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U.S. Immigration Policy: Chart Book of Key Trends

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Summary

This report is a chart book of selected immigration trends. Key immigration issues that Congress has considered in recent years include increased border security and immigration enforcement, expanded employment eligibility verification, reforms to the system for legal temporary and permanent immigration, and options to address the millions of unauthorized aliens residing in the country. The report offers snapshots of time series data, *using the most complete and consistent time series currently available for each statistic*. The key findings and elements germane to the data depicted are summarized with the figures. The summary offers the highlights of key immigration trends.

The United States has a history of receiving immigrants, and these foreign-born residents of the United States have come from all over the world.

- Immigration to the United States today has reached annual levels comparable to the early years of the 20th century.
- Immigration over the last few decades of the 20th century was not as dominated by three or four countries as it was earlier in the century, and this pattern has continued into the 21st century.
- The absolute number of foreign-born residents in the United States is at its highest level in U.S. history, reaching 42.4 million in 2014.
- Foreign-born residents of the United States made up 13.3% of the U.S. population in 2014, approaching levels not seen since the proportion of foreign-born residents reached 14.8% in 1910.

Legal immigration encompasses permanent immigrant admissions (e.g., employment-based or family-based immigrants) and temporary nonimmigrant admissions (e.g., guest workers, foreign students). The Immigration and Nationality Act (INA) contains the provisions detailing the requirements for admission (permanent and temporary) of foreign nationals and the eligibility rules for foreign nationals to become U.S. citizens.

- In FY2013, about 991,000 aliens became U.S. legal permanent residents (LPRs). Of this total, 65% entered on the basis of family ties.
- The pool of people potentially eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by the INA.
- Most of the 4.6 million approved petitions pending at the close of FY2015 were for family members of U.S. citizens.
- After falling from 7.6 million in FY2001 to 5.0 million in FY2004, temporary visa issuances reached 9.9 million in FY2014.
- Generally, all of the temporary employment-based visa categories have increased since FY1994. Although there was a dip during the recent recession, the number of employment-based temporary visas increased each year between FY2010 and FY2014.

Immigration control encompasses an array of enforcement tools, policies, and practices to secure the border and to prevent and investigate violations of immigration laws. The INA specifies the grounds for exclusion and removal of foreign nationals as well as the documentary and entry-exit controls for U.S. citizens and foreign nationals.

- U.S. State Department denials of petitions for LPR visas have increased in recent years, and prior removals from the United States or past illegal presence in the United States has become the leading ground of inadmissibility.
- U.S. Border Patrol apprehensions of foreign nationals between ports of entry fell to a 40-year low of 327,577 in FY2011 and were 337,117 in FY2015.
- The number of employers enrolled in the E-Verify employment eligibility verification system grew from 5,900 at the close of FY2005 to 617,000 by the end of FY2015. These data indicate that approximately 10% of U.S. employers were participating in E-Verify by the close of FY2015.
- A total of $16.3 million in administrative fines was imposed on employers who engaged in unlawful employment in FY2014—a figure that exceeds the level of total fines imposed over the entire period from FY1999 through FY2009.
- Formal removals grew from 30,039 in 1990 to 462,463 in FY2015.
- Immigration and Customs Enforcement (ICE) typically identifies many more potentially removable aliens than are ultimately placed in removal proceedings.
- The number of criminal aliens removed from the United States increased from 73,298 in FY2001 to 198,394 in FY2013.

The three main components of the unauthorized resident alien population are (1) aliens who enter the country surreptitiously without inspection, (2) aliens who overstay their nonimmigrant visas, and (3) aliens who are admitted on the basis of fraudulent documents.

- Estimates indicate that the unauthorized resident alien population rose from 8.5 million in 2000 to 12.2 million in 2007, before leveling off at 11.3 million in 2014.
- The latest available estimates indicate that 42% of the 11.4 million unauthorized resident aliens in 2012 had entered from 2000 to 2010.
- Apprehensions of unaccompanied alien children, mainly at the Mexico-U.S. border, increased from about 8,000 in FY2008 to 68,000 in FY2014 before declining to 40,000 in FY2015. In the first four months of FY2016, such apprehensions reached about 20,000. Most of this recent increase has come from El Salvador, Guatemala, and Honduras.

For those who seek more complete analyses of the issues, this report cites Congressional Research Service (CRS) products that discuss the policies underlying the data presented in each of the figures.

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Introduction

This report is a chart book of selected immigration trends. Key immigration issues that Congress has considered in recent years include increased border security and immigration enforcement, expanded employment eligibility verification, reforms to the system for legal temporary and permanent immigration, and options to address the millions of unauthorized aliens residing in the country.

The report offers snapshots of time series data, *using the most complete and consistent time series currently available for each statistic*. The key findings and elements germane to the data depicted are summarized with the figures. Some of the time series span decades, while others capture only a few years. For those who seek more complete analyses of the issues, the report cites Congressional Research Service (CRS) products that discuss the policies underlying the data presented in each figure.

Much of the data come from administrative sources, typically the Department of Homeland Security (DHS) and the Department of State (DOS). For historical context, demographic data from the U.S. Census Bureau are also included.

The Immigration and Nationality Act (INA), which was first codified in 1952, contains the provisions detailing the requirements for admission (permanent and temporary) of foreign nationals, grounds for exclusion and removal of foreign nationals, document and entry-exit controls for U.S. citizens and foreign nationals, and eligibility rules for the naturalization of foreign nationals. Congress has significantly amended the INA several times since 1952, most notably by the Immigration Amendments of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act (IRCA) of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.[1]

Legal immigration encompasses permanent admissions (e.g., employment-based or family-based legal permanent residents (LPRs))[2] and temporary admissions (e.g., guest workers, foreign students). This chart book presents historical time series data on permanent admissions as well as a breakdown of legal permanent residents by broad classes of admission. Trends in temporary admissions, including legal employment-based temporary migrants, are also depicted.

Immigration control encompasses an array of enforcement tools, policies, and practices to secure the border and to prevent and investigate violations of immigration laws. Among the statistical trends tracking immigration control presented are inadmissibility determinations, border apprehensions, worksite enforcement prosecutions, and alien removal. The final section of this chart book looks at recent trends in the unauthorized resident alien population and unaccompanied alien children.

