



## Immigration and Naturalization Operations in Alaska

Since 1980 there have been over twenty-five pieces of federal legislation affecting immigration and naturalization, including comprehensive acts passed in 1986, 1990 and 1996 and the national security legislation passed after the terrorist attacks of September 11, 2001. The overall effect of the legislation of the past two decades has been to place heightened controls on admission to the U.S. and to broaden the powers of law enforcement agencies in arresting and detaining foreigners. The legislation has been tied to, or paralleled, both national welfare reform and crime control efforts, particularly drug control—with much of the legislation in the 1990s reflecting a concern with aliens and criminal behavior and aliens and financial responsibility. Since 9/11, the concern has been terrorism.

The most recent data providing an overview of the work of forestalling illegal immigration and facilitating legal admission to the U.S. come from the former Immigration and Naturalization Service. Until this spring, INS bore primary responsibility for structuring immigration; facilitating naturalization—the process of acquiring citizenship—and arranging for the deportation of those who enter the country illegally. With the birth of the Department of Homeland Security, these functions have been split up and placed under several bureaus in the new department. (See accompanying article

“Reorganization of INS.”) The data presented here reflect the old configuration.

In Alaska, the functions of the INS have been administered from Anchorage, where the district headquarters is located. As with most government operations here, INS functions involve relatively few people over a vast area. The agency has administered essentially the same range of programs and operations here as in more densely populated states, including enforcement operations.

The data in this article in general cover INS operations from FY 1999 through FY 2001—just beyond the date of the terrorist attacks. (The federal fiscal year ends September 30.) In addition, because of the reported broader use of detention powers by law enforcement in the months since 9/11, the article also presents figures on INS detention operations for Alaska through FY 2002.

### Immigration and Naturalization

In FY 2001 the INS recorded the admission of 1,401 legal immigrants who declared Alaska as their intended state of residence. The most sizeable national groups came from the Philippines (366), Mexico (126),

### Further reading

The report *The September 11 Detainees: A Review of the Treatment of Aliens Charged in Connection with the Investigation of the September 11 Attacks*, produced by the Office of the Inspector General, Department of Justice, is available at [www.justice.gov/oig](http://www.justice.gov/oig) under special reports.

Canada (94), Russia (89), and Korea (79). There is a complex structure of categories and regulations governing naturalization, but in general legal immigrants are eligible to become U.S. citizens after five years of residency in the country. In Alaska, in FY 2001, 710 people were naturalized. Of these, the most sizeable national groups came from the Philippines (170), Korea (87) and Mexico (60).

### Asylum

Aliens within the U.S. who are unable or unwilling to return to the country of nation-

*Please see Operations, page 10*

### HIGHLIGHTS INSIDE THIS ISSUE

- Immigration court in Alaska (page 2).
- The consequence of criminal convictions on immigrants (page 4).
- The reorganization of immigration functions into the new Department of Homeland Security (page 6).
- Noncitizens among Anchorage arrestees interviewed in the Anchorage ADAM program (page 7).

**Table 1. Immigration and Naturalization Service  
Asylum Cases in Alaska, FY 1999-2001<sup>1</sup>**

	FY 1999	FY 2000	FY 2001	Total
Cases filed	8	16	18	42
Cases reopened	3	3	2	8
Cases granted	4	4	13	21
Individuals granted <sup>2</sup>	7	6	21	34
Cases denied	1	0	0	1
Individuals denied	1	0	0	1
Cases otherwise closed	5	21	4	30
Cases referred to immigration judge	9	9	1	19

1. These figures refer only to INS cases; they do not include dispositions for asylum cases adjudicated by the immigration court.

2. Cases often include more than one asylum applicant.

*Source: 2001 Statistical Yearbook of Immigration and Naturalization Service, U.S. Immigration and Naturalization Service*

## Immigration Court in Alaska 1993-2002

The Executive Office for Immigration Review (EOIR) is the court system responsible for hearing immigration cases. It is located within the Department of Justice, a judicial structure separate from the Immigration and Naturalization Service. It has not been directly affected by the reorganization of INS.

The Anchorage immigration court handles cases from throughout the state. Alaska is part of a jurisdiction also encompassing Washington, Montana, and Idaho. Judges for this area are based in Seattle. They handle the different court locations on rotation. An immigration judge travels to Alaska several times each year for a week to hear individual cases. Master calendar hearings, which essentially combine docket control with preliminary hearings, are conducted by video around once or twice a month. (Over the period covered by the data here, immigration court hearings in Alaska have been open to the public except on the rare occasions where the respondent's security—for example, in cases in which domestic violence has been part of the case background—has warranted closing the hearing.)

In general, respondents appear in immigration court after being placed in removal proceedings by the INS—that is, the INS is seeking to have them deported. (Since the data presented in this article predate the reorganization of immigration and naturalization function under the Department of Homeland Security, all references are to the INS, although the agency no longer exists. See other articles in this issue.) Respondents can contest INS charges in immigration court or seek relief from removal.

The immigration court structure provides for appeal through the Board of Immigration Appeals (BIA), which is also with the Executive Office of Immigration Review.

Decisions of the BIA, in turn, are subject to judicial review in the main federal court system.

Despite the thrust of the immigration legislation of the 1990s, which tightened controls on admissibility and broadened ground for deportations, the overall caseload of the Anchorage court has not fluctuated wildly over the last decade (Table 1), although the number of applications for relief from deportation rose after 1995 (Table 2).

(The figures for the Anchorage court do not reflect those cases in which the respondent is being detained by the INS. Because there are no INS detention facilities in the state, most aliens detained for removal proceedings are transferred out of state and appear in court elsewhere.)

Table 3 shows data on the Institutional Hearing Program. These are cases in which the respondent is in custody in a state or local facility for a criminal offense. The immigration court considers the implications of the individual's criminal status for his immigration status, which may be changed as a result of a criminal conviction. As discussed in the accompany article, "Immigration Consequences of Criminal Conviction," the legislation of the last decade expanded grounds for deportation for non-citizens with criminal convictions. The number of cases in the IHP rose strongly beginning in 1995 but has declined somewhat in the last two years.

The length of immigration cases can vary widely, from essentially being completed at the initial hearing or extending for many months. Table 4 shows that the average case length has fluctuated, rising steeply in the late '90s and then declining again.

