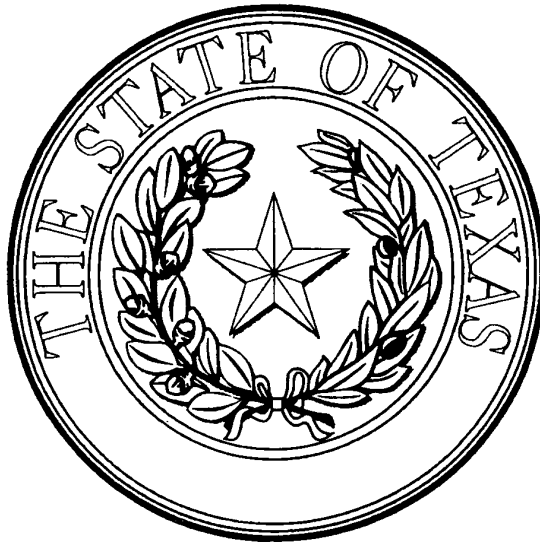


Criminal Alien Project for the State of Texas

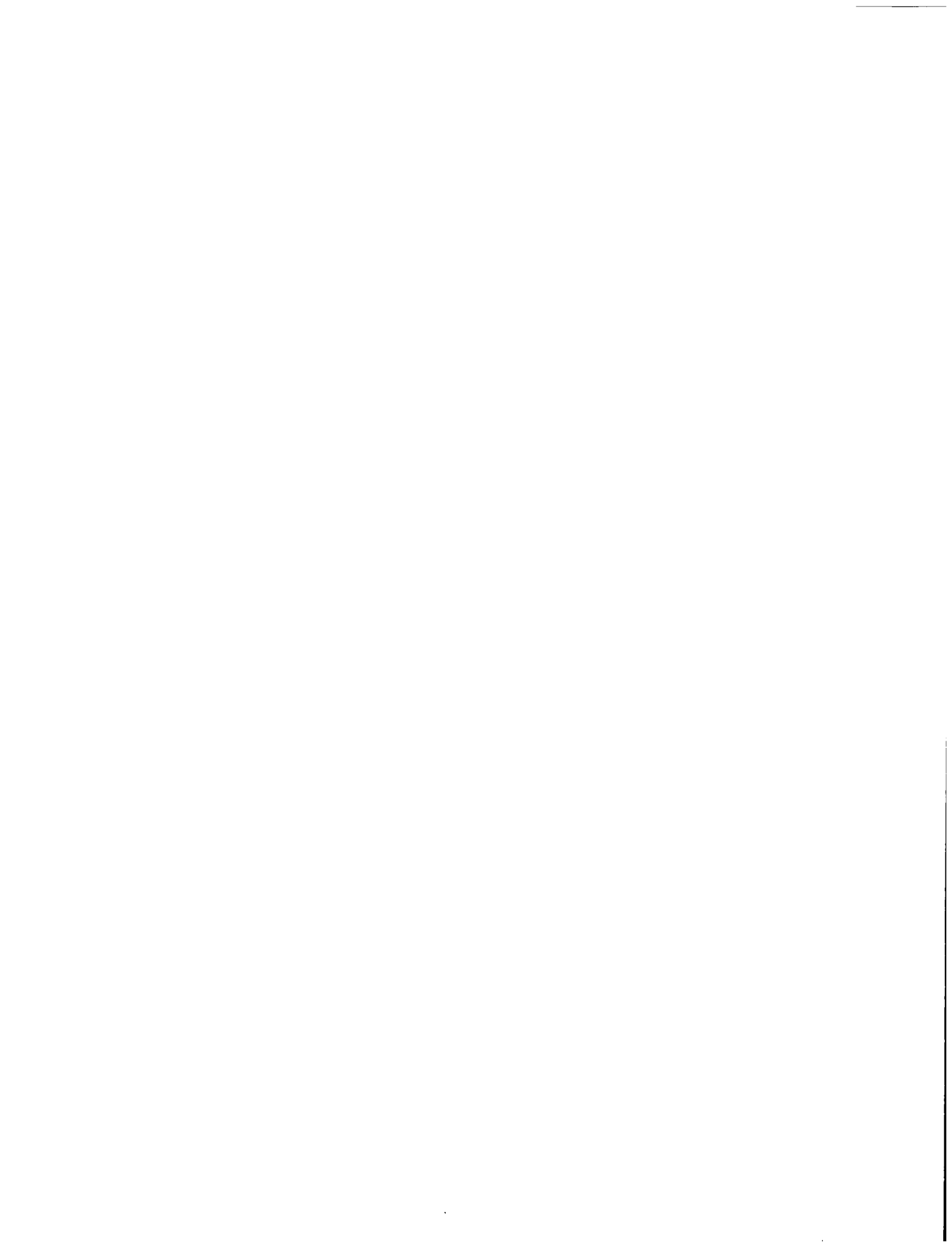


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September 1995

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Criminal Alien Project for the State of Texas

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I. Introduction

Attention has recently been drawn to the problem of citizens from other countries committing crimes in the United States. The primary considerations in dealing with this problem revolve around the use of limited resources and the expansion of an already burdened criminal justice system. There seems to be little debate, regardless of one's viewpoint on the larger issue of immigration, that criminal aliens represent a drain on the resources of the nation. The process of identifying and removing criminal aliens from this country and deterring subsequent re-entry of deported criminal aliens must be improved.

Criminal aliens are persons living in the United States, either legally or illegally, who have been convicted of crimes for which they may be subject to deportation. Deportation is the removal of persons whose presence is unlawful in the United States to their country of origin. Various provisions of the Immigration and Nationality Act identify the crimes that can result in deportation as those involving moral turpitude or the sale, possession, or distribution of drugs and/or firearms (for more details see Appendix A).

The Department of Justice's Immigration and Naturalization Service (INS) is responsible for the enforcement of immigration laws. The key function of INS investigators is determining citizenship of offenders with documents from other countries and offenders whose citizenship is questionable. There are occasions when INS investigators are unable to determine citizenship due to the frequent use of aliases and falsified documents. These situations can result in criminal aliens being released back into U.S. communities upon the completion of their sentences. Efforts are being made to enhance the ability of INS and law enforcement agencies to identify citizenship status of suspected aliens, thereby improving the relationship between INS and state and local agencies.

The United States Congress passed the Drug Abuse Act of 1988 and the Immigration and Naturalization Act of 1990 which, among other provisions, mandated the Department of Justice to improve the capabilities of INS to provide accurate information on criminal aliens to law enforcement agencies. In compliance with these mandates, INS has centralized existing national databases to allow state and local law enforcement agencies to search for information pertaining to aliens involved in criminal activity.

In June 1994, the INS Law Enforcement Support Center (LESC) in Burlington, Vermont, began a pilot program to test this new alien identification system. The participants in this pilot test are law enforcement agencies in and around Phoenix, Arizona. When testing is complete, the initial access group will be the five states with the highest criminal alien populations: California, Texas, New York, Florida, and Illinois.

The goal of the LESL is to improve the process of identifying criminal aliens and to expedite the deportation of criminal aliens from the U.S. On behalf of Texas, the Criminal Justice Policy Council is coordinating this project with federal, state, and local agencies to insure that criminal justice agencies in Texas have access to this national investigative tool.

II. Criminal Aliens in Texas: Scope of the Problem

Methodology

"The law with respect to criminal alien identification is complex and contains many nuances, particularly with respect to definitions--which may be of critical importance in establishing the threshold issue of deportability."¹ Due to this complex nature of immigration law, the final identification and determination of criminal alien status is the responsibility of INS. Persons who violate immigration laws do not become criminal aliens until they are verified as such by INS, although for purposes of consistency throughout this report the term "criminal alien" will be used in discussing arrests and system processing prior to and after conviction to avoid a multiplicity of terms and definitions.

This state criminal alien project includes analyses based on two primary issues: the extent of the criminal alien problem throughout the criminal justice system and any differences in the processing of criminal aliens and U.S. citizens.

To estimate the extent of the criminal alien problem in Texas at the arrest and court levels, a sample of criminal cases disposed and reported in 1994 to the state Criminal Justice Information System (CJIS) was analyzed. The records include identification, arrest, and court information. The CJIS data cannot distinguish between aliens who can be definitively classified as criminal aliens and those who may not since the INS final citizenship determination is not included in the CJIS record. In addition, the facts within any particular offense field may or may not support deportation, therefore without a detailed case by case analysis these data must be viewed as approximations. Each CJIS record contains data fields for "place of birth" and "citizenship". When the data indicated a place of birth outside the United States and/or citizenship other than United States, these records were grouped as criminal alien records.

This data set provides a complete picture of the process from arrest to sentencing for each offender. The CJIS data allows the following analyses:

- √ The examination of the extent of involvement of criminal aliens within the criminal justice system, and;

¹ Ira Sandron and Robert Kim Bingham, The INS Role in Criminal Justice: Deportation and Exclusion of Criminal Aliens, Federal Bar Association, June 1990.

- √ The examination of the differences between the type of offenses and dispositions of U.S. citizens and criminal aliens, and ;
- √ The examination of any differences in the processing of U.S. citizens and criminal aliens by the criminal justice system.

For analytical purposes, the offenses were organized into the following categories:

Violent Offenses: Homicide, kidnapping, sexual assault, assault, and robbery.

Property Offenses: Arson, extortion, burglary, larceny, stolen vehicle, stolen property, forgery, fraud, embezzlement, and damage to property.

Drug Offenses: Possession, distribution, or manufacturing of dangerous drugs.

DWI Offenses: Driving while under the influence of dangerous drugs/alcohol.

Sex and Family Offenses: Sex offenses (excluding sexual assault), obscenity, and family offenses.

Other Offenses: Gambling, liquor, drunkenness, obstructing justice, bribery, weapon, traffic, unclear/unreported, and other.

Court dispositions were classified into the following categories:

Convictions: Convicted or convicted with lesser charge.

Not Convicted: Acquitted, dismissed, mistrial, and quashed.

Deferred: Postponed court adjudication pending the successful avoidance of further criminal activity.

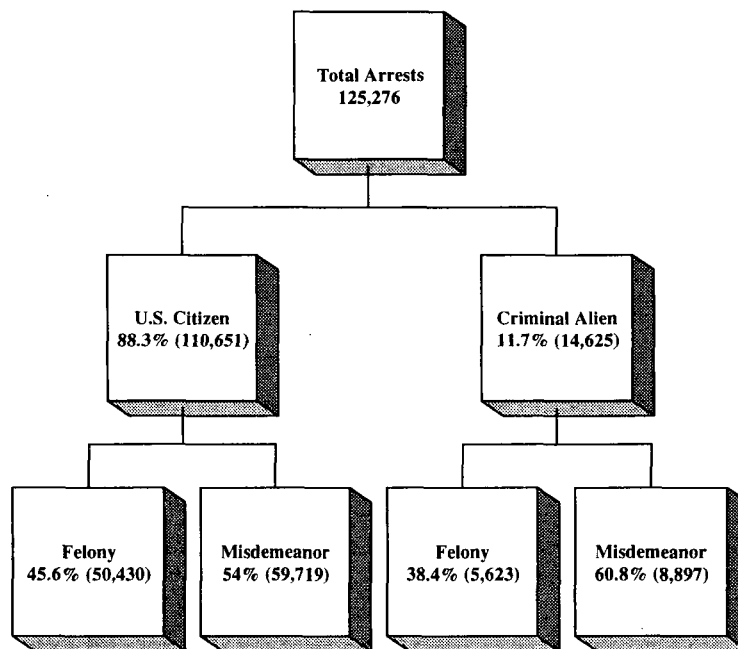
Other: Extradited, dead, etc.