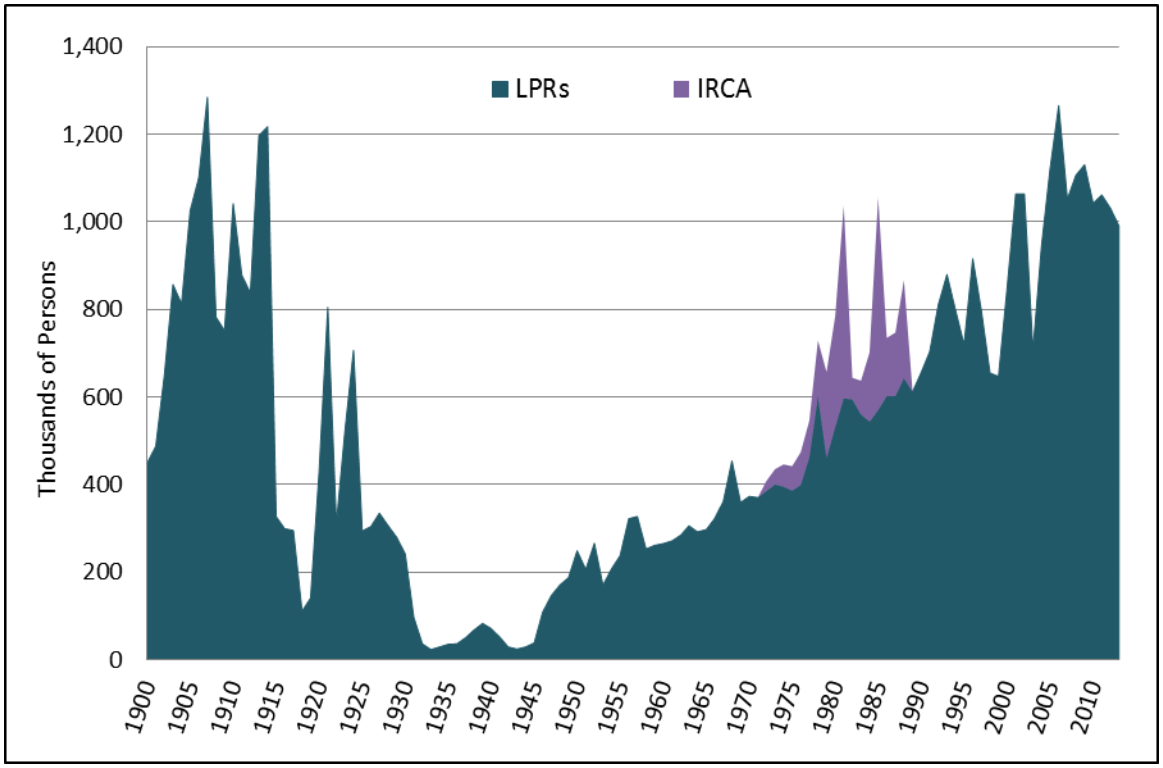
[1] Since 2000, other major laws that amended the INA include the USA PATRIOT Act (P.L. 107-56), the Enhanced Border Security and Visa Reform Act of 2002 (P.L. 107-173), Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), and the REAL ID Act of 2005 (P.L. 109-13, Division B). None of these laws attempted a comprehensive reform of the INA.

[2] A lawful permanent resident is a foreign national who has been legally admitted to reside permanently in the United States.

Historical Immigration Trends

Figure 1. Annual LPR Admissions and Status Adjustments

(FY1900-FY2013)



Source: *Yearbook of Immigration Statistics*, DHS Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through IRCA are depicted by year of arrival rather than year of adjustment.

Notes: IRCA refers to the Immigration Reform and Control Act of 1986.

Immigration to the United States was peaking at the beginning of the 20th century. In 1910, foreign-born residents made up 14.8% of the U.S. population. Immigration dropped as a result of the numerical limits and national origins quotas imposed by the Immigration Acts in 1921 and 1924. Levels fell further during the Great Depression and World War II. The annual number of settled immigrants, typically referred to as LPRs, rose gradually after World War II (**Figure 1**). In 1952, the INA was codified and, as amended, remains the governing statute.

The growth in immigration after 1980 is partly attributable to the total number of LPRs entering through the preference system as well as immediate relatives of U.S. citizens. The Immigration Reform and Control Act (IRCA) of 1986 enabled 2.1 million unauthorized aliens residing in the United States as of 1982 to become LPRs. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980. The Refugee Act established permanent provisions for refugees and asylees to become LPRs.

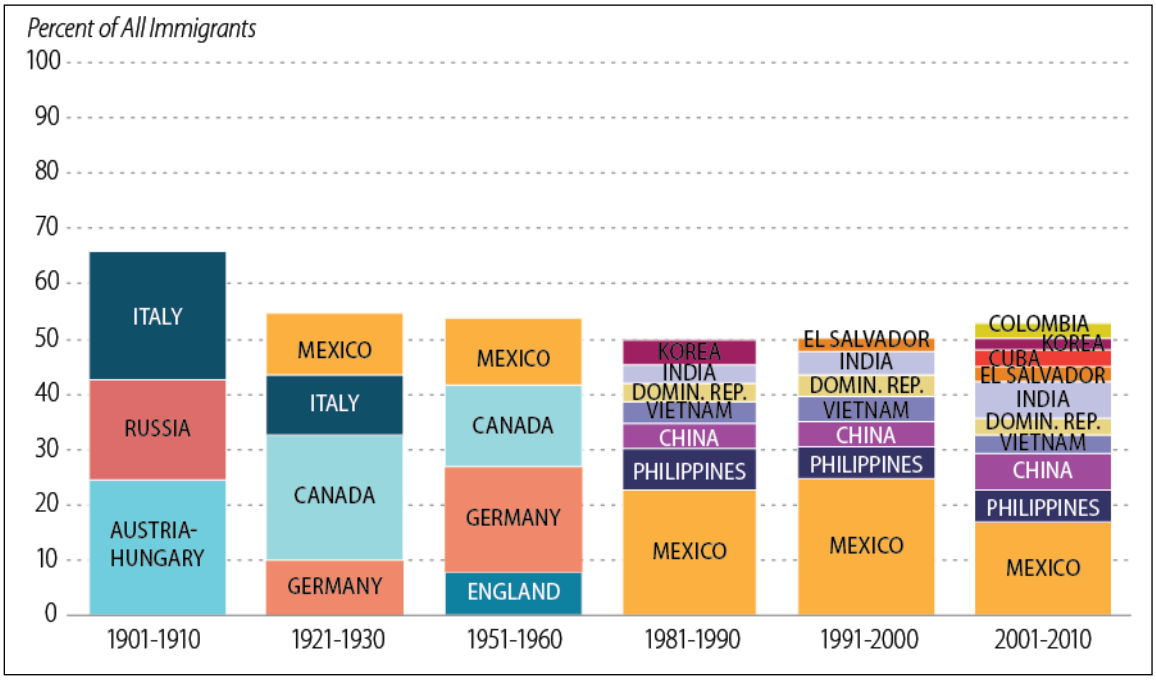
The Immigration Act of 1990 was the last significant revision of legal permanent immigration. It set a statutory worldwide level of 675,000 LPRs annually, but certain categories of LPRs, most notably immediate relatives of U.S. citizens and refugees, are permitted to exceed the limits. The INA further holds countries to an annual numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits or country caps. Immigration to the United

States today has reached levels comparable to the early years of the 20th century. In FY2013, 990,553 aliens became LPRs through admissions (459,751) or status adjustments (530,802).

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

Figure 2. Top Sending Countries Comprising at Least Half of All LPRs

(Selected decades, 1901-2010)



Source: CRS analysis of Table 2, *2010 Yearbook of Immigration Statistics*, DHS Office of Immigration Statistics.

