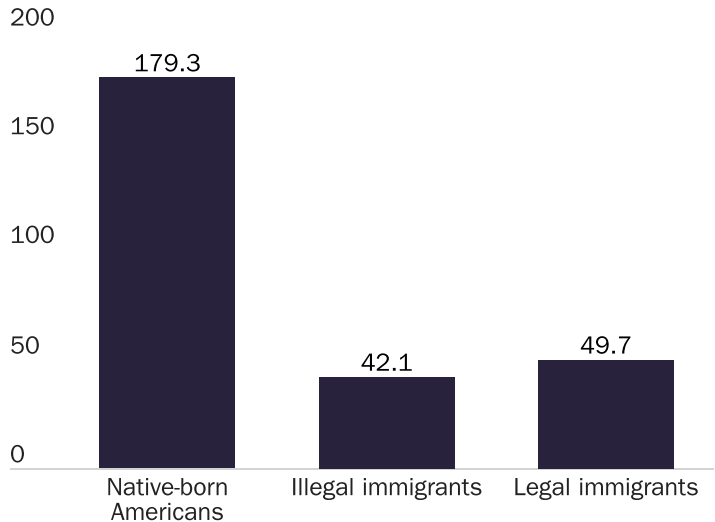
The larceny conviction rate for illegal immigrants was lower than for legal immigrants and native-born Americans in Texas in 2017. For every 100,000 native-born Americans, 179.3 were convicted of larceny, while the conviction rates for illegal immigrants and legal immigrants were 42.1 and 49.7 per 100,000, respectively (Figure 5). The larceny conviction rate for illegal immigrants was 77 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 more crimes.¹⁷ However, the overall arrest rate for illegal immigrants is lower than for native-born Americans—very similar to the overall conviction rate.

In 2017, Texas police arrested 663,579 natives, 27,998 illegal immigrants, and 36,245 legal immigrants. For every 100,000 people in each subpopulation, 2,830 native-born Americans, 1,546 illegal immigrants, and 1,191 legal immigrants were arrested (Table 1). The arrest rate for illegal immigrants was 45 percent below that of native-born Americans. The arrest rate for legal immigrants was 58 percent below that of native-born Americans. Per 100,000 people in their respective subpopulations, there were more arrests

Figure 5
Larceny conviction rates by immigration status in Texas, 2017



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

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

Table 1
Arrest rates by immigration status and crime in Texas, 2017

	All arrests	Homicide	Sex crimes	Larceny
Native-born Americans	2,830	5.2	55.6	228.4
Illegal immigrants	1,546	4.1	52.0	73.2
Legal immigrants	1,191	1.9	34.5	85.2

Source: Authors' 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.

of natives for homicide, larceny, and sex crimes than there were arrests of illegal 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).¹⁸ 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 extra 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.¹⁹

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 lower 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.²⁰ There were no updated Texas DCJ data on the number of larcenies, precluding a reanalysis of that crime. The updated findings here raise the rate of illegal immigrants convicted per 100,000 to 970 for any crime, 3 for homicide, and 35.6 for sex crimes. The new higher rates are closer to the native-born American criminal conviction rates for each crime, but they are still below, as shown in Figures 1, 2, and 4. 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 subpopulations. Illegal immigrants were 29 percent less likely to be convicted of homicide than native-born Americans in Texas in 2017. For all crimes in Texas in 2017, illegal immigrants had a criminal conviction rate 47 percent below that of native-born Americans. Legal immigrants had a criminal conviction rate 65 percent below that of native-born Americans.

NOTES

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5. “Public Information Act,” Texas Department of Public Safety; and “Texas Criminal Illegal Alien Data,” Texas Department of Public Safety. These data sets are available by email request to Alex Nowrasteh at anowrasteh@cato.org.
6. U.S. Immigration and Customs Enforcement, “ICE ‘Secure Communities’ Program Now Activated in All Texas Counties,” September 29, 2010; and Texas Department of Public Safety, “Texas Criminal Illegal Alien Data.”
7. Landgrave and Nowrasteh, “Criminal Immigrants: Their Numbers, Demographics, and Countries of Origin.”
8. Texas Department of Public Safety, *Crime in Texas 2017*, chap. 9, 2017.
9. “State-Level Unauthorized Population and Eligible-to-Naturalized Estimates,” Center for Migration Studies; and U.S. Census Bureau, “Selected Characteristics of the Native and Foreign-Born Populations: 2017 American Community Survey 1-Year Estimates,” Table S0501.
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20. “Texas Criminal Illegal Alien Data.”