Arrest and Court Level

Arrest Level

Chart 2.1 and Table 2.2 below shows an analysis of the arrests reported in the CJIS sample. Almost 12% of the arrests reported were for criminal aliens. Criminal aliens were more likely to be arrested for a misdemeanor offense than U.S. citizens. In particular, 37% of criminal alien arrests were for DWI offenses compared to 25% for U.S. citizens.

Chart 2.1 Total Arrests by Citizenship and Level



Source: Criminal Justice Information System (CJIS).

Table 2.2 Arrests by Offense Group

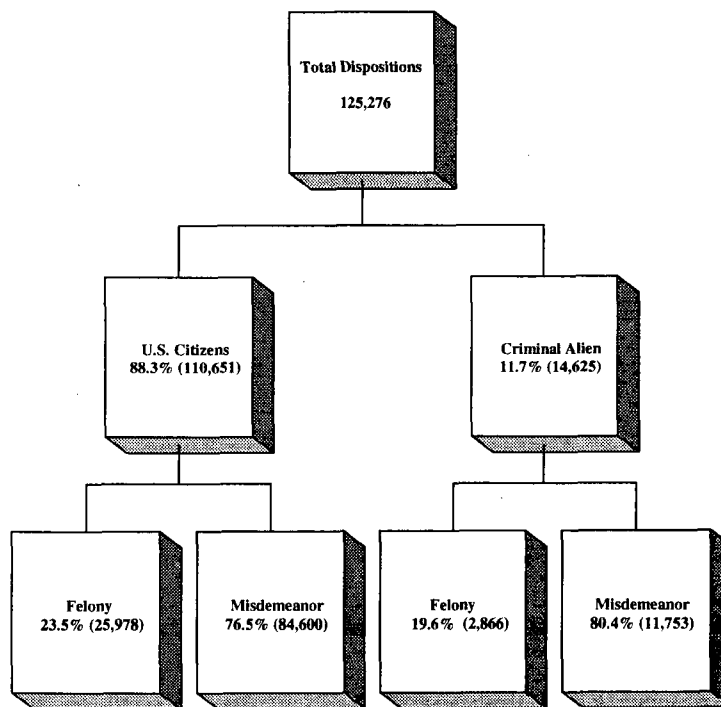
Offense Type	U.S. Citizen		Criminal Alien	
	Number	% of Group	Number	% of Group
Violent	13,772	12.4%	1,667	11.4%
Property	27,895	25.2%	2,926	20%
Drug	13,778	12.5%	1,502	10.3%
DWI	27,900	25.2%	5,389	36.8%
Sex and Family	2,073	1.9%	221	1.5%
Other	25,233	22.8%	2,920	20%
Total	110,651	100%	14,625	100%

Source: Criminal Justice Information System (CJIS).

Court Level

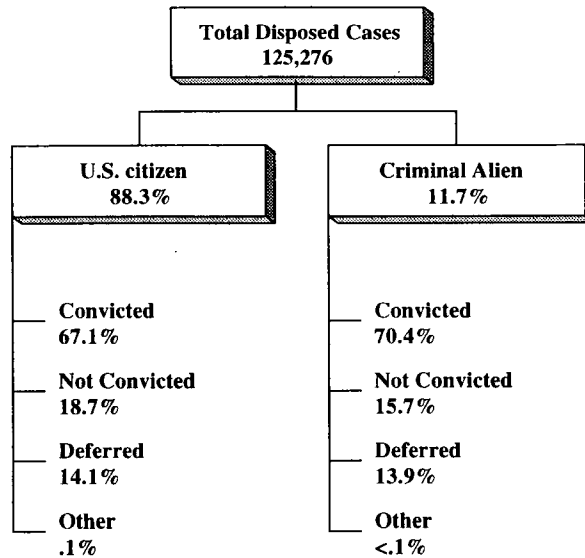
Chart 2.3 shows that criminal aliens composed about the same proportion of court dispositions as they composed of arrests (almost 12%) with a slightly higher proportion of cases being disposed for misdemeanors (80% for criminal aliens versus 76% for U.S. citizens). Chart 2.4 on the following page shows that both U.S. citizens and criminal aliens are convicted for their offenses at about the same rate (67% for U.S. citizens and 70% for criminal aliens). Table 2.5 on the following page shows that the main difference in the conviction pattern is that, like arrests, criminal aliens are convicted more for DWI offenses (48%) than U.S. citizens (34%). This may explain the higher proportion of criminal aliens sentenced to probation or jail rather than prison as depicted in Table 2.6 on the following page. DWI offenses tend to be misdemeanors, and the likelihood of receiving a prison sentence for a DWI offense is usually lower than for violent, property, or drug offenses. It should be noted that most court disposition analyses include deferred adjudication as convictions, although for this project they are treated separately. This is because a criminal alien in the U.S. legally who successfully completes deferred adjudication cannot be deported. This disposition analysis focuses on the potentially deportable criminal aliens.

Chart 2.3 Disposed Cases by Citizenship and Level



Source: Criminal Justice Information System (CJIS).

Chart 2.4 Dispositions by Citizenship and Type



Source: Criminal Justice Information System (CJIS).

Table 2.5 Convictions by Citizenship and Offense Group

Offense Type	U.S. citizen		Criminal Alien	
	Convictions	% of Group	Convictions	% of Group
Violent	6,318	8.5%	792	7.7%
Property	15,340	20.7%	1,577	15.3%
Drug	8,535	11.5%	914	8.9%
DWI	25,426	34.2%	4,993	48.5%
Sex and Family	1,308	1.8%	119	1.2%
Other	17,358	23.4%	1,896	18.4%
Total	74,285	100%	10,291	100%

Source: Criminal Justice Information System (CJIS).

Table 2.6 Convictions by Citizenship and Sentence Type

Sentence Type	U.S. citizen		Criminal Alien	
	Felony	Misdemeanor	Felony	Misdemeanor
Fine Only	.9%	12.3%	1.3%	9.7%
Jail	10.4%	65.4%	12.3%	66%
Probation	32.8%	20.2%	40.3%	22.4%
Prison	54.9%	1.4%	45%	1.3%
Other	1%	.7%	1.1%	.6%

Source: Criminal Justice Information System (CJIS).

There is no indication from the data analyzed to show that, once offense type is controlled for, criminal aliens are processed differently in the criminal justice system than U.S. citizens. It is apparent that few, if any, consistent policies exist at the arrest and court level to identify persons as criminal aliens and to process them as such.

Corrections Level

Juvenile Justice

The current juvenile justice system has as an underlying goal protecting the rights and privacy of offenders. This makes offender tracking and data analysis more difficult than in the adult system. Available data provides some measure of the extent that alien youths get into trouble. Delinquent behavior is any behavior for which the juveniles could be arrested for a misdemeanor or felony if they were an adult. Conduct In Need of Supervision (CINS) offenses include all class C misdemeanors and non-criminal conduct such as running away and truancy. In 1993, there were 88,097 referrals of youths statewide to juvenile probation for delinquent behavior, and less than 1% (474) were referrals for youths with undocumented citizenship. CINS referrals numbered 28,750, of which less than 1% (40) were referrals for suspected aliens. Data compiled in a Criminal Justice Policy Council special study in Dallas County during 1993 indicates that there were 12,432 referrals to juvenile probation, of which 4.6% (572) were referrals of suspected aliens.

In May 1995 the Texas legislature revised the state juvenile code to, among other provisions, allow the fingerprinting of juveniles accused of committing felonies and Class A and Class B misdemeanors and the reporting of arrests and dispositions to the Criminal Justice Information System (CJIS). As a result of this change, which takes effect in January 1, 1996, in subsequent years more reliable data from CJIS will be available to document the juvenile alien problem.

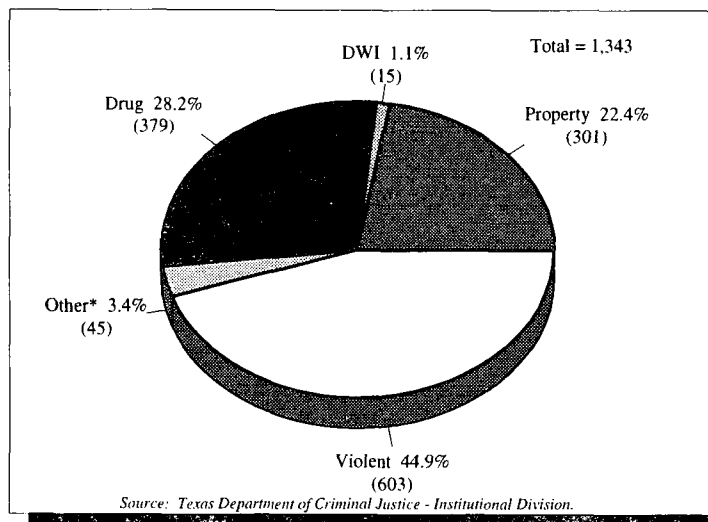
Adult Probation

The Texas Department of Criminal Justice-Community Justice Assistance Division (CJAD) is responsible for overseeing probation in the state of Texas. Probation data is currently not available as the probation component of CJIS is not fully operational.

Jail Backlog

Due to prison overcrowding, Texas has used county jails to house inmates awaiting transfer to permanent housing. In June 1994, almost 5% (1,343 of 26,860) of the jail backlog population were criminal aliens. As depicted below in chart 2.7, criminal aliens were most likely to be awaiting prison for violent (44.9%) or drug (28.2%) offenses.

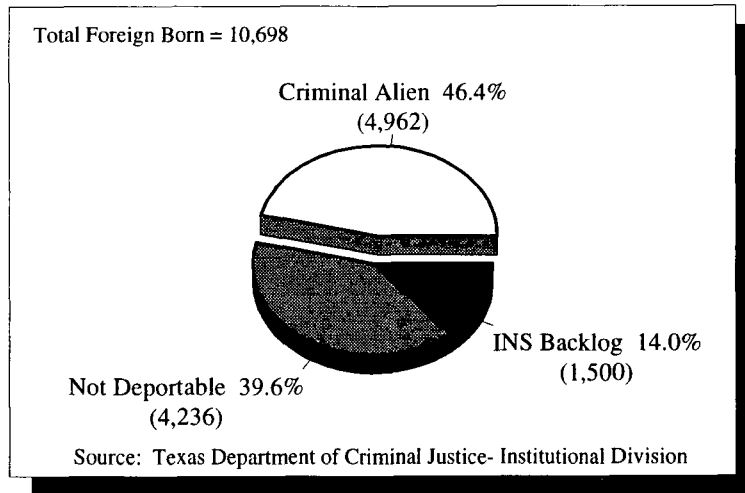
Chart 2.7 Criminal Alien Jail Backlog Population by Offense Group (1994)



Prison

The Texas Department of Criminal Justice - Institutional Division (TDCJ-ID) is responsible for managing the state prison system. A large expansion and restructuring of the state prison system has been underway over the past years as a result of several bond issues approved by voters. In June 1995 there were 115,145 inmates on-hand in Texas prisons. More than 9% of the Texas prison population was reported as foreign-born. As depicted in Chart 2.8 on the following page, approximately 46.4% (4,962) of the Texas foreign born prison population had been identified definitively by INS as criminal aliens.