In any given period of U.S. history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 2** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades. The Immigration Act of May 19, 1921, imposed the first numerical limits on LPR admissions to the United States, and it set the level of admission of aliens from specific countries to 3% of the foreign-born persons of that nationality who lived in the United States in 1910. A few years later, the Immigration Act of May 26, 1924, established the national origins system, which set quotas based on the number of foreign-born persons of that nationality in the country in 1890 and 1920. Both laws exempted Western Hemisphere countries from the limits. The Immigration Amendments of 1965 replaced the national origins quota system with per-country ceilings.

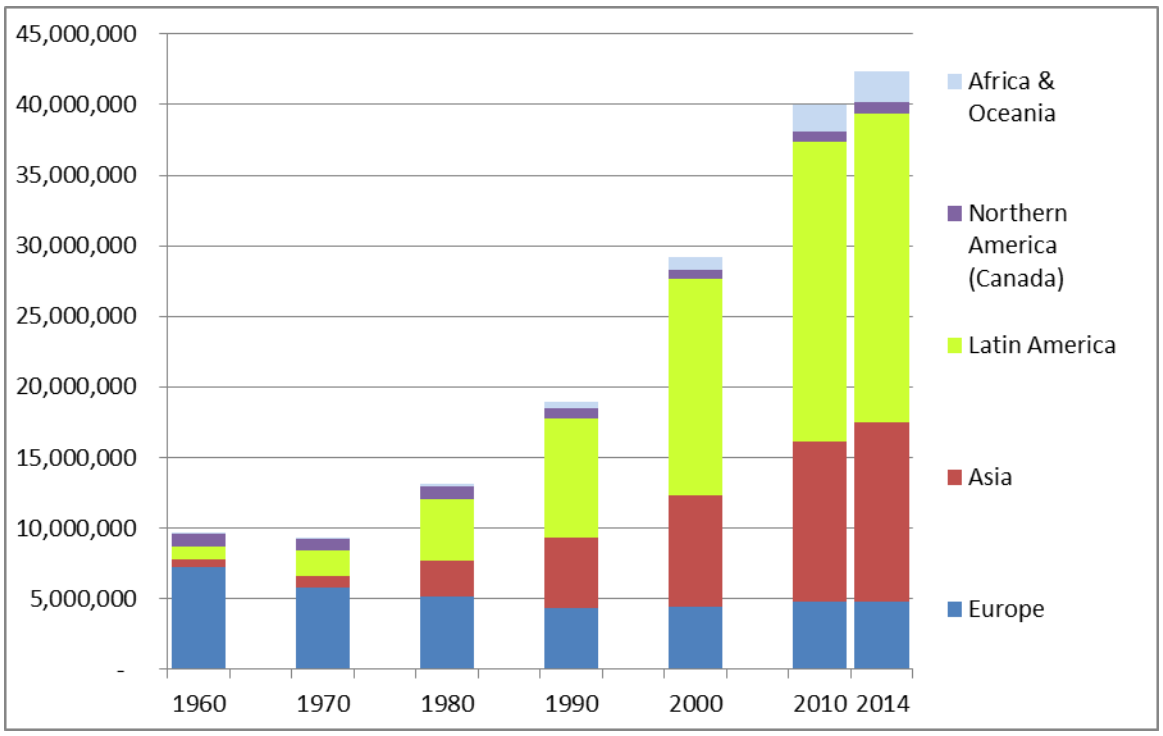
Figure 2 illustrates that immigration over the last few decades of the 20th century was not as dominated by three or four countries as it was earlier in the century. Although Europe was home to the countries sending the most immigrants during the early 20th century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20th century—largely after 1970—and into the 21st century. Other top sending countries from FY2001 through FY2010 were the Dominican Republic, El Salvador, Colombia, and Cuba (Western Hemisphere); and the Philippines, India, China, South Korea, and Vietnam (Asia).

These data suggest that the per-country ceilings established in 1965 had some effect. As **Figure 2** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20th century, immigrants from seven to eight countries comprised about half of all LPRs, and this pattern has continued into the 21st century.

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

Figure 3. Foreign-Born Residents by Region of Origin

(1960-2014)



Source: U.S. Census Bureau data: decennial census 1960, 1970, 1980, 1990, and 2000, and the American Community Survey for 2010.

Notes: Figure 3 shows data from each year of the decennial census of the United States since 1960. As such, 2010 is shown as the most recent year in the figure in order to present equally spaced time intervals. The most recent estimate currently available for the total foreign born population from the Census Bureau's American Community Survey is 42.4 million people representing 13.3% of the total U.S. population, as of 2014.

The total number of foreign-born residents in the United States is at the highest level in U.S. history. In the past 50 years, the number of foreign-born residents of the United States has gone from just under 10 million in 1960 to 42 million in 2014 (**Figure 3**), a 338% increase. The foreign born represented 13.3% of the U.S. population in 2014, approaching a level not seen since the proportion of foreign-born residents reached 14.8% in 1910. As part of this increase, the source regions of foreign-born residents have shifted from Europe (75% in 1960) to Latin America and Asia (82% in 2014).

Between 2000 and 2014, the foreign born contributed 30% of the total U.S. population increase. Foreign-born residents comprised most of the increase in the prime 25-54 working age population over this decade. Almost one-third of current foreign-born residents arrived in the United States since 2000, as discussed in the CRS report cited below.