### Applications for Relief

As stated above, when an individual is

placed in removal proceedings, he has the option of contesting the charges or admitting the charges and seeking *relief from removal*. Although exact figures are not available, it appears that the majority of respondents do not fight charges but rather admit them—that is, admit that they are in the country in violation of the law—and then seek relief from deportation. The following types of relief cases are handled frequently in the Anchorage court: adjustment of status (for example, an individual who has entered the country illegally and has since married a citizen); asylum cases; conditional residence applications; cancellation of deportation cases; and voluntary departure cases. With voluntary departure a respondent is spared the imposition of certain prohibitions against reentry which accompany official departure or removal. In addition, there are criminal

**Table 2. Applications for Relief by Fiscal Year in Which Completed, FY 1993-2002**

Fiscal year	Total	Cases with legal representation	
		Number	Per cent
FY 1993	51	42	82.4 %
FY 1994	42	28	66.7
FY 1995	51	39	76.5
FY 1996	95	74	77.9
FY 1997	118	108	91.5
FY 1998	88	66	75.0
FY 1999	86	55	64.0
FY 2000	119	89	74.8
FY 2001	76	62	81.6
FY 2002	49	44	89.8

Source: Executive Office for Immigration Review

**Table 3. Institutional Hearing Program Cases in Alaska by Fiscal Year in Which Completed, FY 1993-2002**

Fiscal year	Total	Cases with legal representation	
		Number	Per cent
FY 1993	6	4	66.7 %
FY 1994	4	3	75.0
FY 1995	10	8	80.0
FY 1996	17	9	52.9
FY 1997	22	9	40.9
FY 1998	28	5	17.9
FY 1999	10	4	40.0
FY 2000	12	2	16.7
FY 2001	2	0	0.0
FY 2002	4	2	50.0

Source: Executive Office for Immigration Review

**Table 1. Cases Completed in Anchorage Immigration Court, FY 1993-2002**

Fiscal year	Master calendar	Individual hearings	Total	Cases with legal representation	
				Number	% of total
FY 1993	92	160	252	99	39.3 %
FY 1994	122	109	231	68	29.4
FY 1995	112	132	244	80	32.8
FY 1996	98	139	237	127	53.6
FY 1997	68	127	195	138	70.8
FY 1998	54	83	137	93	67.9
FY 1999	84	46	130	77	59.2
FY 2000	139	34	173	102	59.0
FY 2001	91	54	145	75	51.7
FY 2002	95	74	169	61	36.1

Source: Executive Office for Immigration Review

**Table 4. Average Case Length from Receipt by Immigration Court to Judgment, FY 1993-2002**

Fiscal year	Days
FY 1993	123 days
FY 1994	133
FY 1995	146
FY 1996	173
FY 1997	247
FY 1998	232
FY 1999	161
FY 2000	188
FY 2001	123
FY 2002	193

*Source: Executive Office for Immigration Review*

**Table 5. Asylum Completions for Alaska, FY 1993-2002**

Fiscal year	Decisions			Total	Cases with legal representation	
	Denied	Granted	Other*		Number	% of total
FY 1993	17	1	8	<b>26</b>	20	76.9 %
FY 1994	14	1	4	<b>19</b>	10	52.6
FY 1995	13	2	4	<b>19</b>	14	73.7
FY 1996	31	2	27	<b>60</b>	40	66.7
FY 1997	17	7	30	<b>54</b>	47	87.0
FY 1998	15	9	27	<b>51</b>	31	60.8
FY 1999	3	0	11	<b>14</b>	12	85.7
FY 2000	3	0	10	<b>13</b>	10	76.9
FY 2001	2	0	5	<b>7</b>	5	71.4
FY 2002	3	0	6	<b>9</b>	7	77.8

\* Asylum cases in the region may be closed for other reasons, such as a change of venue to another court. Also, aliens may have applied for asylum but be granted some other type of relief.

*Source: Executive Office for Immigration Review*

cases in which no relief is available but which may involve a constitutional issue and are taken through immigration court to preserve the right to appeal.

### Asylum Cases

Asylum is another form of relief from deportation. The INS may grant asylum or it may be granted through immigration court proceedings. (See "Immigration and Naturalization Operations in Alaska" in this is-

sue.) Table 5 presents basic numbers on Alaska immigration court asylum cases for FY 1993 through FY 2002. Criteria for granting asylum are governed by federal statutes consistent with international protocols to which the U.S. is a signatory. Under current federal law, in accordance with these protocols, the immigration status—legal or illegal—of an applicant for asylum is not relevant to the asylum claim. The table shows that immigration court in Alaska grants very few asylum claims.

### Legal Representation

All respondents appearing in immigration court have a statutory right to an attorney, but not at government expense. Here, the INS counsel provides a list of possible sources for legal assistance. Proceedings will be postponed to permit the respondent to find counsel if desired.

EOIR figures show that overall the percentage of cases in which the respondent has been represented has increased overall since the early 1990s (Tables 1-3, 5), but a significant number of respondents still handle their own cases.

Relatively few attorneys practice immigration law in Alaska on a regular basis. The Immigration and Refugee Program at Catholic Social Services is essentially the only social service agency in the state providing legal assistance on immigration and asylum cases. The program employs several staff attorneys, places cases on a pro bono basis and provides attorney training. The program also works with the Public Defender and attorneys with other social service agencies to provide guidance on the legal complexities faced by non-citizens in the criminal justice system.

### Interpretation and Translation

Respondents in immigration court are always provided an interpreter at government expense, if their English skills are not adequate to understand and participate actively in the proceedings. Proceedings will be delayed or postponed until interpretation or translation services acceptable to all parties are found. In general, the court tries to anticipate as far in

## Description of an Asylum Case

*The following are the facts of an asylum case heard by an immigration judge in Anchorage in spring 2003:*

The twenty-three-year-old man, from a South American country, had entered the United States illegally in 1999. (An individual's immigration status has no bearing on the application for asylum, which is reviewed on its own merits.) He had applied for asylum in 2002, after having been taken into custody by the INS and placed in removal proceedings. He was represented by counsel.

The asylum claim, as it was presented in court, was based on his fear of being killed by a guerilla group in his native country if he returns. He had been threatened once, in 1997, by members of the group who were active in the countryside near his mother's home. The guerillas had pressured him to join their cause and he had refused. After the incident, he had left the region immediately and returned to the capital city, where he lived with his grandmother. The guerillas had returned

at least once to ask his mother about him. Two years passed between the time of this threat and his entry into the United States. During that period he finished high school.

While in the United States he had used a forged green card to obtain work. He had held several jobs in Alaska. He had been convicted of a low-level criminal offense—furnishing alcohol to a minor—and had successfully completed a community-service sentence.