Chart 2.8 Foreign-born Prison Population by Immigration Status, June 1995



Parole

In the state of Texas parole is managed by the Texas Department of Criminal Justice's Pardon and Parole Division (TDCJ-PPD). In June 1994, there were only 292 (.4%) identified criminal aliens on parole supervision out of 73,000 parolees.

III. Law Enforcement Support Center

The Law Enforcement Support Center (LESC) is a national repository for information pertaining to aliens who have records on file with INS. The LESL, which operates twenty-four hours a day, links six separate INS databases and provides law enforcement agencies with prompt identification of criminal aliens found in this system.

After the pilot test with the Phoenix Police Department and other law enforcement agencies in Arizona, the operation of the support center will expand to the five states most heavily impacted by criminal aliens: California, Texas, Florida, New York, and Illinois. Depending on the success of implementation and available resources to fund the system, the entire nation may eventually be served.

Once the LESL pilot project is complete and access is given to Texas, law enforcement agencies will query the LESL through the existing Texas Law Enforcement Telecommunications System (TLETS). TLETS will then switch the inquiry to the National Law Enforcement Telecommunication System (NLETS).

When accessing the LESL, arresting agencies must provide at least the suspected alien's name and date of birth or immigration file number. The immigration file number provides the most accurate identification and search, however, in many instances it is unknown or not available and inquiries must be made with less information. When an inquiry is made based on the alien registration number, the LESL will check the files that contain information pertaining to that identifier. When an inquiry is made based on name and date of birth, the LESL will check all files for any information available. In addition, the name and telephone number of the arresting officer must be included with the inquiry. This allows the LESL to verify receipt of the inquiry to the arresting officer and identify a contact person for subsequent INS follow-up investigations. For description of databases queried see table 3.1 on the following page.

**Table 3.1 Identification of Criminal Aliens:
Identifiers Used to Search Each INS Database**

	Alien Registration Number	Name/Date of Birth
CIS (Central Index System)	√	√
CLAIMS (Computer Linked Application Information Management System)		√
NAILS (National Alien Identification Lookout System)	√	√
DACS (Deportable Alien Control System)	√	√
NIIS (Non-Immigrant Information System)		√
STSC (Students and Schools System)		√

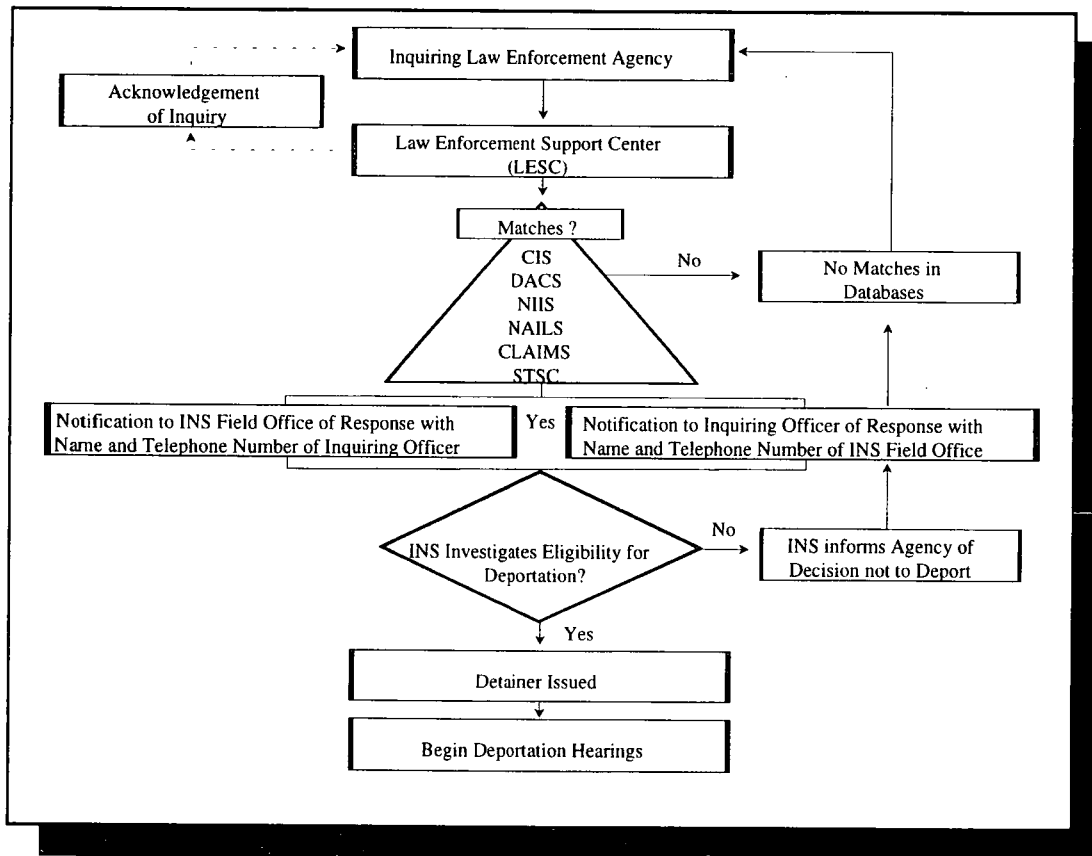
Source: Immigration and Naturalization Service

LESC staff begin processing the inquiry by searching for identifier matches within existing INS databases. There are six separate databases, so individual inquiries must be made to each database manually (for a complete flow chart see chart 3.2 on following page). Two foreseeable goals of the LESAC are to automate the inquiry process and to centralize all data into one database. For now, the manual inquiry system will allow LESAC staff to document the reliability of data in each database for future recommendations.

The response time to an inquiry varies depending on the amount of information provided by the arresting agency and the amount of information found in INS databases. Because the LESAC currently requires manual intervention, the estimated query response time is approximately thirty-five minutes. When a match is found in the INS databases, the LESAC generates a positive response for the arresting agency. This information is formatted so that it can be understood by persons unfamiliar with INS jargon. The response includes all information pertinent to the inquiry, as well as the name and telephone number of the appropriate INS field office. INS field offices are then notified by the LESAC, which enables investigative staff to follow up with contact persons in arresting agencies for processing identified criminal aliens.

The success of the LESC project will ultimately depend on the INS investigative staff's ability to follow up with local law enforcement agencies. The number of INS investigative staff is limited, so they may not be able to respond to all criminal alien identification inquiries. This creates a potentially difficult situation for both the arresting agency and INS. Over a period of time, if INS is unable to follow up on investigations, local arresting agencies may stop investing the resources needed to inquire into the LESC.

Chart 3.2 Law Enforcement Support Center Flow Chart



Source: Immigration and Naturalization Service

One issue concerning the LESC project is the various nuances in the identification process. The arresting agencies need clear definitions of alien types. These definitions should be distributed to law enforcement officers, including different categories of deportable aliens, their status explanations, and which types of aliens are a high priority for INS.

Pilot Project Status

The pilot project in Arizona has reported some advancement in the identification and processing of criminal aliens. For example, the LESC has been useful to local arresting agencies by providing helpful identification information to update their local and state criminal and jail history records, including the addition of alien registration numbers. This process allows alien registration numbers to be entered in local and state fingerprint classified records which ensures positive identification and provides information to INS when the aliens are subsequently re-arrested. This positive identification could eliminate the need for a lengthy investigative interview in many instances. It also provides INS with the opportunity to prosecute the alien in federal court.

Furthermore, the increased local and INS agency interaction has provided recommendations to the LESC, including the request to have a full-time investigative agent on duty at the LESC. Investigative agents can screen information for accuracy and perform more complex research procedures than those performed by status verifiers.

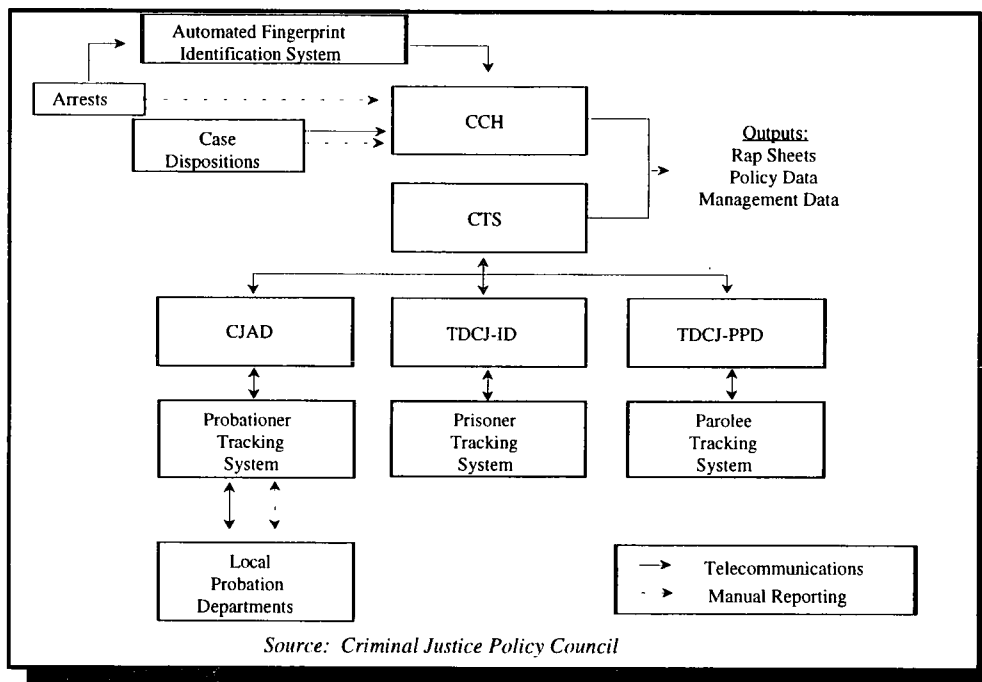
As of April 1995, the pilot program has accomplished the following:

- √ From July 1994 to February 1995, a total of 2,771 queries were received and processed at the LESC.
- √ Queries were expanded to all arrests of suspected aliens, although, the original design was for aggravated felonies.
- √ Of the 2,771 queries, the LESC discovered INS records that appeared to be related to 49% (1,346) of the subjects.
- √ The LESC found criminal history records for 34% of the subjects, and found prior deportations or voluntary returns to country of origin for 6% of the subjects.
- √ Around 33% of the queries between January 1 and February 2, 1995 pertained to aliens legally within the United States, and approximately 20% of the queries pertained to aggravated felonies.
- √ INS field agents utilizing the LESC stated they were able to identify 100% of criminal aliens booked into jail.
- √ INS field agents were able to identify career criminals from other states other than Arizona.
- √ It has been projected that, with adequate funding, nationwide access can be attained by 1997.

IV. Criminal Justice Information System

The Texas Criminal Justice Information System (CJIS) was created by the 71st Legislature in 1989 and codified in Chapter 60 of the Texas Code of Criminal Procedure. As depicted below, the computerized CJIS includes arrest, disposition, and corrections information on individuals who enter the criminal justice system in Texas. CJIS consists of two components: the Computerized Criminal History (CCH) system and the Corrections Tracking System (CTS). The CCH includes arrest and court disposition data and is managed by the Texas Department of Public Safety (DPS).