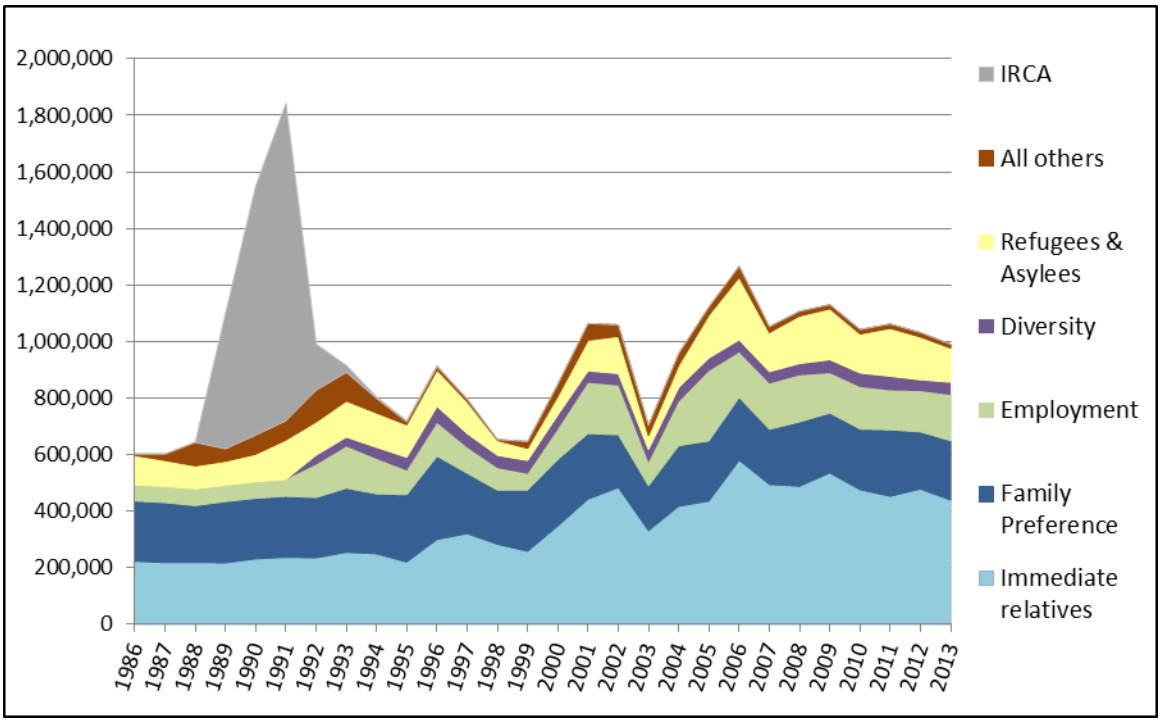
The DHS Office of Immigration Statistics (OIS) has estimated that as of January 1, 2013, about 13.1 million foreign-born residents (32% of all foreign born in 2013) were LPRs. OIS has also estimated that as of January 1, 2012, about 1.9 million foreign-residents (5% of all foreign born in 2012) were legally present on long-term temporary visas and about 11.4 million (28% of all foreign born in 2012) were aliens residing in the United States without legal authorization. DHS estimates for these populations in more recent years are not yet available.

For further background and analysis, see CRS Report R41592, *The U.S. Foreign-Born Population: Trends and Selected Characteristics*.

Legal Permanent Immigration

Figure 4. Legal Permanent Residents Admitted/Adjusted by Category

(FY1986-FY2013)



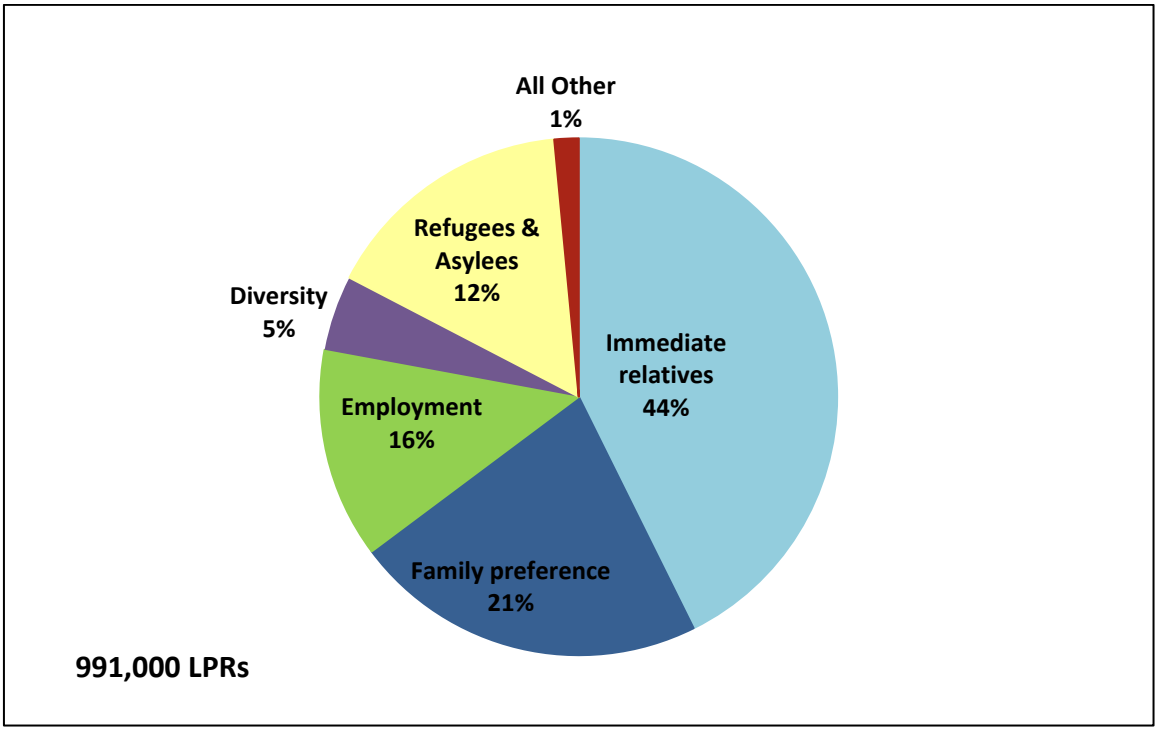
Source: DHS Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2013*. Aliens legalizing through the IRCA are depicted by year of adjustment.

The INA specifies a complex set of numerical limits and preference categories that give priorities for permanent immigration based on family relationships, employment connections, protection of refugees, and diversity of admissions by country of origin. Apart from aliens legalized by IRCA, the largest growth since 1986 has been in the immediate relatives of U.S. citizens, almost doubling from 223,468 in FY1986 to 439,460 in FY2013, as presented in **Figure 4**.

Statutory changes from the Immigration Amendments Act of 1990 increased the number of employment-based immigrants from 56,617 to 161,110 over the same period. About 87% of the employment-based LPRs adjusted from a temporary status. The employment-based numbers include the accompanying spouses and children of the qualifying LPR.

Figure 5. Legal Permanent Residents Admitted/Adjusted by Category

(FY2013)



Source: DHS Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2013*.