The young man claimed that he would be in increased danger if he returned to his country, because individuals returning from the U.S. are perceived to support U.S. policies.

The immigration judge denied the application for asylum, finding that the facts did not support a sufficient claim. He accepted the agreement for voluntary departure, with a bond. The respondent's attorney reserved the right to appeal.

## Immigration Court (continued from page 3)

advance as possible what the language needs will be and arrange for the presence of a translator in the courtroom during individual hearings. With some languages this can mean obtaining a translator from outside the state. The court also makes use of telephonic interpretation services, such as the AT&T telephone service. Table 6 shows the languages used in immigration court in Anchorage from FY 1999 through FY 2002. Spanish was, by far, the most common language employed.

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This overview of immigration court in Alaska covers its operations through the end of federal fiscal year 2002. The massive reorganization of immigration and naturalization functions occurring with the establishment of the Department of Homeland Security and the provisions of the legislation passed in the wake of 9/11 will undoubtedly have implications for the work of the court, even if the structure of EOIR itself has not been affected. For example, in other court jurisdictions—but not apparently in Alaska—considerations of national security have resulted in closed hearings.

Data on court operations—available through the Washington, D.C. office of the

**Table 6. Languages in Alaska Immigration Court Cases by Fiscal Year in Which Completed, FY 1999-2002**

	FY 1999	FY 2000	FY 2001	FY 2002	Total
Albanian	0	7	1	0	8
Cantonese	0	2	0	0	2
English	43	66	44	35	188
Ilocano	0	1	0	0	1
Indonesian	0	1	0	0	1
Korean	0	1	4	1	6
Lao	1	3	1	1	6
Mandarin	0	2	0	2	4
Mien	1	0	1	0	2
Polish	4	1	1	2	8
Russian	6	6	3	5	20
Samoan	2	1	0	3	6
Slovak	1	0	0	0	1
Spanish	74	72	82	121	349
Tagalog	1	5	0	1	7
Thai	3	0	1	0	4
Turkish	0	1	0	0	1
Unknown language	4	12	9	6	31
<b>Total</b>	<b>140</b>	<b>181</b>	<b>147</b>	<b>177</b>	<b>645</b>

Source: Executive Office for Immigration Review

EOIR—should reflect the ways in which the court operation changes as a result of the emergence of the new department. This information will have to be viewed in conjunction with the data assembled by the various immigration bureaus of the new department—the nature of which is as yet

undetermined.

*The preceding article is based on information and data obtained through the EOIR and the INS as well as through interviews with INS and EOIR personnel, immigration attorneys and observation at court proceedings.*

## Immigration Consequences of Criminal Convictions

Robin Bronen

September 11, 2001 has profoundly impacted the immigrant community. The Department of Justice and the U.S. Congress have passed at least two dozen statutes and federal regulations since September 11 that circumscribe the lives of immigrants.

Immigrants with criminal convictions have become one of the primary concerns of the Department of Justice and the new Department of Homeland Security (DHS). According to DHS, during FY 2002, the then-Immigration and Naturalization Service initiated deportation proceedings for 48 non-citizens who had criminal convictions in Alaska. In Alaska, the Bureau of Immigration and Customs Enforcement, under DHS, has now implemented Operation Deep Freeze, which focuses on the removal of non-citizens with criminal convictions who are outside of the jail and prison system. This initiative prioritizes those convicted of: (1) aggravated felonies; (2) crimes of violence; and (3) other crimes rendering the alien deportable.

### What Categories of Immigrants Can Be Deported for Criminal Convictions?

Any person who is not a United States citizen, including lawful permanent residents, can be deported because of a criminal conviction. Lawful permanent residents are immigrants/non-citizens who have been granted permission by the United States government to live and work in the United States for an indefinite period of time. A person must become a lawful permanent resident before becoming a United States citizen. Length of residency in the United States and the existence of close relatives who are U.S. citizens may eventually prevent a non-citizen's deportation, but it does not prevent the Department of Homeland Security from initiating efforts to permanently remove the individual from the United States.

The Immigration and Nationality Act recognizes three categories of crimes that can place a non-citizen at risk of deportation or prevent a non-citizen from ever becoming a lawful permanent resident.

Aggravated felonies are the most serious

crimes and are specifically defined by statute in the Immigration and Nationality Act. Because of the sentence imposed by the state criminal court, some common misdemeanor crimes can be considered aggravated felonies for immigration purposes. These crimes include theft and crimes of violence. For both of these crimes a non-citizen can be placed in deportation proceedings and deported from the United States, if the person is sentenced to more than one-year imprisonment, including any suspended time. A "crime of violence" is a term vaguely defined by the United States Code and could include convictions for assault in the fourth degree and felony driving under the influence.

Crimes of moral turpitude are the second category of crimes that can impact a non-citizen's ability to remain in the United States. Federal circuit court decisions and the Board of Immigration Appeals define these crimes. Generally, a crime of moral turpitude is defined as a crime that encompasses a base or vile act. Although the case law interpreting the term is not entirely uni-

form, the following types of crimes have been held to involve moral turpitude:

- crimes (felonies or misdemeanors) in which either an intent to defraud or an intent to steal is an element;
- crimes (felonies or misdemeanors) in which there is an element of intentional or reckless infliction of harm to persons or property;
- felonies, and some misdemeanors, in which malice is an element;
- sex offenses, in which some “lewd” intent is an element.

Thus, murder, rape, voluntary manslaughter, robbery, burglary, theft, arson, aggravated forms of assault, forgery, prostitution and shoplifting have all been consistently held to involve moral turpitude.

A third category of crimes specifically listed in the Immigration and Nationality Act may either trigger deportation or prevent a non-citizen from attaining lawful permanent resident status. Crimes included in this category include violations of any law relating to a controlled substance, domestic violence convictions, judicial determinations of protective order violations and convictions under any law of purchasing, selling, using or possessing a firearm or destructive device.

### Impact of Crimes on Non-citizens

Automatic removal from the United States is not the only immigration consequence to a criminal conviction. For example, if deported for an aggravated felony conviction, a non-citizen may be permanently barred from returning to the United States, regardless of the length of residency or the fact that the non-citizen has U.S. citizen family members, including a spouse and children. In addition, all non-citizens must prove that they are persons of good moral

character when they are applying for asylum, lawful permanent residency or United States citizenship. Crimes such as driving under the influence will be considered a negative discretionary factor that can impact a non-citizen’s ability to prove good moral character and thus attain lawful permanent residency or become a naturalized citizen.