Chart 4.1 Texas Criminal Justice Information System



The CTS, managed by the Texas Department of Criminal Justice, contains information on inmates, parolees, and some probationers. Currently the probation module is under development, therefore the CTS has not been fully implemented. The two systems are electronically linked to share criminal justice data so that changes in offender status are updated in both systems and provided to users. State and local law enforcement agencies access CJIS through the Texas Law Enforcement Telecommunication System (TLETS) and courts contribute to CJIS through the Texas Enhanced Criminal History Network (TECHNET).

An Automated Fingerprint Identification System (AFIS) enhances the accuracy of CJIS through computer assisted comparison of fingerprints. AFIS serves as the front end into the CJIS and significantly improves identification accuracy. Fingerprints are the most accurate and efficient identification available to CJIS. There are currently 30 remote ten-print AFIS terminals at arrest booking sites around the state. These terminals are networked to the host AFIS information repository at DPS headquarters in Austin, Texas.

Reporting Requirements

Present state law, as codified in Chapter 60 of the Code of Criminal Procedure (CCP) requires local agencies to report essential CCH information to DPS. Among the requirements are that the "arresting agency shall ... initiate the reporting process for each offender charged with a felony or a misdemeanor not punishable by fine only" (Chapter 60 CCP, Article 60.08 (b)) and the "clerk of the court exercising jurisdiction over a case shall report the disposition of the case to the Department of Public Safety" (Chapter 60 CCP, Article 60.08 (c)).

Arrest data is to be reported within seven days of the arrest and all other data required to be reported must be submitted within 30 days. The intent of the legislature to track the offender throughout the system was clearly stated when it mandated DPS and TDCJ to develop by rule "reporting procedures that ensure that the offender processing data is reported from the time an offender is arrested until the time an offender is released" (Chapter 60 CCP, Article 60.08 (a)).

Present CJIS Arrest Reporting

Texas currently uses a combination of automated and manual processing of fingerprints. When a suspect is arrested and taken to a city or county jail for booking, the arresting agency fills out a fingerprint card, commonly referred to as a "10 print card". The card contains information on the suspect and inked impressions of fingerprints from all ten of the suspect's fingers. If the arrest is made for an offense above a Class C misdemeanor the arrest is reported to DPS to be entered into CJIS (for a chart depicting the flow of documents see Appendix C).

Within CJIS each offender is given a unique identifying number called the "DPS Number" or generically referred to as the state identification number, or "SID". If the suspect has been previously arrested DPS updates the offender's CJIS record with the latest arrest. AFIS serves as the "front end" into CJIS by performing a computer matching of fingerprints received against fingerprints in storage, identifying the offender, and providing a linkage to the offender's CCH

record. If no match is made in the AFIS system, the suspect is given a new SID number. Fingerprints, rather than the offender's name, are used to verify matches against the AFIS database because offenders frequently use aliases or false identities.

An Automated Fingerprint Identification System (AFIS) was fully implemented by DPS in 1992. This system uses computer technology to match fingerprints received from booking sites with those already in computer files to determine if the new fingerprints belong to a previously arrested offender. The host state AFIS is maintained at DPS headquarters in Austin. Currently 30 of the 59 total state funded remote AFIS terminals networked to the state host are located at arrest booking sites around the state for processing 10 print fingerprint cards. The remaining remote AFIS terminals are used for processing crime scene latent fingerprints. While the major metropolitan centers are obvious locations for the remote 10 print AFIS workstations, several medium sized areas have remote 10 print AFIS workstations to serve as regional booking centers.

There are two fundamentally different ways to report arrests in Texas. Smaller sites that do not have the arrest volume to effectively justify automation, report arrests through a totally manual process. Higher volume arrest sites report their arrests in a partially automated process using the Automated Fingerprint Information System (AFIS). Each of these are described in the next sections.

Arrests in sites with remote AFIS terminals

At a booking site with a remote 10 Print AFIS terminal, an inked set of fingerprints is taken on a fingerprint card, the card is fed into an AFIS reader and the fingerprint images are digitized. The digitized print data is transmitted electronically to the host AFIS system at DPS headquarters where it is checked against the AFIS prints on file to determine if the arrestee is in the system. If a hit occurs, the offender's SID number is sent back to the arresting agency. If no hit occurs, a new SID is generated and that SID is sent to the arresting agency. On the basis of this transaction, depending on the type of AFIS unit employed, DPS maintains a temporary record within the AFIS indicating that the person was arrested. When the fingerprint card is received by DPS a permanent record is made in the CCH component of CJIS. This allows for a subsequent hit if the arrestee is released on bond and arrested again within a short period of time.

Current response time ranges from two to a maximum of four hours depending on the type of remote AFIS terminal in place and the capability of staff at the booking site to perform some of the technical editing, verification, and processing functions.

Arrests in sites without remote AFIS terminals

In jurisdictions without access to a remote AFIS terminals, the offender identification and arrest reporting process begins with a name search of CJIS through the TLETS network. A response to the name search is received within seconds. Fingerprints are inked on a fingerprint card that is then sent through the mail to DPS and a positive identification is awaited. When the fingerprint cards are received by DPS, they are read into the host AFIS and a permanent CJIS arrest record is generated. On the day following the CJIS update, DPS mails a copy of the new or updated "rap sheet" to the arresting agency.

Current Status of the CCH component of CJIS

The impact of Chapter 60, Texas Code of Criminal Procedure system changes combined with the accomplishments in Texas under the U.S. Department of Justice, Bureau of Justice Statistics (BJS) Criminal History Records Improvement Program (CHRI), and Bureau of Justice Assistance (BJA) Criminal Justice Records Improvement Program (CJRI) is evident in the 1993 BJS report Survey of Criminal History Information Systems, 1993. According to the BJS findings, 43% of arrests reported to the CCH system in Texas had a final disposition recorded compared to 32% when the 1987 CJPC study was conducted. Moreover, there is no backlog for updating CCH records with prison information. These improvements are the result of mandatory reporting and the implementation of electronic data transmission. Other highlights of the BJS survey are the following:

- ✓ Texas has 100% of its CCH records in a fully automated master name index.
- ✓ Texas had 4,504,100 offenders in the CCH system representing 9.4% of the total nation's CCH records. Of all the states, only the California system was larger.
- ✓ During 1993 a total of 581,400 arrest fingerprint cards were submitted to the CCH representing 9.0% of the fingerprint cards received in the entire nation. Only California received more fingerprint cards than Texas.
- ✓ The average number of days between arrest and receipt of arrest data and fingerprints - 10 days. The time frame in other states ranged from less than one day in Washington, D.C. to as much as 90 days in Oregon.

- ✓ The average number of days between receipt of fingerprints and entry of data into CCH is 10 days. The time frame in other states ranged from less than one day in Washington, D.C. to as much as 180 days in Kansas.
- ✓ 1,359,000 III records (93%) were indexed with the state's SID pointers and only 109,500 III records (7%) were maintained by the FBI for Texas. Texas ranked seventh of the 26 III participating states in maintaining the largest percentage of III files within the state. The state record maintenance rate ranged from a low of 2% in Nevada to a high of 96% in New York.

Information System Improvements

Improving CCH Arrest Reporting

The 1993 BJS CCH Survey noted that in Texas there is an average 10 day delay between arrest and receipt at DPS of arrest data and fingerprint cards. In addition there is an average 10 day delay between receipt of the fingerprint cards and entry of the data into the CCH system along with confirmation back to the arresting agency. Any time lag in the local arresting agency sending in the fingerprint cards adds to the delay. Therefore, the next major opportunity for dramatic improvement in the CCH system is in arrest reporting. Experience gained in implementing electronic court disposition reporting from local jurisdictions to the state indicates that similar advances can also be realized by automating the arrest process. With the progress made in Texas through U.S. Department of Justice funded programs, Texas can now move to the next logical progression from prior efforts. These new initiatives include: (1) Live Scan with the use of AFIS, and (2) Electronic Arrest Reporting.

The combination of remote Live Scan terminals interfaced with the AFIS host and/or with the existing remote AFIS terminals and Electronic Arrest Reporting has the potential to reduce and/or eliminate many current labor intensive steps and includes the following benefits:

- ✓ Live Scan can save local resources by eliminating inking of fingers and taking prints on cards;
- ✓ Live Scan can reduce poorly taken fingerprints that are subsequently rejected by DPS, often after the offender has been released to another component of the criminal justice system;
- ✓ Save local resources by no longer requiring personnel to log, store, and send fingerprint cards to DPS; and

- ✓ Reduce state resources through the receipt of fingerprint cards through Live Scan.

In addition, with electronic arrest reporting utilizing Live Scan a permanent CCH record can be created within a matter of hours rather than the current week or longer that the existing system takes. This issue becomes important when considering the positive impact of electronic disposition reporting. In some Texas jurisdictions, cases are expedited through the court system, generally ending in a conviction resulting from a plea of guilty. In these jurisdictions a court disposition is entered into the local data system and the disposition data for the state system is extracted and transmitted to DPS, often before the fingerprint card is sent by the arresting agency. Since there is no permanent CCH arrest record in the system until the fingerprint card is received and processed, in some cases the local jurisdiction receives an error notification. Without an arrest record in CCH there is no record to update with the reported disposition. This has caused some concern among local officials who then have to resubmit the data at a later point in time.

It should be kept in mind that there are numerous independent agencies involved in the processing of offenders through the system. If one agency gets behind in its work there is a ripple effect throughout the system. Adopting electronic reporting of arrest data through Live Scan and AFIS will eliminate this reporting delay problem in many Texas jurisdictions. The LESC could benefit from adopting some of the technological advances that Texas is implementing, including Live Scan and AFIS and fully automated data transactions.

V. Identification of Criminal Aliens

The identification of persons whose citizenship is other than United States as criminal aliens is the responsibility of Immigration and Naturalization Service (INS). INS must thoroughly investigate the citizenship status before criminal alien status can be determined. Presently, limited resources prohibit INS from investigating suspected aliens at the arrest and court level; therefore, suspected aliens are frequently arrested and released without INS intervention.

Arrest and Court Levels

When a suspect is arrested and taken to a booking site at a police department or sheriff office, the booking officer compiles information from the suspect and enters it on an arrest fingerprint card (for flow of arrestee see Appendix B). Among the data items requested are place of birth and citizenship. If the suspect has identification documents issued by another country, that is presumed to be the country of origin and their consular officials are notified. Otherwise, the suspect is asked for his/her country of birth, and the verbal response is entered on the arrest fingerprint card.