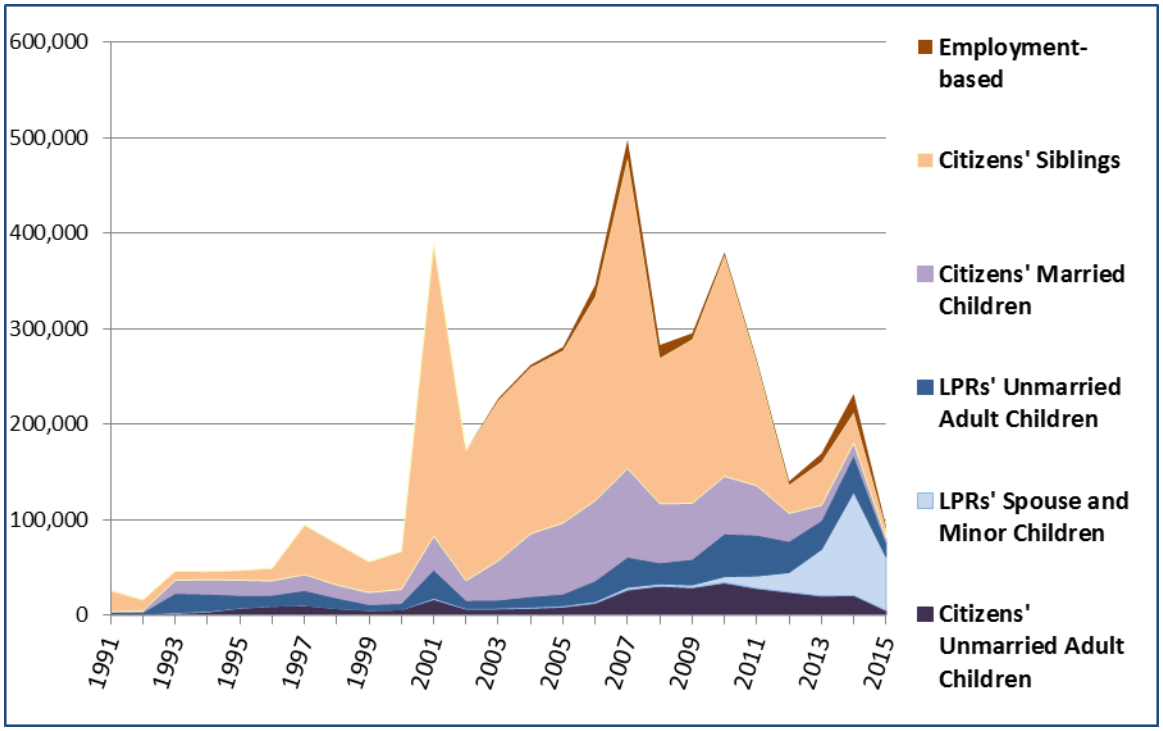
In FY2013, about 991,000 aliens became LPRs (**Figure 5**). Of this total, 65% entered on the basis of family ties. Other major categories were employment-based LPRs (16%), diversity immigrants[3] (5%), and refugees and asylees (12%).

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

[3] Diversity immigrants are selected through the diversity immigrant visa lottery which was established in 1990 to encourage legal immigration from countries other than the major sending countries of current immigrants to the United States. For further background and analysis, see CRS Report R41747, *Diversity Immigrant Visa Lottery Issues*.

Figure 6. Approved LPR Visa Petitions Pending by Year of Submission and by Preference Category

(As of November 1, 2015)



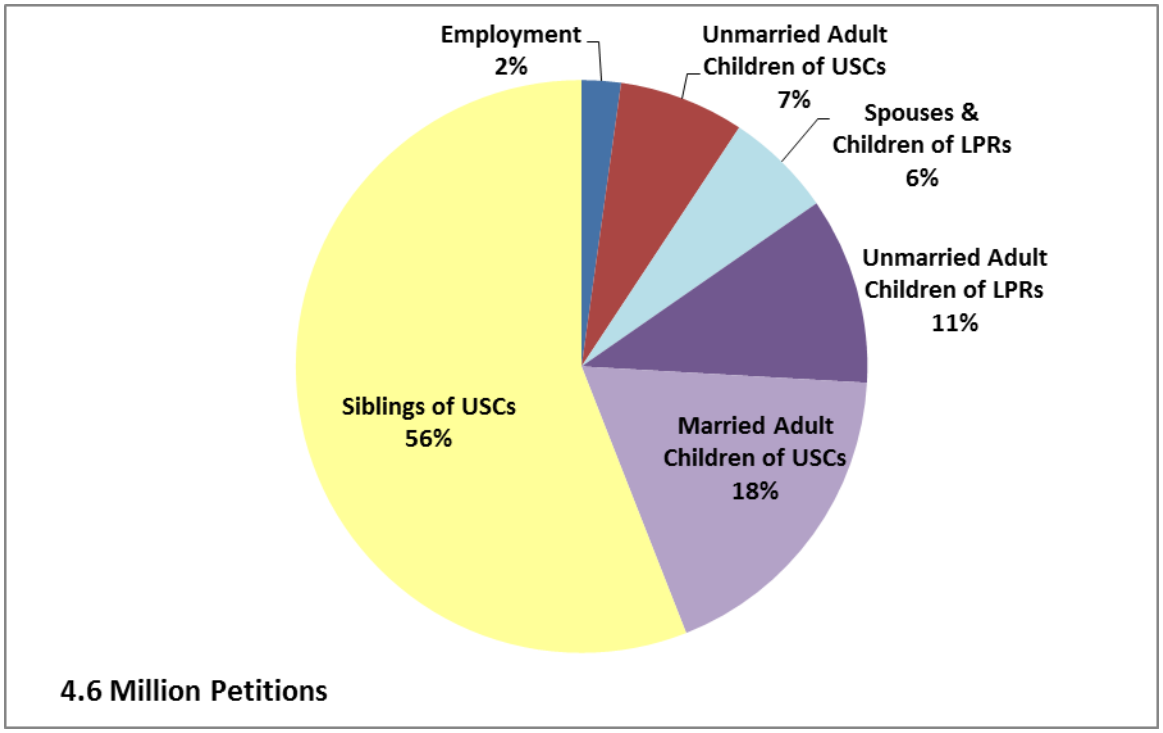
Source: Worldwide Active Immigrant Visa Applicants Registered at the National Visa Center as of Nov. 1, 2015, data provided to CRS by DOS Bureau of Consular Affairs.

The pool of people who are potentially eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by the INA. **Figure 6** presents a snapshot of this pool on November 1, 2015. Over 1.8 million (41%) of the 4.6 million approved visa petitions pending at the end of FY2015 had been submitted and approved at least 10 years earlier. These data do not constitute a processing backlog; rather, these data represent persons who have been approved for visas that are not yet available due to the numerical limits in the INA.

Some immigration officials and practitioners have maintained that many petitions filed after FY2007 had not yet appeared in the approved pending caseload at the close of FY2015. The decline in approved pending cases after FY2007 was likely due to petitioners who had not advanced in the pipeline because their visa priority dates were well into the future, rather than a drop in petitioners. The most recent FY2015 data suggest that the pending caseload has advanced in the processing queue, as evidenced by the uptick of petitions submitted from 2009.

Figure 7. Approved LPR Visa Petitions Pending by Preference Category

(As of November 1, 2015)



Source: *Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2015*, DOS, Bureau of Consular Affairs.

Notes: USC refers to U.S. citizen.