### Sentencing

Sentences are often the most important factor in determining the immigration consequences for a non-citizen defendant. Section 101(a)(48)(B) of the Immigration and Nationality Act defines a sentence: “any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by the court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.” Consequently, the Department of Homeland Security will analyze the actual sentence imposed—regardless of any time suspended—to determine whether to initiate deportation proceedings.

### Deportation Process

Deportation proceedings are civil in nature. Non-citizens have a statutory right to counsel but not at government expense. The Department of Homeland Security begins the deportation process by issuing a “Notice To Appear” to the non-citizen. If the “Notice to Appear” is issued because of criminal violations, the Department of Homeland Security can issue the charging document while criminal charges are pending, after the non-citizen has been convicted, or years after the non-citizen has served his or her criminal sentence. Criminal convictions rarely disappear from a non-citizen’s criminal record, even if the conviction has been vacated or expunged.

### Immigration Remedies to Prevent Deportation

Very few immigration remedies exist for non-citizens convicted of crimes. There are almost no legal avenues that prevent the deportation of non-citizens’ convicted of an aggravated felony or a controlled substance violation. For these crimes, length of residency in the United States or the existence of spouses, children or parents with U.S. citizenship will not prevent a non-citizen’s deportation. For non-citizens convicted of crimes of moral turpitude and domestic violence offenses, limited immigration remedies exist that may prevent deportation. The viability of these immigration remedies depends on the immigration status of the non-citizen, length of residence in the U.S. and the existence of relatives with citizenship or lawful permanent residency.

### Conclusion

Foreign migration to Alaska is increasing. According to the U.S. Census Bureau, 12.5 percent of Alaska’s population growth during the decade beginning in 1990 was due to foreign migration. According to figures published by the Alaska Conservation Foundation, during the next 25 years, Alaska is projected to have the highest foreign migration from Asia and the 11th highest migration from Latin America in the United States. Given these statistics, it is highly probable that increased numbers of immigrants will be accused of crimes. For those working within the criminal justice system, understanding the impact of criminal convictions on non-citizens may prevent the permanent separation of United States citizen children from their non-citizen parent or the forced return of a refugee to a country where there is a threat of persecution or torture.

*Robin Bronen is Program Director of the Immigration and Refugee Services Program, Catholic Social Services.*

## Deportation Cases Involving Criminal Convictions

After being imprisoned for his political opinions since he was 14, J. fled his African country when he was 21 years old. The INS granted him asylum in 1991. In 1992, he was convicted of a controlled substance violation in California. Seven years later he moved to Alaska with his wife and three children, who were all U.S. citizens. During the naturalization application process, the INS learned of his criminal conviction. At the time of J.’s naturalization interview, the INS arrested him, placed him in detention, and initiated deportation proceedings. Due to the Anti-Terrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act in 1996, J. may have no immigration remedy to prevent his deportation, if federal courts decide the 1996 legislation applies retroactively.

*The Immigration and Refugee Program of Catholic Social*

*Services is providing legal representation for J.*

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M. entered the United States without a visa when she was sixteen years old. In April 2002, she was convicted of theft in the third degree, received no jail sentence and was ordered to pay restitution. She has two children, ages 7 and 5, who are U.S. citizens. In May 2003, the Department of Homeland Security took her into custody because of the criminal conviction. After being placed in detention, she appeared before an immigration judge with legal counsel and was released on \$5,000 bond.

*The Immigration and Refugee Program located private counsel for M.*

—R.B.

## Reorganization of INS

As part of the emergence of the Department of Homeland Security in the wake of September 11, 2001, the missions and functions of the Immigration and Naturalization Service have been split, renamed, taken from the Department of Justice and placed into a very different organizational structure within the new department. (The Executive Office for Immigration Review – the immigration court system – remains within the Department of Justice.) Whereas before the INS held responsibility for both enforcing immigration laws and preventing illegal entries to the country, as well as facilitating legal immigration and the naturalization process, within the new organizational structure these functions are now divided among separate bureaus with different reporting lines (Figure 1). Beginning this spring, the office responsible for administering immigration and naturalization—the Bureau of Citizenship and Immigration Services (BCIS)—is now completely separate from those offices with primarily enforcement functions—the Bu-

reau of Customs and Border Protection (BCBP) and the Bureau of Immigration and Customs Enforcement (BICE). The two enforcement bureaus have incorporated a number of federal law enforcement services previously located elsewhere in the government.

This is an immense, substantive reorganization, with many important details still undecided in spring 2003. For example, the placement of the INS attorneys who represent the government in immigration, asylum and deportation hearings has not yet been decided, nor has the placement of various databases from the former INS, including the “A” files—the mostly paper files established by the INS for individual cases under its purview. The placement of the international functions of INS has not yet been determined either. Reflecting the organizational flux, the budget structure and funding are also unsettled.