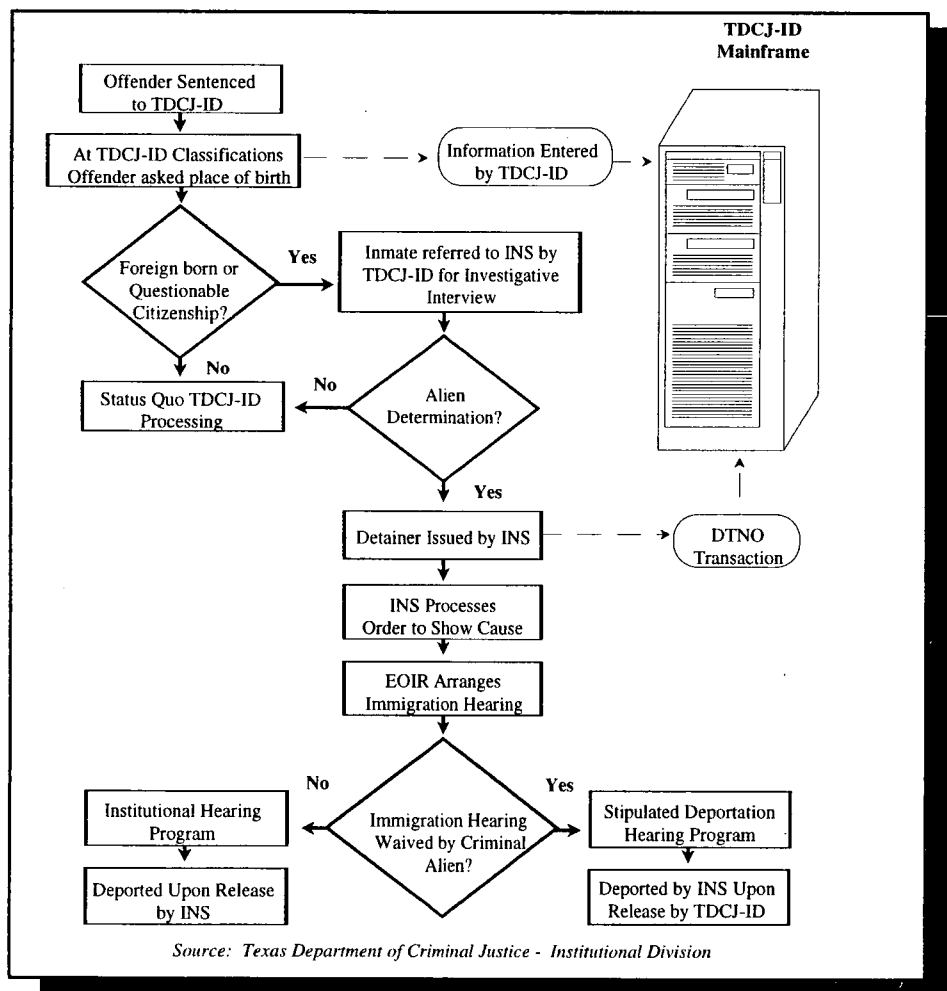
Due to the complexity of immigration law and the use of a number of false identity claims, it is often difficult for an arresting officer to ascertain whether or not a criminal who reports foreign citizenship is deportable. Booking agencies are encouraged to contact INS when they encounter a suspected illegal alien, but often there is no response due to a lack of INS resources. This lack of proper identification enables criminal aliens to be processed through the criminal justice system undetected. Unidentified criminal aliens, who by law should be deported, burden the state criminal justice system with a federal responsibility and upon release remain in the country to commit further crimes.

The state can provide more opportunities for INS to intervene and determine citizenship of suspected criminal aliens. During court processing at the prosecutor level and the pre-sentence investigation there are opportunities to determine place of birth and citizenship. These are opportunities that would allow INS to identify and process criminal aliens prior to their release.

Corrections Level

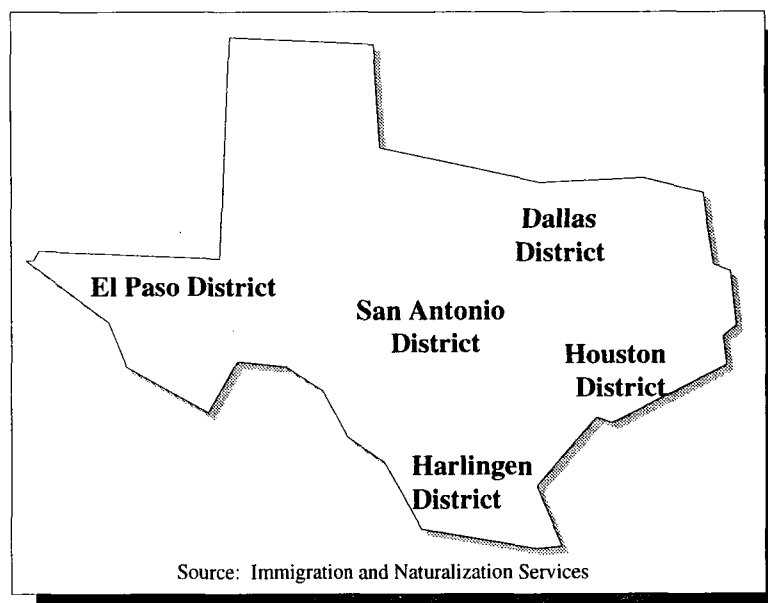
In January 1995, there were 65 prison and treatment facilities within the Texas Department of Criminal Justice- Institutional Division. The TDCJ-ID and INS have formed a working relationship to identify citizenship status of suspected aliens in Texas prisons. TDCJ-ID performs an initial screening of offenders as they enter the prison system and refer those who are not U.S. citizens, or whose citizenship is questionable, to INS for citizenship determination interviews. For inmate flow chart see Chart 5.1 below.

Chart 5.1 Inmate Flow Chart



As depicted in chart 5.2, the Texas correctional system overlaps with five INS districts: Dallas, El Paso, Houston, San Antonio, and Harlingen INS districts. The Dallas and Houston INS districts contain most of the prison facilities.

Chart 5.2 Immigration and Naturalization Service's Texas Districts

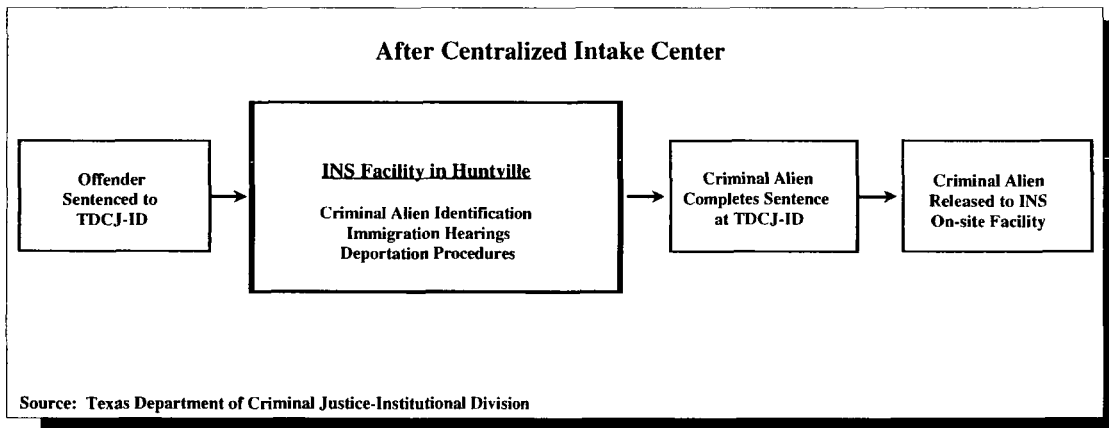
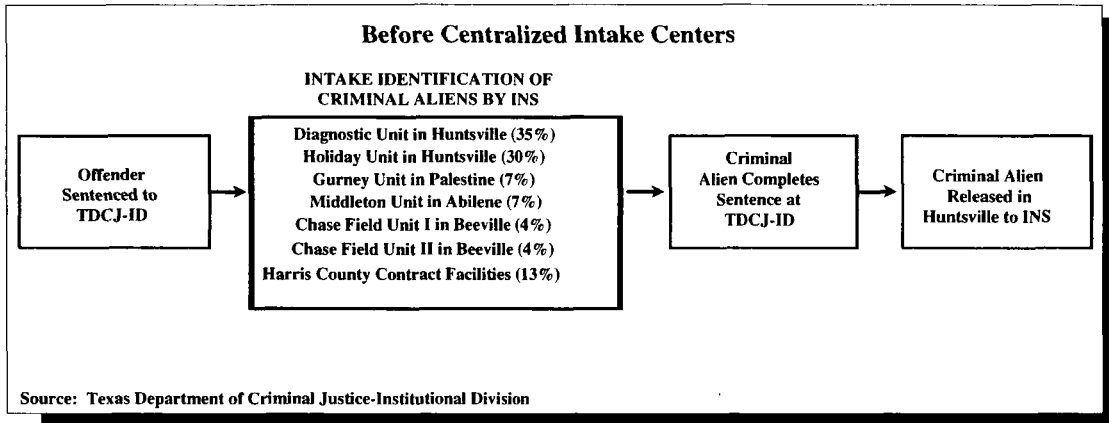


In the past all inmates were transported to Huntsville, the hub of the Texas prison system, to be processed. This system allowed INS to conduct investigative interviews as inmates were being processed in Huntsville. Because of a drastic expansion of the prison system and growing transportation costs, TDCJ-ID began using multiple intake sites in 1992 for cost effectiveness. The increased number of intake sites require INS to interview foreign-born inmates at five different locations: Huntsville (two sites), Palestine, Abilene, Harris County, and Beeville (two sites). Due to lack of resources for INS investigators to travel to multiple locations, criminal aliens were going through the prison system undetected.

The state's cost of transporting inmates from distant facilities to five centralized locations is significant, but Federal legislation in 1995 to reimburse the states for housing criminal aliens provided the needed incentive for TDCJ to assist INS with the identification of criminal aliens. As depicted in Chart 5.3 on the following page, INS and TDCJ-ID have agreed to process foreign born offenders through one unit in Huntsville once a permanent on-site processing facility is constructed. In the interim the INS Houston district will be responsible for the identification of

all criminal aliens in the five intake locations. This policy decision will drastically improve the process of identification and subsequent deportation of criminal aliens in the future.

Chart 5.3 Texas Processing of Criminal Aliens Sentenced to Prison



Improvements for the Identification of Criminal Aliens

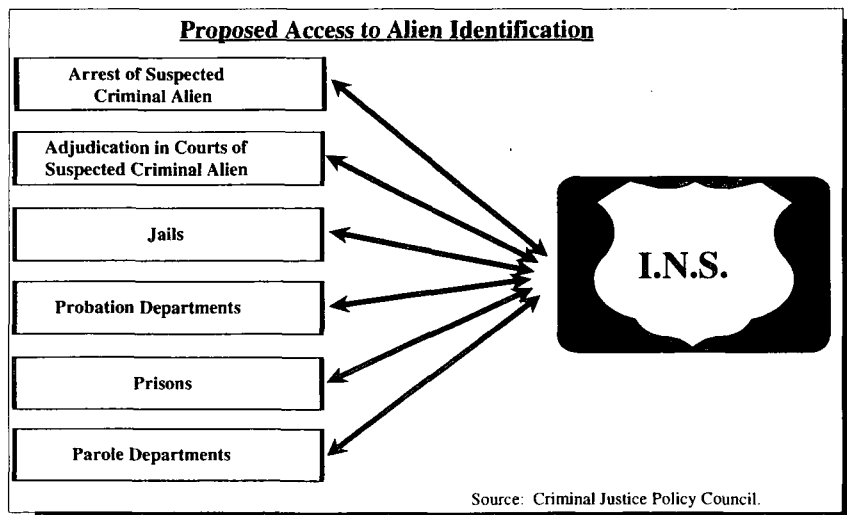
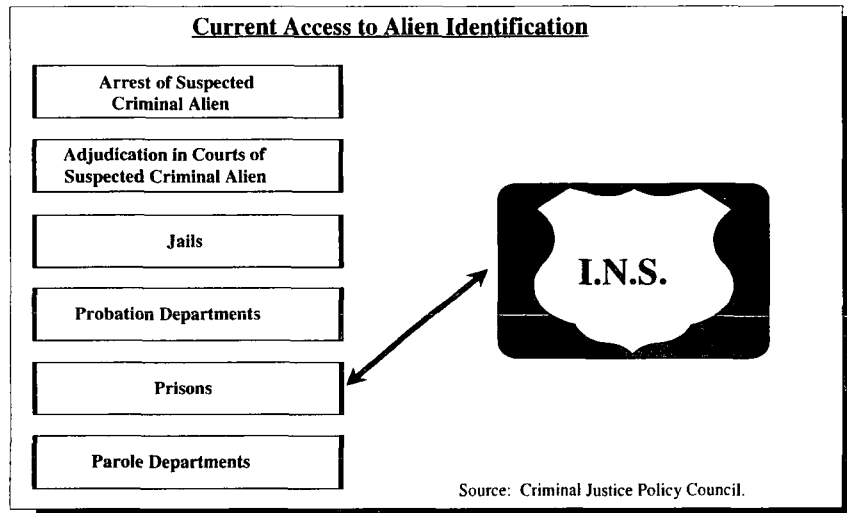
On-site processing

Streamlining the process of identification and documentation of criminal aliens is an ongoing concern for both INS and the state of Texas. With a need to enhance the identification of criminal aliens, INS has begun to build a permanent on-site processing center for criminal aliens in Huntsville, with a temporary operational phase that began on April 7, 1995. An on-site center will allow INS to centralize criminal alien investigators and information on criminal aliens, thereby enabling the investigation of almost 100% of foreign born inmates sentenced to TDCJ-ID.