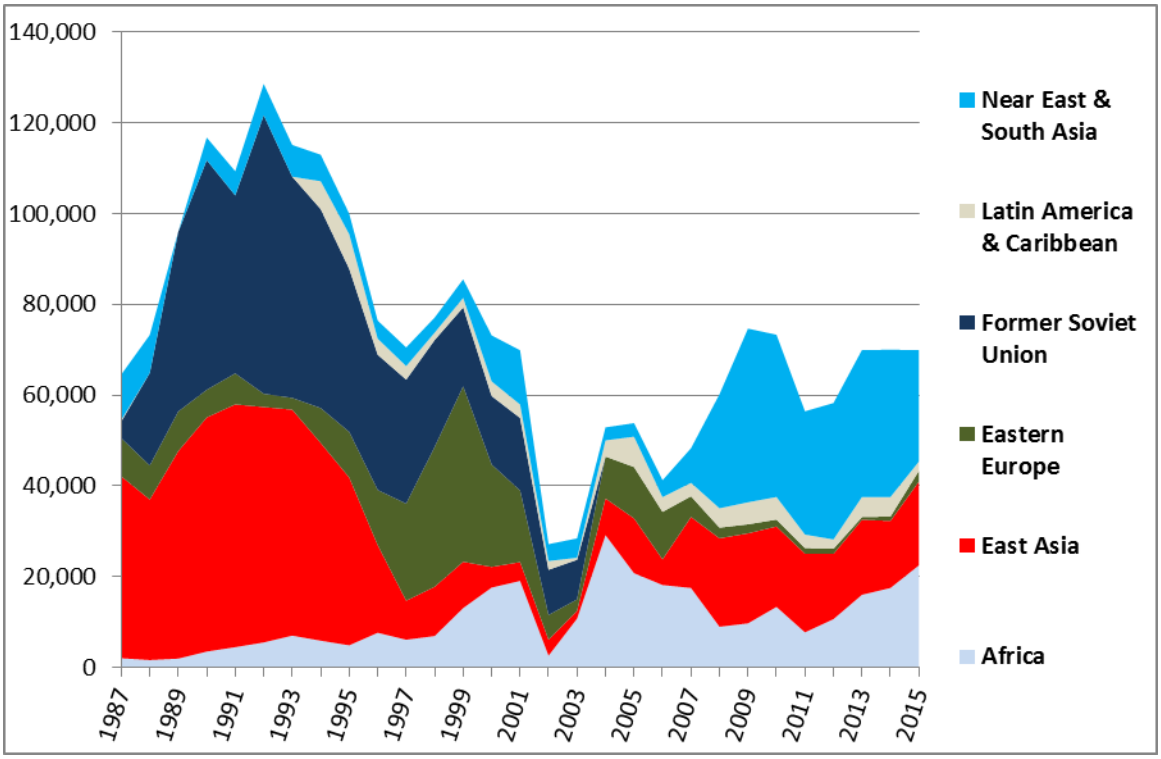
Over half (56%) of the 4.6 million approved LPR visa petitions pending at the close of FY2015 were brothers and sisters of U.S. citizens (**Figure 7**). Adult children of U.S. citizens with approved LPR visas pending totaled 25% (7% unmarried and 18% married). Family members of LPRs totaled 17% of the approved visa petitions pending. The employment preferences accounted for only 2% (100,747) of all LPR visas pending.

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*; and CRS Report R42048, *Numerical Limits on Employment-Based Immigration: Analysis of the Per-Country Ceilings*.

Refugee Admissions

Figure 8. Refugee Admissions by Region

(FY1987-FY2015)



Source: U.S. Department of State, Bureau of Population, Refugees and Migration.

Notes: Data for FY1987-FY2000 are as of June 30, 2002. Data for FY2001-FY2013 are as of January 31, 2014. Data for FY2014-FY2015 are as of December 31, 2015. Beginning in FY2004, the categories of Eastern Europe and the Former Soviet Union were combined into Europe and Central Asia.

A refugee is a person fleeing his or her country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Typically, the annual number of refugees that can be admitted into the United States (the refugee ceiling) and its allocation by region are set by the President after consultation with Congress at the start of each fiscal year.

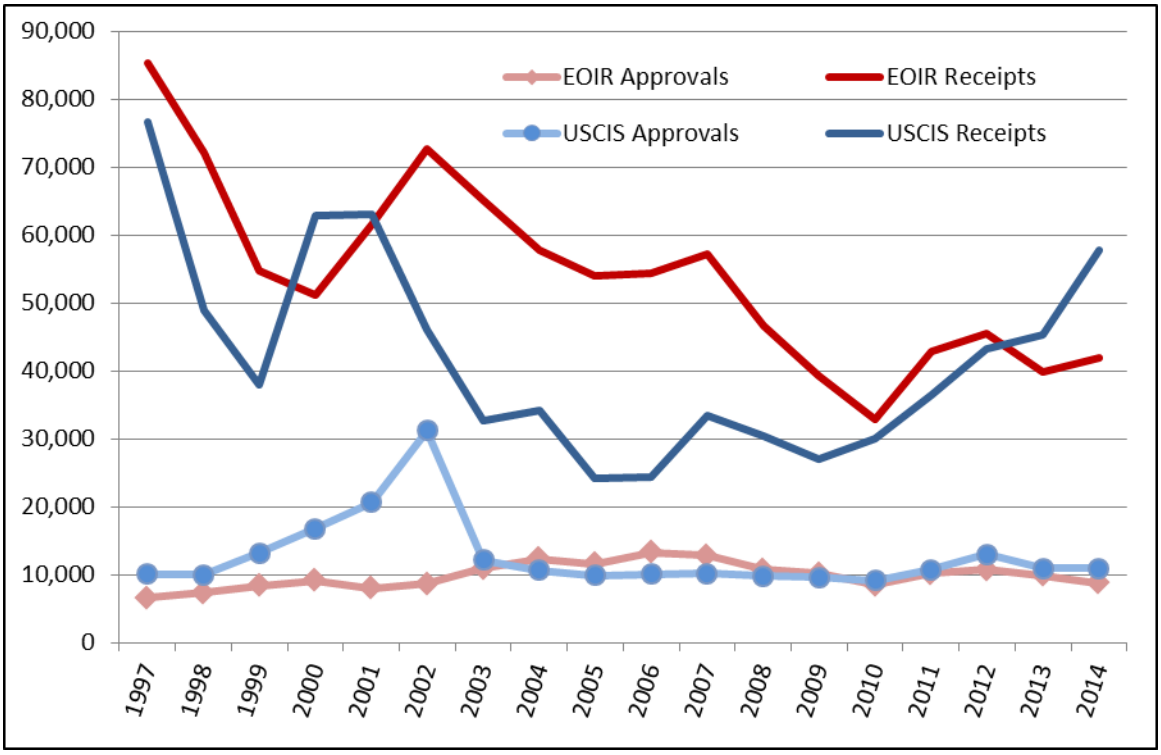
Figure 8 illustrates both the large number of refugees admitted following the dissolution of the former Soviet Union during the late 1980s and the temporary suspension of the program following the terrorist attacks of September 11, 2001.

For further background and analysis, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, and CRS Report R44277, *Syrian Refugee Admissions and Resettlement in the United States: In Brief*.

Asylum

Figure 9. Asylum Requests and Approvals

(FY1996-FY2014)



Source: CRS presentation of unpublished data from USCIS Refugees, Asylum and Parole System and of data from the EOIR Office of Planning, Analysis and Technology.

Notes: EOIR defensive cases include unapproved asylum cases that USCIS has referred to them as well as the credible fear claims made during expedited removal, so these data are not additive.