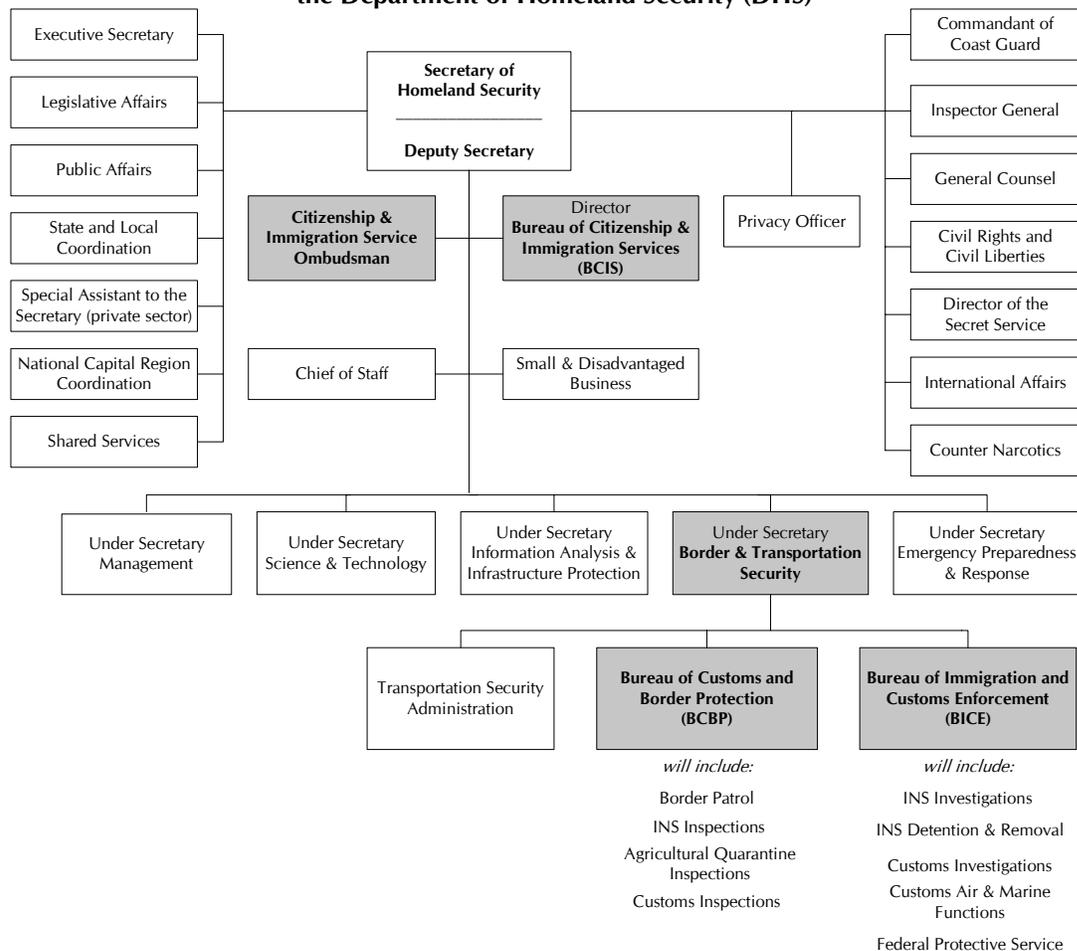
Since the number of federal employees in Alaska affected by these changes is rela-

tively small, the reorganization will probably not present as many immediate communication and operational problems as in communities with larger immigrant populations. Nevertheless, under the new organization, there are now three acting directors handling the multiplicity of functions for the Alaska region. The bureaus report upward through offices in different locations.

Another aspect of the reorganization impossible to examine at this point is how data on operations will be maintained and remain accessible. In certain conditions, the work of the Department of Homeland Security will be exempt from the Freedom of Information Act and the implications of this exemption for obtaining data by researchers, the media and the public are not yet known.

*The information in the preceding article was obtained through interviews with the acting Alaska directors of BICE, BCBP, and BCIS; and from the website of the Department of Homeland Security in Spring 2003.*

**Figure 1. Immigration Services Reorganized within the Department of Homeland Security (DHS)**



# Non-Citizens Among Anchorage Arrestees

Brad Myr Stol

An assumption sometimes made regarding immigrants to the U.S. is that as a group they are more likely to engage in criminal behavior than are U.S. citizens. An analysis performed using data collected by the Justice Center reveals that in Anchorage there is no empirical basis for this assumption.

Immigrants—both those without citizenship and those who have assumed citizenship—form a low percentage of the Anchorage arrestee population—substantially less than their representation in the population as a whole. Moreover, non-citizen arrestees are not significantly more likely to have been jailed for a felonious crime, a violent offense, or a drug offense, and are less likely than those with citizenship to have prior criminal histories.

## ADAM Data

The data used in this analysis were collected as part of the Anchorage Arrestee Drug Abuse Monitoring (ADAM) program. ADAM is a national, multi-site drug monitoring program that measures the extent and nature of alcohol and drug use among those who have been recently arrested. It is funded by the National Institute of Justice (NIJ). ADAM researchers conduct in-depth interviews with recent arrestees and collect urine samples.

In addition to questions about drug and alcohol use, respondents to the survey are asked about prior arrests and previous incarcerations, and ADAM collects data on the criminal charges for which arrestees are held at the time of the interview. Respondents are also asked numerous demographic questions concerning age, ethnicity, citizenship status, education, employment status and marital status. Because ADAM notes citizenship status and also measures several criminological variables for each respondent, it is possible to examine the link between arrestee citizenship and criminal conduct.

ADAM respondents are fully informed that their responses are not traceable to them as individuals; the questionnaire is conducted anonymously. Even if authorities sought out such information, government officials could not identify those individuals with prior arrests. Participation in the study is completely voluntary. Respondents can refuse to participate at all, or participate but refuse any questions they feel to be too sensitive, too personal, or too threatening.

There are some limitations to the ADAM data worth noting here. ADAM samples only recently arrested adults in Anchorage. Therefore, results are not generalizable to juveniles; are not applicable to those who commit crimes but are not arrested; and are not representative of other localities in Alaska or the nation as a whole. Federal arrestees are not included in the sample.

## Non-citizen Immigrants among Anchorage Arrestees

To better understand the relationship between citizenship status and crime, it was first necessary to explore the extent to which non-citizen arrestees were part of Anchorage's total arrestee population. Between 2000 and 2002, more than 9 out of every 10 arrestees booked into Anchorage jails reported they were born in the United States or one of its territories; only 4.9 percent were foreign-born (see Table 1). When compared to the general U.S. population, or the population of the entire state of Alaska, the foreign born—both citizens and non-citizen residents—formed only a very small proportion of the arrestee population in Anchorage. According to the 2000 U.S. census, 10.4 percent of the American population was foreign-born; for Anchorage the figure was just over 8 percent.

Of those arrestees who were not born in

*Please see Arrestees, page 8*

**Table 1. Citizenship Status of Anchorage Arrestees, 2000-2002**

	N	%
<b>Were you born in the United States or U.S. territories?</b>		
Yes	1,856	95.1 %
No	95	4.9 %
Missing	0	0.0 %
<b>Total</b>	<b>1,951</b>	
<i>Of those not born in the U.S. or territories:</i>		
<b>Are you now a United States citizen?</b>		
Yes	48	50.5 %
No	42	44.2 %
Missing	5	5.3 %
<b>Total</b>	<b>95</b>	
<i>Of those not now a U.S. citizen:</i>		
<b>What is your current status?</b>		
Green card	33	78.6 %
Visa	1	2.4
Other legal documentation	6	14.3
Missing	2	4.8
<b>Total</b>	<b>42</b>	



## Alaska Justice Forum

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## Arrestees

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the U.S., better than half (50.5%) had become naturalized citizens by the time of their interview with ADAM site staff. At most, only 47 arrestees in the sample (2.4% of total) were not U.S. citizens at the time of their arrest. (In 5 of these 47 cases, no arrestee response was recorded on this point.) Hence, non-citizen arrestees constituted a very small minority of the jailed population in Anchorage.