CJIS access

The mechanism could soon be in place for INS to begin investigations at the arrest level. The state of Texas can provide INS with information on suspected criminal aliens through a CJIS terminal as depicted in Chart 5.4. The fields of citizenship and place of birth are used to identify suspected criminal aliens in CJIS and at any processing point suspected criminal alien lists can be transmitted to a CJIS terminal in the appropriate INS office. As each component of the criminal justice system verifies an offender's citizenship status and updates the CJIS records with new data, the chance of identifying criminal aliens before the suspected alien reaches the corrections level is increased. For this to be beneficial, INS must have enough field agents to handle the increased workload.

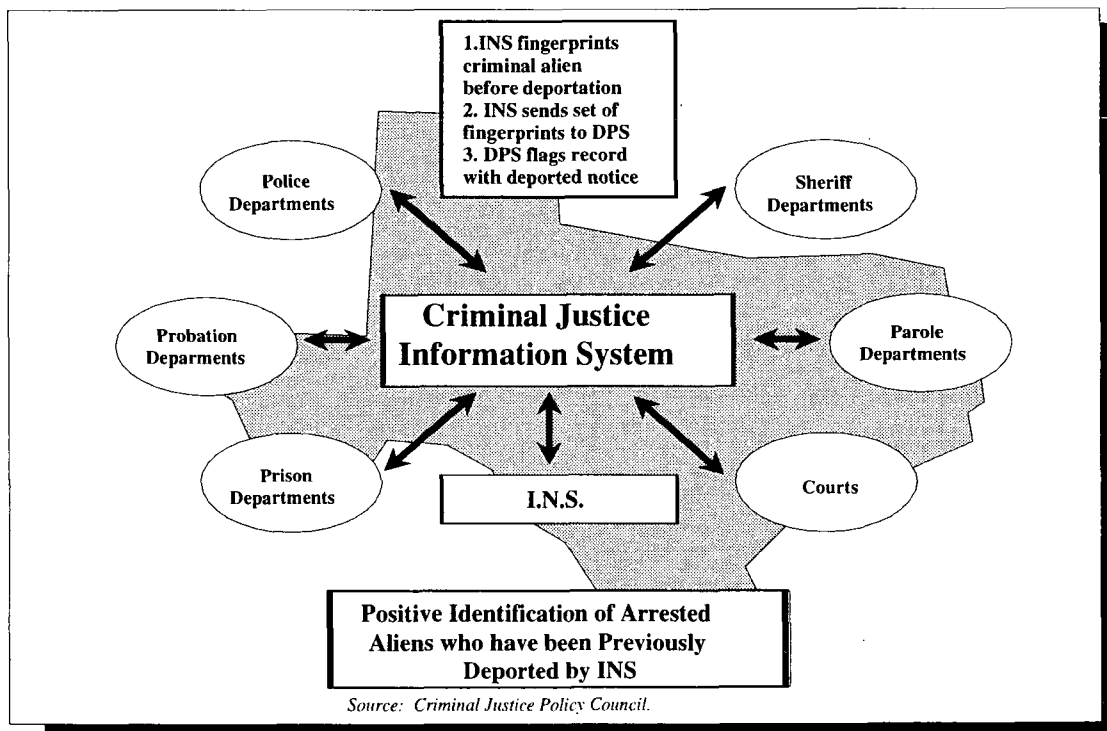
Chart 5.4 Proposed Improvement for Notification to INS of Criminal Aliens



CJIS Identification of Previously Deported Criminal Aliens

A coordinated effort between the state and INS has resulted in a method of identifying and storing data on criminal aliens who have been previously deported. This process will be implemented once the permanent on-site INS facility is established in Huntsville. As depicted in chart 5.5, this process will begin when INS submits fingerprints of deported aliens to DPS. DPS will then place flags in the deported criminal alien's permanent CJIS record to alert law enforcement personnel that the offender has been identified as a criminal alien and was deported. If the criminal alien is subsequently rearrested, flags in CJIS will alert law enforcement agencies to an "illegal re-entry" alien. Illegal re-entry by a deported alien is a federal offense, therefore, the costs associated with adjudication and incarceration of the offender are shifted from the state to the appropriate federal agencies.

Chart 5.5 Proposed System Improvement for Identification of Previously Deported Criminal Aliens



VI. Immigration Adjudication of Criminal Aliens

Once inmates are identified as criminal aliens, INS issues a detainer requiring the inmates to be released into INS custody at the completion of their sentence. Criminal aliens that are issued detainers are subject to deportation, and must be granted the right to an immigration hearing before an immigration judge.

Immigration Hearings

All criminal aliens in TDCJ-ID are first encouraged to obtain outside legal representation for the immigration hearing. Inmate Legal Services, an attorney service available to all inmates in the TDCJ-ID system, represents inmates who do not obtain outside counsel. The legal services granted to criminal aliens have provided INS with the capability of deporting criminal aliens that do not wish contest their charges. Texas is one of the few states that provides inmate legal services and it has been found to be cost effective in expediting the deportation of criminal aliens. This counsel service has been a major contributor to the enhancement of streamlining criminal alien processing through the use of expedited hearing programs.

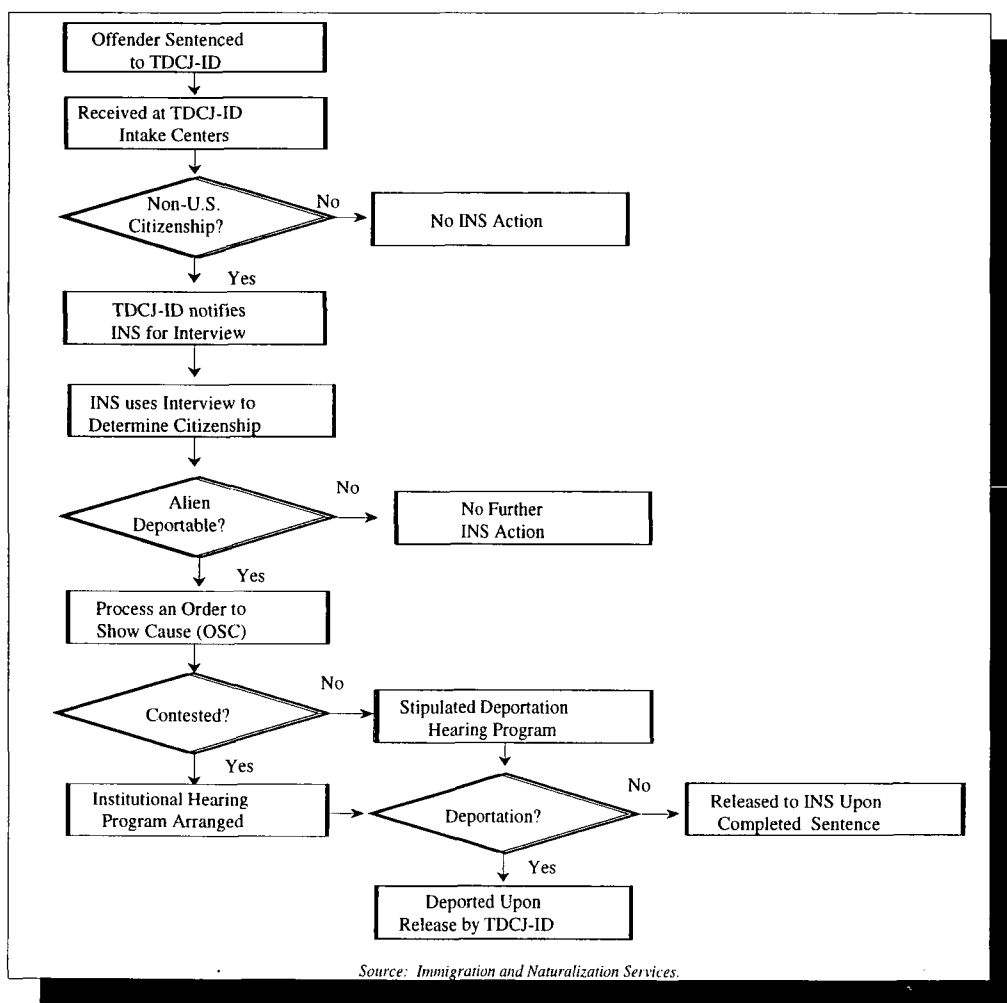
Support personnel or contracted companies obtain the necessary documents for the immigration hearing. These documents, called "pen packets", are used during the immigration hearing as evidence to substantiate deportation. The "pen packet" includes a conviction certification, a TDCJ photograph, fingerprints, a biographical sheet, a DPS rap sheet, and copies of conviction records.

TDCJ-ID has pen-packets for all inmates, but in many instances the information needed for the immigration hearing is missing. When all information for the pen-packet is obtained, INS processes an Order to Show Cause (OSC). The OSC is a directive that orders the criminal alien to show why he/she should not be deported in an immigration hearing. A copy of the OSC is delivered to the inmate and another copy is sent to the Executive Office for Immigration and Review (EOIR), the federal agency responsible for the judicial functions of immigration law. Upon receiving the OSC, EOIR arranges an immigration hearing.

At immigration hearings, criminal aliens must show legal and sufficient reasons as to why they should not be deported. A number of appellate rights are offered and explained in detail by their

counsel or Inmate Legal Services. Criminal aliens in Texas who wish to contest the deportation charges are granted a hearing at a state institution. In most cases, aliens choose not to contest the deportation charges and accept a stipulated order of deportation from the judge. For offender flow see chart 6.1 below. Both of the hearing programs and the stipulated deportation order are explained in full detail on the following pages.

Chart 6.1 Immigration Adjudication of Criminal Aliens



The immigration hearing process is often lengthy if the criminal alien contests the order to show cause. A contributing factor that delays the process is that a majority of immigration judges will only accept certified copies of conviction records. The time needed to retrieve conviction records varies from hours to months, depending on the location of the original conviction. INS attempts to complete the immigration hearing while the inmates are serving their sentences at a state institution. Completing the hearing at a state institution allows deportation to occur

immediately after the sentence is completed. Not completing the immigration hearing while in the state's custody could result in the criminal alien serving their entire state sentence and then being confined in a federal facility until the completion of the immigration hearing. This greatly increases the cost to INS. It is therefore in INS' best interest to expedite the hearing process within the state correctional system when possible.