Foreign nationals in the United States may apply for asylum with DHS's U.S. Citizenship and Immigration Services (USCIS) after arrival ("affirmative" requests) or with the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) during removal proceedings ("defensive" requests). Aliens apprehended along the border or arriving at a U.S. port who lack proper immigration documents or who engage in fraud or misrepresentation are placed in expedited removal.[4] However, if they express a fear of persecution, they receive a "credible fear" hearing with an USCIS asylum officer and—if found credible—are referred to an EOIR immigration judge for a hearing.

Requests for asylum – both USCIS affirmative and EOIR defensive – have dropped since the mid-1990s (**Figure 9**). Requests increased in the early 2000s, but then decreased again until 2009. There has been a modest increase in both USCIS affirmative and EOIR defensive since 2010. The USCIS requests in FY2014 approached the levels of the early 2000s, but the EOIR numbers have not yet reached the levels of the early 2000s. *EOIR defensive cases include unapproved asylum cases that USCIS has referred to them as well as the credible fear claims made during expedited removal, so these data are not additive.*

[4] CRS Report RL33109, *Immigration Policy on Expedited Removal of Aliens*.

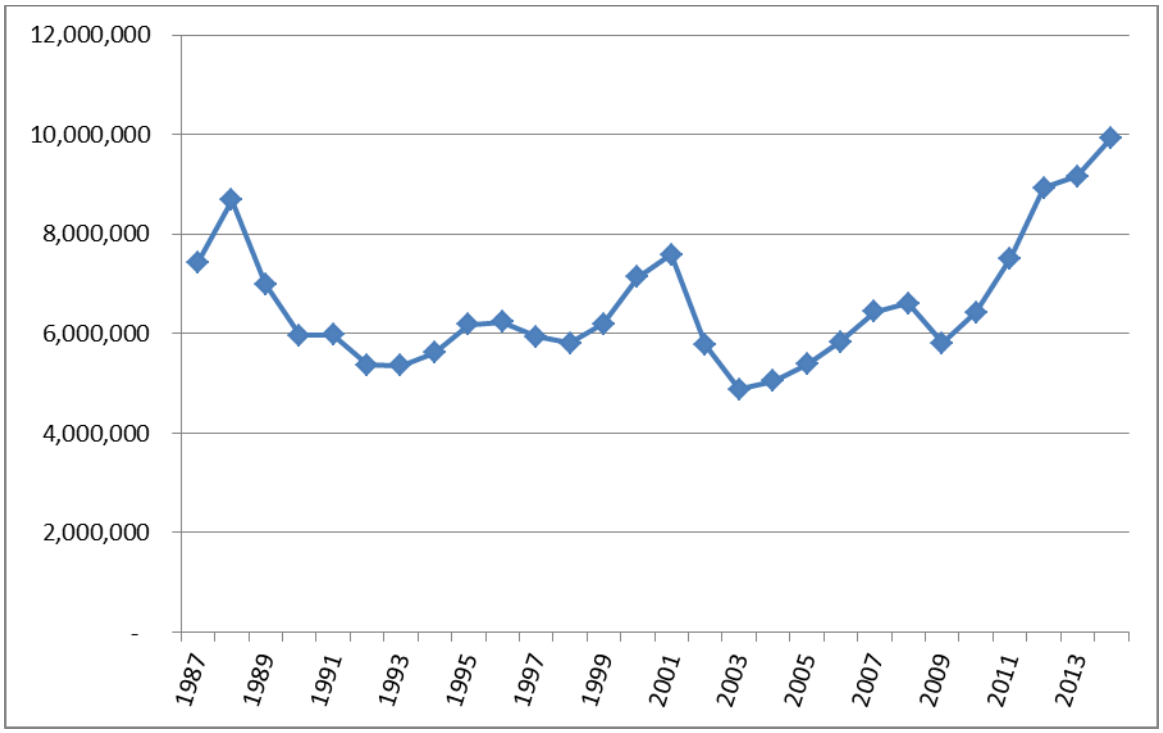
To be eligible for asylum, aliens seeking asylum must demonstrate a well-founded fear that if returned home, they will be persecuted based upon one of five characteristics: race, religion, nationality, membership in a particular social group, or political opinion. As **Figure 9** also presents, the number of asylum cases approved has remained rather steady since FY1997, with the notable exception of an increase of USCIS affirmative approvals in FY2001 and FY2002. In those years, the number of affirmative cases approved exceeded 20,000 and reached 20,651 in FY2000 and 31,202 in FY2001. Otherwise, the number of affirmative cases approved by USCIS is comparable in size to the number of defensive cases approved by EOIR.

For further background and analysis, see CRS Report R41753, *Asylum and "Credible Fear" Issues in U.S. Immigration Policy*.

Legal Temporary Migration

Figure 10. Nonimmigrant Visas Issued by U.S. Department of State

(FY1987-FY2014)



Source: CRS presentation of data from annual reports of the DOS Office of Visa Statistics.

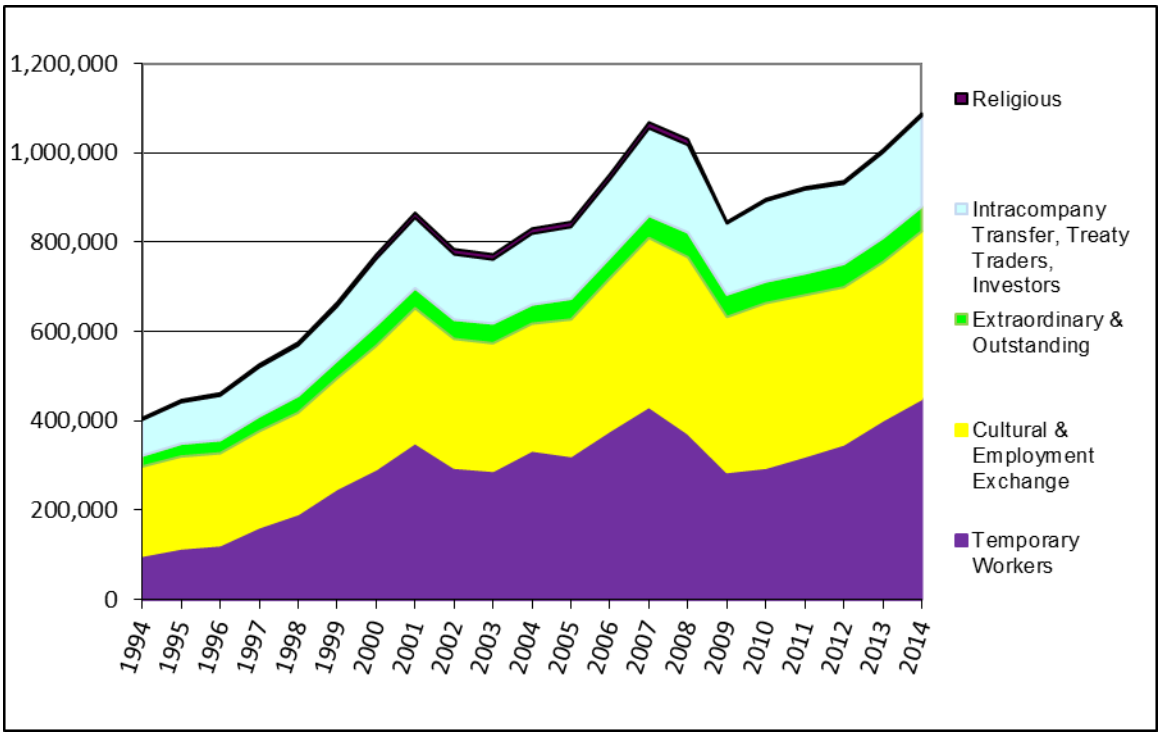
The INA provides for the temporary admission of various categories of foreign nationals, known as nonimmigrants. Nonimmigrants are admitted for a temporary period of time and a specific purpose, including as tourists, students, and temporary workers. There are 24 major nonimmigrant visa categories, and over 70 specific types of nonimmigrant visas are issued currently. Most of these nonimmigrant visa categories are defined in Section 101(a)(15) of the INA. These visa categories are commonly referred to by the letter and numeral that denotes their subsection in Section 101(a)(15); for example, B-2 tourists, E-2 treaty investors, F-1 foreign students, H-1B temporary professional workers, and J-1 cultural exchange participants. Many nonimmigrant visas are valid for multiple entries as well as multiple years.