When respondents reported to interview-

ers that they were not born within the U.S., they were asked to report their country of origin. As Table 2 shows, foreign-born arrestees in Anchorage—both citizens and non-citizens—come from a wide spread of countries.

In terms of individual demographic characteristics, non-citizen arrestees in the sample differed in several ways from arrestees (native and foreign-born) with American citizenship (see Table 3). Arrestees without U.S. citizenship were, on average, two years older than citizen arrestees. Non-citizens, like their citizen

counterparts, were much more likely to be male than female, although non-citizens were proportionally more usually male than arrestees who were citizens. Those arrestees without citizenship were also more likely to have been married, either at the time of the interview or prior to it, than American arrestees, who reported never having been married in more than half (54.7%) of all cases. Non-citizen arrestees were also more likely than citizen arrestees to have a post-secondary education, and in particular were much more likely to report having attained a four-year college degree or even higher level of education prior to their arrest. Finally, non-citizen arrestees were more likely than citizen arrestees to report having a job, especially for full-time jobs. Thus, in the aggregate, non-citizen arrestees in the ADAM sample were more likely than their citizen counterparts to be older, male, non-white, married, college-educated and employed.

### The Association between Citizenship and Prior Arrests

To begin the examination of the association between immigrant status and crime, the citizenship status of arrestee respondents was compared to several criminological variables. The first comparison was between citizenship status and prior arrest record. The analysis revealed that respondents who were not citizens were *less* likely than citizen respondents to report a prior arrest (72.3% versus 85.4%). Next, three other crime variables which tap the nature of the current arrest, and which are frequently mentioned in discussions of criminal dangerousness, were also examined. The three variables were: (1) whether the respondent was arrested for a felony; (2) whether the respondent was arrested for a violent offense; and (3) whether the respondent was charged with a drug offense (not including alcohol) (Table 4). Although some differences emerged for these variables, statistically, there was no significant difference between citizen and non-citizen arrestees—that is, the differences were not greater than could be attributed to random variation.

To summarize, the observed difference in likelihood of prior arrest was the only significant difference found between the two groups across these crime variables. None of the other percentage differences exceeded what would be expected due to random variation. Overall, this first level of analysis revealed little difference in the criminality, past or present, of citizen and non-citizen arrestees in Anchorage jails.

The next stage of analysis controlled for

**Table 2. Country of Origin of Foreign-born Anchorage Arrestees, 2000-2002**

	U.S. citizen	Non-citizen	Citizenship status missing	Total
<b>North America</b>				
Canada	4	3	0	7
Mexico	3	6	1	10
<b>Caribbean</b>				
Caribbean (nation not given)	1	0	0	1
Cuba	0	3	0	3
Dominican Republic	3	1	0	4
Grenada	0	1	0	1
St. Vincent	0	1	0	1
<b>Central America</b>				
El Salvador	1	1	0	2
Guatemala	0	3	0	3
Honduras	1	0	0	1
Panama	0	1	0	1
<b>South America</b>				
Columbia	0	1	0	1
Peru	1	1	0	2
<b>Europe</b>				
Austria	0	1	0	1
Czechoslovakia	0	1	0	1
England	1	1	0	2
Germany	9	0	0	9
Italy	0	0	1	1
Macedonia	0	1	0	1
Poland	2	1	0	3
Scotland	1	0	0	1
Yugoslavia	0	1	0	1
<b>Asia</b>				
India	2	0	0	2
Japan	0	0	1	1
Korea	6	2	0	8
Laos	0	1	0	1
Lebanon	2	0	0	2
Thailand	1	4	0	5
Philippines	9	6	0	15
<b>Africa</b>				
Libya	1	0	0	1
Morocco	0	1	0	1
<b>Country of origin missing</b>				
	0	0	2	2
<b>Total</b>	<b>48</b>	<b>42</b>	<b>5</b>	<b>95</b>

several demographic variables to ascertain whether citizenship status alone had value as an element predictive of prior arrest—that is, once the demographic factors of age, gender, race, marital status, education and employment were taken into account, were non-citizen arrestees still less likely to have had a prior arrest than their citizen counterparts?

Each of the demographic variables shown in Table 3 has been shown in criminological research to be associated with crime. Age, for instance, has a curvilinear relationship with crime (picture an upside down “U”), peaking in the mid-to-late teens, with the very young and very old not likely to engage in criminal activity much at all. Gender also has a clear association with most crime, with males much more likely than women to be both the perpetrators and victims. The findings concerning the relationship between race and crime are somewhat mixed, with the main effects of race often disappearing once other factors (particularly community-level variables) are controlled. Findings from studies of the criminal life course demonstrate that some significant life events such as marriage have a dampening effect on criminal activity. Finally, socioeconomic indicators, such as education and employment status, are generally believed to be inversely related to crime. Because of their established association with crime, we controlled for each of these factors in this analysis.

Results from this analysis, which used binary logistic regression, revealed that arrestees who are not citizens were less likely to have had a prior arrest, holding constant age, gender, race, marital status, education, and employment. In fact, citizenship status had the greatest predictive power; that is, one was better able to predict whether or not a respondent reported a prior arrest by knowing citizenship status than by having information about age, gender or marital status—although these variables were useful predictors of prior arrest as well.

Using the results of the logistic regression analysis, we could calculate the probability of a prior arrest for any particular individual, provided we have information for each variable. For example, a 29 year-old white male citizen had a 79.4 percent chance of a prior arrest. In contrast, an individual who had the same characteristics, but who was not a citizen of the United States had a probability of prior arrest of 59.2 percent.