Institutional Hearing Program

The Institutional Hearing Program (IHP) is a cooperative effort among the EOIR, INS, and correctional agencies. The IHP's primary task is to expedite, at a minimum cost to the agencies involved, the processing and deportation of criminal aliens in state correctional facilities while the criminal aliens are still incarcerated.

The INS Houston district has maintained an Institutional Hearing Program (IHP) for male inmates since 1983. An IHP program for female inmates is offered by the INS San Antonio district in Gatesville, Texas. Although the INS hearing programs exist in two prison facilities, inmates must be transferred to various regional sites for the immigration hearings. These sites include Huntsville, Abilene, Rosharon, Gatesville, and Palestine. Once the INS on-site facility is established, all immigration hearings for criminal aliens will be completed in Huntsville.

Stipulated Deportation Hearing Program

To expedite immigration hearings in the state of Texas, the Stipulated Deportation Hearing Program (SDHP) was established in 1987 through the joint efforts of the EOIR, INS, and TDCJ-ID. The SDHP is not a substitute for IHP hearings, rather it is a supplementary program to the institutional hearings held at state correctional facilities. The SDHP provides a mechanism for INS to effectively comply with federal statutes that direct deportation proceedings to begin as expeditiously as possible after the conviction of an identified criminal alien.

Cases that qualify for the Stipulated Deportation Hearing Program (SDHP) are those in which factual or legal issues do not need to be resolved to allow the criminal aliens to remain in the United States. Criminal aliens who accept the SDHP waive their rights to a personal appearance before an immigration judge and indicate a desire to be returned to their country of origin.

Criminal aliens who accept the SDHP must sign forms requesting a final order of deportation. These forms are legal documents that contain: receipt of the Order to Show Cause, an admission of consultation with counsel, a waiver of a personal hearing before an immigration judge, an

admission of an understanding of rights, an admission of allegations in the Order to Show Cause, a concession of deportability, a waiver of relief from deportation, a request for a final order of deportation to a specific country, a consent to the introduction of the forms as an exhibit into the record, and an acceptance of the written order of deportation as a final disposition of the proceedings. Both the inmate and attorney must sign all documents before legal action from INS can be taken.

A copy of all signed documents is forwarded to INS to be reviewed. INS then responds to the request for an order of deportation by stating that they either wish to detain the criminal alien for further prosecution or wish to have the criminal alien deported at the completion of their sentence. Under normal circumstances, INS does not contest the order of deportation. INS serves the court with their response, the inmate's SDHP requests (order of deportation), and the criminal alien's signed and completed forms.

If there are no factual or legal issues to be resolved in the SDHP, usually the order of deportation is issued by the immigration judge. When the judge issues the final order of deportation, at the completion of the state sentence the criminal aliens are immediately deported to their country of origin by INS.

The SDHP process benefits criminal aliens who desire accelerated releases from incarceration and expedited deportation. The federal government benefits as well in that the costs associated with hosting the immigration hearings are eliminated. Approximately 60% of criminal aliens in Texas prisons choose deportation under the SDHP.

Release of Criminal Aliens

Almost all criminal aliens convicted of felonies and sentenced to incarceration are released through Huntsville, the sole exception being state jail inmates. State jails, which operate as a separate division of TDCJ, house a new category of felons not eligible for a prison sentence. This new sentencing and correctional system became effective on September 1, 1994. Intake and releases from state jails are administered either by Community Justice Assistance Division (CJAD), the county where the inmates are housed, or by private contractors. State jail felon records are stored in the Criminal Justice Information System (CJIS), and will be readily available to INS once CJIS access is granted. Until then, TDCJ has agreed to forward state jail

criminal alien information to the Houston INS office on a daily basis. This information allows INS to notify appropriate INS field offices for further action.

Deportation of Criminal Aliens

Mexican nationals represent approximately 75% of the criminal aliens in TDCJ. Due to the relatively short distance to the Mexican border from Huntsville, the costs of deporting Mexican nationals remain minimal (approximately \$100). Transports from Huntsville to Mexico travel twice a week by bus to the United States-Mexico border.

Criminal aliens that require further travel are flown out of the international airport in Houston, Texas. Returning criminal aliens, other than Mexican nationals, to their country of origin can range from a cost of \$1,000-\$2,000 per alien. Criminal aliens from countries other than Mexico remain incarcerated until documents from their country of origin are obtained.

Certain foreign countries are less cooperative than others in allowing criminals to return. The objective of INS is to make the accepting countries responsible for obtaining the appropriate documents to verify citizenship and legal status. Often documents are not obtained and a decision as to the welfare of the criminal aliens is made by INS administrators.

V. Recommendations

State Initiatives

1. **Issue:** *Sharing of information on criminal aliens who have been deported.*

Discussion: Criminal aliens who have been previously deported may be rearrested after re-entering the U.S. Knowledge of the previous deportation is not currently available to law enforcement agencies. Criminal aliens arrested after deportation can be prosecuted in federal court for illegal re-entry. INS can submit fingerprints and information for DPS to update CJIS records with the criminal alien deportation information. Permanent flags can be placed in CJIS that will alert law enforcement personnel with "previously deported" flags if the criminal aliens are subsequently arrested.

Recommendation: **Implement and monitor a system for INS to submit fingerprints of deported criminal aliens to DPS, preferably through an AFIS or live scan terminal. This will allow DPS to update and place permanent "previously deported" flags on criminal aliens' records.**

2. **Issue:** *Timely notification to INS of arrests or convictions of suspected criminal aliens through an on-line transmission.*

Discussion: INS investigators do not currently receive notice of suspected criminal aliens who are arrested and processed through the criminal justice system. The only time INS is notified is when a criminal alien is convicted of a felony and sentenced to TDCJ-ID or State Jail. Advance notice of suspected aliens arrested can be provided to INS through a Criminal Justice Information System (CJIS) terminal. The CJIS can be programmed to notify INS upon arrest charges being filed and/or upon convictions of suspected criminal aliens. This will allow INS to conduct interviews of suspected criminal aliens in a more timely manner. The following information is needed by INS to be notified in an effective manner: offender's name, state identification number, date of birth, place of birth, citizenship, original arresting agency, offense, alias, alias date of birth, and alien registration number (if known).

Recommendation: **DPS should provide INS field offices with an efficient notification upon the arrest of a suspected alien, preferably from the Texas Criminal Justice Information System (CJIS) so that INS can be notified when suspected criminal aliens are arrested.**

3. **Issue:** *Ensuring that information discovered by INS is used to update CJIS.*

Discussion: INS field offices do not have the capability to update offender's records with new and reliable information that they may discover during their investigations. The state of Texas

can enhance the ability for INS to make data transmissions to CJIS to update: offender's name, date of birth, place of birth, citizenship, immigration status, alien registration number, alias, and alias date of birth. This will ensure that the best available data is accessible to all agencies that need it.

Recommendation: Provide INS with access to CJIS so that INS can update offender records as new information is discovered and verified.

Issue: *Providing costly rehabilitation services to criminal aliens that may be deported.*

Discussion: Criminal aliens who receive costly rehabilitation drain much needed resources. In a time of limited resources, rehabilitation services may be more appropriately targeted to U.S. citizens who will be released back into U.S. communities.

Recommendation: The provision of rehabilitation services to criminal aliens should be analyzed from a cost/benefit perspective.

Issue: *Eliminating multiple intake and release centers for criminal aliens.*

Discussion: The decentralization of TDCJ-ID intake and release centers made it difficult for INS to interview, process, house, and deport criminal aliens. A lack of resources prohibited INS from completing all necessary interviews at these decentralized intake centers. It is estimated that large number of criminal aliens slipped through the system undetected with decentralized intake centers. The ability to funnel foreign born inmates, who may be identified as criminal aliens, through one intake and release center will allow INS to concentrate their resources and identify almost 100% of criminal aliens and deport appropriate criminal aliens.

Recommendation: Monitor the implementation of INS and TDCJ-ID agreement to limit foreign-born intakes and releases to one site in Huntsville, Texas.

Issue: *Providing adequate legal staff to expedite the deportation process where appropriate.*

Discussion: State provided Inmate Legal Services is a necessary component in the streamlining process of deporting criminal aliens. Legal staff representatives are responsible for explaining the conditions of the SDHP to inmates, therefore the effectiveness of the program is contingent on providing adequate legal staff. Inmate Legal Services currently employs 10-12 attorneys who represent *all* inmates in TDCJ-ID.

Recommendation: Ensure that adequate legal staff are available to expedite the deportation of criminal aliens.

7. **Issue:** *Releasing criminal aliens on other detainers.*

Discussion: TDCJ-ID often does not report the status of criminal aliens released on other detainers to INS. For example, if a marshal's office has placed a detainer on a criminal alien, the alien will be released to the marshal's office without notification to INS. Notification to INS would allow them to track criminal aliens leaving TDCJ-ID on other detainers for deportation when appropriate.

Recommendation: **Implement and monitor a system for TDCJ-ID's notification to INS when criminal aliens are released on other detainers.**

8. **Issue:** *Ensuring that all components of the criminal justice system assist in attaining state and national goals.*

Discussion: As an offender progresses through the criminal justice system, numerous opportunities to confirm background data are present. When new information is discovered it should be reported to DPS to update previous erroneous or missing data. For example, probation officers often do not identify and report to INS offenders whose citizenship is other than United States. Probation officers investigate offenders with their pre-sentence investigation reports (PSI), therefore the investigation would provide a new opportunity to identify suspected criminal aliens. The expanded identification and reporting of criminal aliens would assist INS identify criminal aliens and determine eligibility for deportation.

Recommendation: **1) Automating and linking all relevant databases to share information needed by CJIS users should be a top priority of TDCJ. 2) The state of Texas should consider a statutory requirement that all criminal justice system agencies report suspected criminal aliens to CJIS and subsequently to INS. 3) DPS and TDCJ should ensure that new verified identifier data is entered into CJIS.**

9. **Issue:** *Investigating the feasibility of computer matching with national databases to update state databases of previously deported criminal aliens.*

Discussion: While current deportations will be entered into CJIS once the reporting mechanism is put in place, criminal aliens deported in the past are not included. DPS should consider allowing INS to perform name matches of previously deported criminal aliens in their national databases against the Texas CJIS to identify previously deported criminal aliens. If matches are found, DPS should place "previously deported" flags in CJIS that will alert law enforcement personnel if the offender re-entered the U.S.

Recommendation: **Investigate the feasibility of a system for INS to match previous deportees with offenders in the state's CJIS and update the CJIS record of those deported.**

Federal Initiatives

Issue: *INS staff following up with arresting agencies.*

Discussion: Local and state agencies are supportive of federal initiatives that will assist in criminal alien identification, including the LESC. There will be a need to invest local and state resources in the on-going process of accessing and querying the LESC. It is incumbent on INS to ensure that they can follow up with appropriate local and state law enforcement agencies when suspected criminal aliens are identified. Failure of INS to follow up and begin criminal alien investigations could seriously diminish the willingness of local criminal justice agencies to invest resources for accessing the LESC.

Recommendation: **The Immigration and Naturalization Services should ensure that its staff resources are adequate and properly allocated to follow up with arresting agencies when criminal aliens are identified.**

Issue: *Automating LESC inquiries.*

Discussion: Inquiries to the LESC are currently performed manually by status verifiers. The status verifiers, in a standard query mode, search six separate databases for identifier matches. The technology exists to reduce human intervention and electronically search all of the INS databases simultaneously.