Thus, based on citizenship status alone, an Anchorage arrestee with citizenship was about 20 percent more likely to report hav-

**Table 3. Demographic Characteristics of Citizen and Non-Citizen Arrestees in Anchorage, 2000-2002**

	Non-citizen N = 42		Citizen N = 1,904		
	N	%	N	%	
<b>Mean age</b>	34.6 years		32.7 years		
<b>Gender</b>					
	Male	38	90.5 %	1,559	81.9 %
	Female	4	9.5	345	18.1
<b>Race</b>					
	White	10	23.8 %	954	50.1 %
	Black/African-American	2	4.8	276	14.5
	Hispanic/Latino	17	40.5	51	2.7
	Alaska Native/American Indian	0	0.0	567	29.8
	Asian, Hawaiian, or other Pacific Islander	12	28.6	47	2.5
	Multiracial	0	0.0	2	0.1
	Other	0	0.0	1	0.1
	Missing	1	2.4	6	0.3
<b>Marital status</b>					
	Single, never having been married	18	42.9 %	1,041	54.7 %
	Married, including common law marriage	13	31.0	381	20.0
	Divorced	6	14.3	335	17.6
	Legally separated	5	11.9	105	5.5
	Widowed	0	0.0	33	1.7
	Missing	0	0.0	9	0.5
<b>Highest educational degree</b>					
	No degree	8	19.0 %	383	20.1 %
	High school degree or GED	16	38.1	833	43.8
	Vocational or trade school	4	9.5	193	10.1
	Some college or two-year degree	7	16.7	411	21.6
	Four-year college degree or higher	7	16.7	83	4.4
	Missing	0	0.0	1	0.1
<b>Employment status</b>					
	Full-time (35+ hours/week)	23	54.8 %	788	41.4 %
	Part-time	2	4.8	141	7.4
	Active military status	0	0.0	6	0.3
	Employed, but out due to illness/leave/furlough/strike	2	4.8	18	0.9
	Seasonal employment, currently not working	2	4.8	119	6.3
	Unemployed	8	19.0	613	32.2
	Full-time homemaker	1	2.4	34	1.8
	In school only	0	0.0	27	1.4
	Retired	0	0.0	19	1.0
	Disabled for work	4	9.5	124	6.5
	Other	0	0.0	9	0.5
	Missing	0	0.0	6	0.3

**Table 4. Criminality, Past and Present, of Anchorage Arrestees, 2000-2002**

	Non-citizen		Citizen		
	N	%	N	%	
<b>Prior arrest</b>	34	72.3 %	1,611	85.4 %	
<b>Current arrest included*</b>					
	Felony	7	14.9	139	7.3
	Violent crime	19	40.4	591	31.0
	Drug violation	4	8.5	65	3.4

\* Arrests were also made for other crimes not included in the analysis, and arrest categories used here are not mutually exclusive.

## Arrestees

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ing a prior arrest than an immigrant without citizenship.

### Assessing the Validity of Arrestee Responses

Because ADAM data are self-reported, in this analysis it was necessary to address the question of veracity. By examining respondents' answers to questions asking them about their recent drug use and comparing them with their urinalysis results, we can estimate a "truth score" for every respondent. A series of measures were developed to assess arrestees' truthfulness for this study. The truthfulness measures were created by comparing urinalysis results with each arrestee's response to the following question *On how many of the past 7 days did you use [marijuana, powder cocaine, crack/rock cocaine, heroin, methamphetamine]?* Arrestees who reported no drug use and who did not have a positive test were coded as being "truthful," as were those arrestees who reported using a drug and who did have a positive result. In those cases where arrestees reported using a drug, but did not test positive in the urinalysis, the respondents were coded as being truthful because of willingness to report drug use, even if they did not use enough of it to be detected. When

arrestees denied using a drug within 7 days of the interview, but drugs were detected in the urine samples, they were coded as "dishonest." In cases where the respondents refused to answer the question about their drug use in the week preceding their arrest, when the question wasn't applicable (they had not used in the past 30 days), or if there was a missing response (due to interviewer or data entry error), the case was excluded from the analysis.

The most striking finding reported was that both citizens and non-citizens were, on the whole, very forthcoming about their drug use. On average, well over 90 percent of arrestees told the truth about their drug use in the previous 7 days. To the extent that citizens and non-citizens differed in terms of their honesty with interviewers, non-citizens were somewhat more likely to tell the truth when asked about their recent drug use (though the observed percent differences were not statistically significant). To summarize, there is evidence that non-citizen immigrants were just as likely (if not more so) to respond as honestly as their U.S. citizen counterparts, lending credibility to other results in the analysis.

### Conclusion

This analysis focused empirically on the notion that non-citizens are a "dangerous class" within the broader community by ex-

amining the association between citizenship status and several measures of criminality.

While the data used for this study have limitations in the study of immigration and crime, they provide a sound empirical starting point. Based on the findings presented here there is little, if any, evidence to believe that non-citizen arrestees in Anchorage, Alaska are any more "dangerous" or "criminal" than their American citizen counterparts. This analysis found that not only was there no support for the notion that non-citizens are more criminal, but the reverse was discovered—that is, arrestees with citizenship demonstrated a greater likelihood of a prior criminal history.

*Brad Myrston is a research associate with the Justice Center.*

## Departure from Justice Center

Lisa Rieger has resigned her position as an associate professor with the Justice Center to accept a position as an attorney with CIRI, where she has been working on an interim basis for two years. Professor Rieger joined the Justice Center in 1990. In addition to her research, she directed the paralegal program and taught in the Center undergraduate program.

## Operations

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ality because of persecution or a well-founded fear of persecution may apply for asylum. Individuals have been able to apply in two ways: through an interview with an INS asylum officer, or, if apprehended, with an immigration judge as part of a removal proceeding. An individual's immigration status—legal or illegal—is not relevant to the asylum claim. If an application for asylum is denied by the INS, the case may be appealed to an immigration judge.

In 2001, the INS granted asylum in over 20,000 cases and the EOIR approved just under 10,000—a total of over 28,000 individuals awarded asylum throughout the country.

Asylum applicants in Alaska apply through the San Francisco office. For fiscal years 1999-2001, the INS granted asylum in 21 cases, with 34 individuals (Table 1). One case was denied and closed; 19 were referred to immigration court. (Figures on asylum cases heard in immigration court accompany the article "Immigration Court in Alaska, 1993-2002.")