Recommendation: **INS should automate the inquiry process into the LESC system.**

Issue: *INS adopting computerized information systems based on fingerprint identification.*

Discussion: Currently the LESC will perform queries of the six INS databases by using name searches. Name searches are notorious for missing suspects who use aliases, transpose their names, and adopt different spellings of their names. In the case of common names, lists of candidates are generated from which the investigator must attempt to wade through in the hope of finding the right person. Most of the large states, including Texas, have installed computerized fingerprint based identification systems known as Automated Fingerprint Identification Systems (AFIS). The Federal Bureau of Investigation (FBI) is moving toward a paperless AFIS process through the adoption of live scan AFIS processing. In this system a person's fingers are placed on a glass plate where the fingerprints are electronically scanned and edited for reliability, thus eliminating the traditional ink and paper process.

Recommendation: **INS should adopt AFIS technology and store computerized fingerprint images of all persons in its databases.**

13. **Issue:** *Implementing a permanent on-site criminal alien processing facility.*

Discussion: All TDCJ-ID inmates who are foreign born should be processed through one intake and release center. INS can conduct interviews and determine eligibility for deportation without interrupting TDCJ-ID processing. This center allows INS to document all criminal alien intakes and releases, thereby reducing the number of aliens that slip through the TDCJ-ID system undetected. An on-site facility allows the state to capitalize on scarce investigative resources as well as increase direct communication between INS and TDCJ-ID on the processing of criminal aliens. This site may serve as a focal point for all identification inquiries to INS by centralizing files and implementing computerized fingerprint identification through the state AFIS. This site could eventually make all files available to INS field office investigation and deportation officers through the use of telecommunications. This center could also establish an on-site location for immigration hearings.

Recommendation: **INS should establish a permanent on-site facility in Huntsville, Texas for all processing functions of criminal aliens in Texas.**

14. **Issue:** *Processing detainees on criminal aliens.*

Discussion: Detainers for criminal aliens in TDCJ-ID could be processed more efficiently. The verification of deportable aliens is determined by INS, therefore INS should directly enter all inmates to be detained into TDCJ's Corrections Tracking System (CTS). The computerized documentation of INS detainers could increase efficiency and ultimately assist in the efforts of streamlining the processing of criminal aliens.

Recommendation: **INS' detainers for TDCJ-ID inmates should be directly entered into the Corrections Tracking System (CTS) of the state's CJIS by INS.**

15. **Issue:** *Sentencing criminal aliens to deferred adjudication.*

Discussion: Criminal aliens who plead guilty to a deportable offense and are sentenced to deferred adjudication are not deportable by INS, because a conviction is not forthcoming. It is within the authority of INS to re-define its rules and regulations to include court proceedings that result in deferred adjudication as constituting a conviction, making the criminal alien defendant subject to deportation. By providing INS with access to court proceedings through CJIS, this information can be transmitted to INS. INS can then contact supervising probation departments to begin the INS investigative interviewing process to determine suitability for deportation.

Recommendation: **The Immigration and Naturalization Service should consider revising its regulations to define deferred adjudication as a court disposition subject to the same provisions for deportation as a conviction.**

Issue: *Notifying officials in the receiving country when criminal aliens are deported.*

Discussion: Criminal aliens in the U.S. may also be wanted on criminal charges in their native country. The deportation process requires notification to officials within a deportee's native country, however, officials at the state and local level are often unaware of a wanted person's return to their jurisdiction through deportation. If these officials were notified they could arrange to take the deportee into custody upon release by INS.

Recommendation: **INS should investigate the possibility of negotiating with receiving countries to implement a procedure that notifies federal, state, and local officials that a deportee will be arriving within their jurisdiction.**

Appendix A

A. Criminal Grounds for Deportation of Aliens

Criminal grounds for deportation of aliens are enumerated in Section 241 of the Immigration and Naturalization Act (INA). They include the following, which is not an exhaustive list. Failure to register under the Selective Service Act and falsification of documents, for example, also constitute grounds for deportation.

Crimes involving moral turpitude (see Section B): requires conviction of such crimes within five years of entry into the U.S. and that the alien is either incarcerated or sentenced to incarceration for one year or longer.

Multiple criminal convictions for crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether the sentence includes incarceration, or whether the convictions were in a single trial.

Convictions of an aggravated felony any time after entry. At any time after U.S. entry, a conviction of a violation (or conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to controlled substances, other than a single offense involving possession for one's own use of thirty grams or less of marijuana.

Conviction at any time after entry, under any law, of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, in violation of any law, any weapon, part, or accessory that is a firearm or destructive device.

Conviction under United States Code or violations of the Military Selective Service Act.

The Immigration and Nationality Act defines certain serious criminal offenses as aggravated felonies. There are severe immigration consequences that result from convictions for crimes that are defined as aggravated felonies. Eligibility for discretionary relief from deportation is severely limited for aliens convicted of aggravated felonies. Further, the INS provides for mandatory detention and expedited deportation proceedings against aliens convicted of such offenses, which include murder, drug trafficking, illicit trafficking of firearms or destructive devices, money laundering, violent crimes carrying a prison term of five years or more, or any attempt or conspiracy to commit such acts.

B. Crimes involving Moral Turpitude- Generally, conviction of the following crimes may make an alien amenable to exclusion or deportation. This list is not all inclusive.

Crimes against the person:
Murder or intentional homicide
Voluntary manslaughter

Manslaughter (depends on degree)
Homicide by reckless conduct
Attempted murder
Kidnapping
Mayhem
Assault with intent to commit murder
Assault with intent to commit abortion
Attempted assault, second degree-
(with intent to commit carnal abuse and rape)
Indecent assault (falls short of rape)
Atrocious assault and battery
Carrying a concealed weapon with intent to use against the person of another (where the intent to use the weapon is presumed)
Assault in the second degree (with a weapon or other instrument likely to produce grievous bodily harm)
Assault with a deadly and dangerous weapon
Assault (with a weapon likely to produce bodily harm)
Rape
Interfering with a law enforcement officer
Attempting to obstruct or impede the progress of justice

Crimes against property:

Arson
Blackmail
Forgery
Robbery
Embezzlement
Larceny
Receiving stolen goods (with knowledge)
Burglary
Extortion
Fraud
Grand theft
Transporting stolen property
Malicious destruction of property
Obtaining money by false pretenses
Bribery of an amateur athlete
Malicious trespass

Sexual and Family Crimes:

Practicing prostitution
Maintaining a house of prostitution
Renting rooms with knowledge that they were to be used for prostitution
Adultery
Bigamy

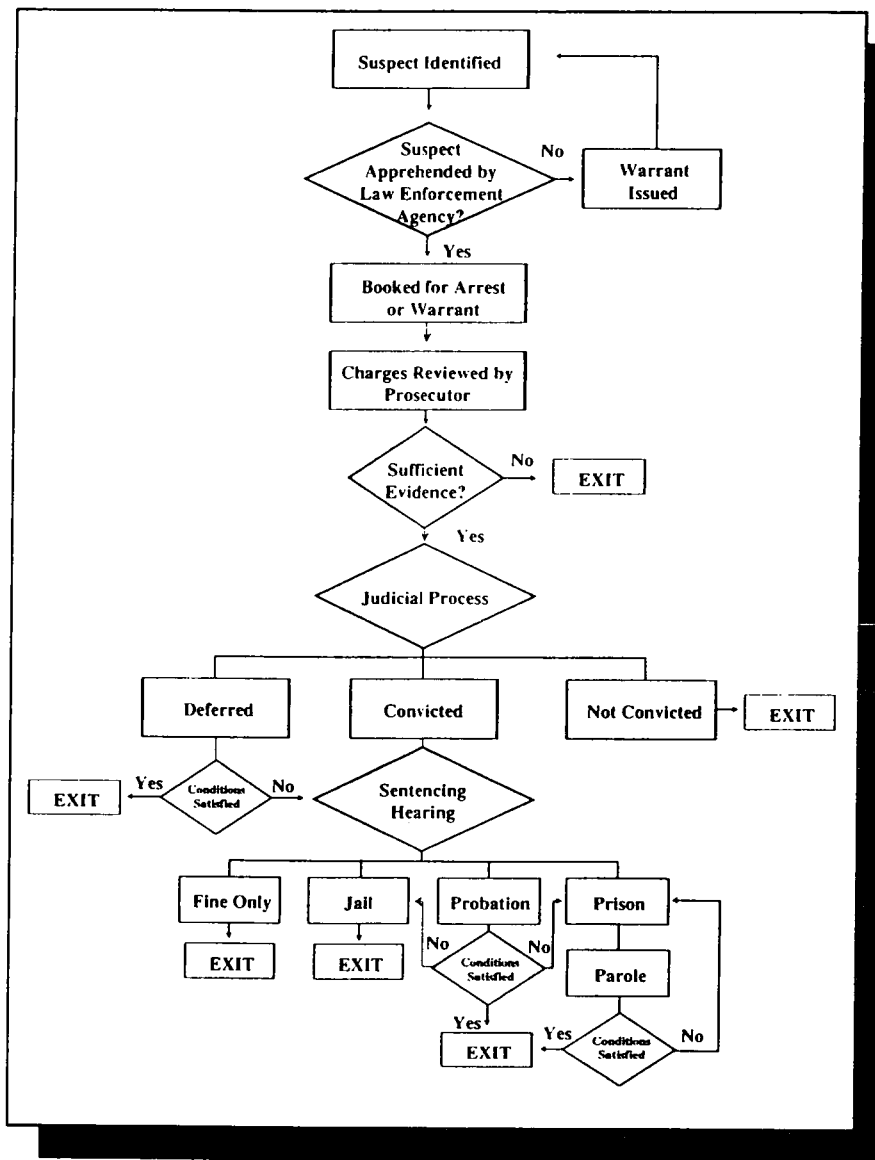
Statutory rape
Oral sexual perversion
Soliciting commission of crimes against nature
Soliciting people to engage in lewd or dissolute conduct
Gross indecency
Contributing to the delinquency of a minor (sexual acts)
Taking indecent liberties with a child
Incest
Abandonment of a child

Crimes against the authority of government:

Alien smuggling, transporting, or harboring
Defrauding the U.S. by falsely issuing a narcotics prescription
Offering a bribe to a governmental official
Making, passing, or possessing counterfeit coins
Conspiracy to violate internal revenue laws
Use of mail to extort
Possession of counterfeit obligations (with knowledge)
Counterfeiting
Conspiracy to pass counterfeit coins
Smuggling merchandise
Willful misapplication of funds of a savings and loan association
Impersonating a federal officer
False statements in the acquisition of a firearm
False statements or entries
Harboring a fugitive from justice
Mail fraud
Uttering and selling false or counterfeit immigration documents
Influencing or injuring an officer, juror, or witness
False statements to obtain a passport
False statements under oath in an alien's application for permanent residence
Perjury
Theft from U.S. mail
Interfering with trade and commerce by violence and threats
Taking kickbacks
Trafficking in narcotic drugs
Knowingly failing to report income
Union official unlawfully accepts a loan
Violation of Selective Service Act (false statement)
False statement to obtain unemployment benefits

Appendix B

Criminal Justice Flow of Arrestee



Appendix C

Criminal Justice Offender Based Document Flow