**Table 2. Individuals Detained by the Immigration and Naturalization Service in Alaska, FY 1999-2002**

	FY 1999	FY 2000	FY 2001	FY 2002	Total
<b>Total detained</b>	<b>293</b>	<b>358</b>	<b>264</b>	<b>202</b>	<b>1,117</b>
<b>Total released</b>	<b>25</b>	<b>22</b>	<b>106</b>	<b>24</b>	<b>177</b>
<b>Total transferred outside state</b>	<b>266</b>	<b>336</b>	<b>158</b>	<b>178</b>	<b>938</b>
Removal/deported	61	86	34	71	252
Transferred to other offices	161	172	119	95	547
Voluntary removals/withdrawals	44	78	5	12	139

*Source: Immigration and Naturalization Service (now: Immigration and Customs Enforcement, Department of Homeland Security)*

**Table 3. Criminal Status of Immigration and Naturalization Service Detainees in Alaska, FY 1999-2002**

	FY 1999	FY 2000	FY 2001	FY 2002	Total
<b>Total detainees removed/deported</b>	<b>61</b>	<b>86</b>	<b>34</b>	<b>71</b>	<b>252</b>
With criminal convictions	21	23	13	30	87
Aggravated felons	10	11	11	18	50
<b>Total detainees transferred to other offices</b>	<b>161</b>	<b>172</b>	<b>119</b>	<b>95</b>	<b>547</b>
With criminal convictions	63	47	52	34	196
Aggravated felons	31	10	19	18	78

*Source: Immigration and Naturalization Service (now: Immigration and Customs Enforcement, Department of Homeland Security)*

## International Students in Alaska

After 9/11 there was a general call for increased monitoring of international students in the United States. The INS responded by using a new database for more regular assembly of data on the status of foreign students in the U.S. The database (SEVIS) had been developed before the terrorist attacks as part of the Student and Exchange Visitor Program (SEVP). The breadth of information collected on individual students does not vary greatly from that collected before, but schools now must submit data under more stringent reporting requirements. Because the number of international students in Alaska is relatively low, it has been possible for the government and school offices involved in their supervision to work to resolve problems as they arise.

At the University of Alaska Anchorage, which currently has approximately 160 international students, the responsibility for reporting lies with the Office of International Services. This office also works to keep the international student body informed

of changes in regulations affecting their status. Administrators in this office report that some of the local effects of the changes made since 9/11 with regard to international students are just now beginning to be felt. For students from some countries, including Russia, the process of obtaining a student visa has become more lengthy, and there is a certain amount of confusion among already-enrolled students regarding the continuing changes in regulations.

In general, information on individual students maintained by the UAA office is protected under the Family Educational Rights and Privacy Act of 1974 (FERPA) and is not available to law enforcement agencies without a judicial order or subpoena.

SEVP, the program for which the database was initially developed, is a joint project involving the Department of State, the Department of Education and the Bureau of Citizenship and Immigration Services.

After a year with asylum status an individual may apply for lawful permanent resident status. In Alaska 119 asylees adjusted their status in this way from FY 1999 through FY 2001.

With the reorganization of INS functions in the Department of Homeland Security the asylum program is operating, in spring 2003, under the Bureau of Citizenship and Immigration Services (BCIS).

### Temporary Admissions

The Immigration and Naturalization Service has also maintained data on temporary admissions. The typical non-immigrant foreign national admitted to the United States is a tourist, but there are also other classes for admission, including students, diplomats, and business people. In 2001, Alaska had 86,682 temporary admissions. By far the greatest number of these were classified as visitors for business or pleasure (82,172). There were also significant numbers of students (383), treaty traders and investors (401), temporary workers (473) and exchange visitors (798). The highest numbers of these visitors came from the United Kingdom (17,850), Japan (14,607) and Germany (10,269).

### Enforcement of Immigration Laws

Through its various subdivisions, the INS has borne responsibility for locating and arresting individuals illegally present in the country. The arrests are called *apprehensions*. An individual apprehended by the INS is placed in removal proceedings, which usually involve an immigration judge. (See accompanying article "Immigration Court in Alaska 1993-2002." Immigration proceed-

ings are civil proceedings and, in general, criminal process protections do not apply. An individual has a statutory right to counsel but not at government expense.) These proceedings can result in removal from the country, voluntary departure, adjustment to legal status or termination of proceedings. (All of these possible outcomes are highly structured by additional regulations and procedures.)

In Alaska, INS inspections officers have monitored airports and other points of entry and investigations personnel have worked within the state to enforce immigration laws. (The Border Patrol—another subdivision of INS—does not operate in Alaska.)

The annual figures on detention and removal provide a perspective on the enforcement operations of INS. Table 2 presents the numbers of individuals detained by the INS in Alaska from FY 1999 through FY 2002. Of the total 1117 individuals detained over the four years, at least 391 left the U.S. as a result of proceedings conducted in Alaska—either through voluntary departure or deportation. Of the remaining 726, an additional undetermined number will have also left as a result of INS proceedings here or elsewhere.

Table 3 presents the criminal status of those detained by the INS in Alaska. The immigration legislation passed in 1996 requires, in general, that non-citizens convicted of an aggravated felony, an offense related a controlled substance, a firearms offense or domestic violence be deported. Of the total 252 detainees deported from Alaska since FY 1999, 34.5 per cent—87—have had criminal convictions, and of these, 50 had convictions for aggravated felonies. An additional number of those transferred out of state have also had criminal

convictions.

As the tables indicate, a significant number of individuals apprehended by the INS in Alaska are eventually transferred out of the state, to another INS office. This occurs because the agency does not operate a detention facility within the state. Those who are being held for removal proceedings (some individuals are released on their own recognizance) are usually sent to the INS contract facility in Seattle.

In light of reported government use of arrest and detention powers after 9/11, it is important to note that the available figures for Alaska show no unusual rise in apprehension and detention of foreign nationals in the first year following the terrorist attacks. Figures on the length of detention—that is, the time from apprehension by the INS through case disposition by an immigration judge for those individuals who have been held in a facility—could not be obtained.

### Expedited Removal

Since 1997, the INS has also had authority for *expedited removal*—a process through which an INS officer can order an inadmissible individual arriving at a point of entry removed without further hearing, unless the person states an intent to claim asylum. Alaska figures show 137 expedited removals from FY 1999 through mid-April 2003. This figure includes both individuals who have arrived by air and a number of crewmen on vessels brought into port for fishing violations. As standard procedure in Alaska, the INS District Director has signed all orders for expedited removal.

## **Operations**

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### **Other INS Operations**

This article has focused primarily on those aspects of INS operations which primarily affect individual immigrants. It has not looked at the investigations programs of INS or other operations which combat broader criminal operations, such as alien smuggling, money laundering, or fraud

related to immigration laws, nor has it examined workplace investigations. These have been substantive components of INS operations, often involving work with other law enforcement agencies.

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The figures given in this overview of government administration of immigration pre-date the substantive changes being effected by the establishment of the Department of

Homeland Security. It is not yet known if data under the new department will be reported in the same way or what new functions and operations may emerge.

*The information contained in the preceding article was obtained from data assembled by the former Immigration and Naturalization Service and from interviews with acting Alaska directors of BICE, BCBP and BCIS within the Department of Homeland Security.*



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