The U.S. Department of State (DOS) consular officer who issues the visa must be satisfied that the foreign national is entitled to a nonimmigrant status. Notably, INA Section 214(b) generally presumes that all aliens seeking admission to the United States are coming to live permanently; as a result, most aliens seeking to qualify for a nonimmigrant visa must demonstrate that they are not coming to reside permanently. Nonimmigrant visas issued abroad had dipped to 5.0 million in FY2004 after peaking at 7.6 million in FY2001, as **Figure 10** shows. Nonimmigrant visa issuances reached 9.9 million in FY2014. Expansion of the visa waiver program (VWP), which allows nationals from 38 countries to enter the United States as temporary visitors for business or pleasure without obtaining a visa from a U.S. consulate abroad, has affected these trends.

For further background and analysis, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*; and CRS Report RL32221, *Visa Waiver Program*.

Figure 11. Temporary Employment-Based Visas Issued

(FY1994-FY2014)



Source: CRS presentation of data from annual reports of the DOS Office of Visa Statistics.

The major nonimmigrant category for temporary workers is the H visa. Professional workers typically use the H-1 visa, which includes professional specialty workers (H-1B) and nurses (H-1C). There are two visa categories for temporary seasonal workers (i.e., guest workers): agricultural guest workers (H-2A) and other seasonal/intermittent workers (H-2B). Unskilled workers are eligible for H-2A and H-2B visas.

Intracompany transferees who are executive, managerial, and have specialized knowledge, and who are employed with an international firm or corporation are admitted on the L visas. Aliens who are treaty traders enter on E-1 visas, whereas those who are treaty investors use E-2 visas. Those with J and Q cultural exchange visas include professors and research scholars, students, foreign medical graduates, teachers, resort workers, camp counselors, and au pairs who are participating in an approved exchange visitor program. Persons with extraordinary ability in the

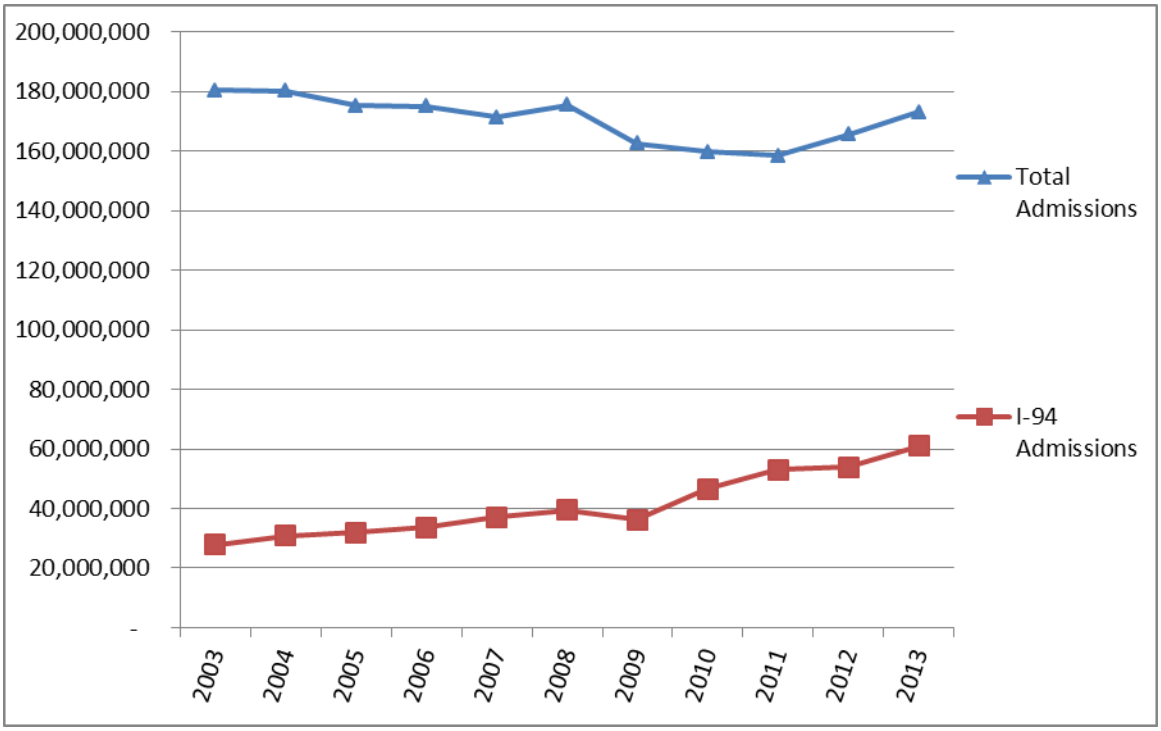
sciences, arts, education, business, or athletics are admitted on O visas, whereas internationally recognized athletes or members of an internationally recognized entertainment group come on P visas. Aliens working in religious vocations enter on R visas.

Generally speaking, all of the temporary employment-based visa categories have increased since FY1994, as **Figure 11** illustrates. Only the religious workers on R visas did not exhibit substantial growth. Visas issued to employment-based nonimmigrants surpassed 1 million in FY2007 and again in FY2008, after dropping when the "high-tech bubble" burst in the early 2000s. Although there was another dip during the recent recession, the temporary employment-based visas have increased each year since FY2010.

For further background and analysis, see CRS Report R43735, *Temporary Professional, Managerial, and Skilled Foreign Workers: Policy and Trends*; and CRS Report R42434, *Immigration of Temporary Lower-Skilled Workers: Current Policy and Related Issues*.

Figure 12. Nonimmigrant Admissions at U.S. Ports of Entry

(FY2003-FY2013)



Source: DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2013*, Table 25.

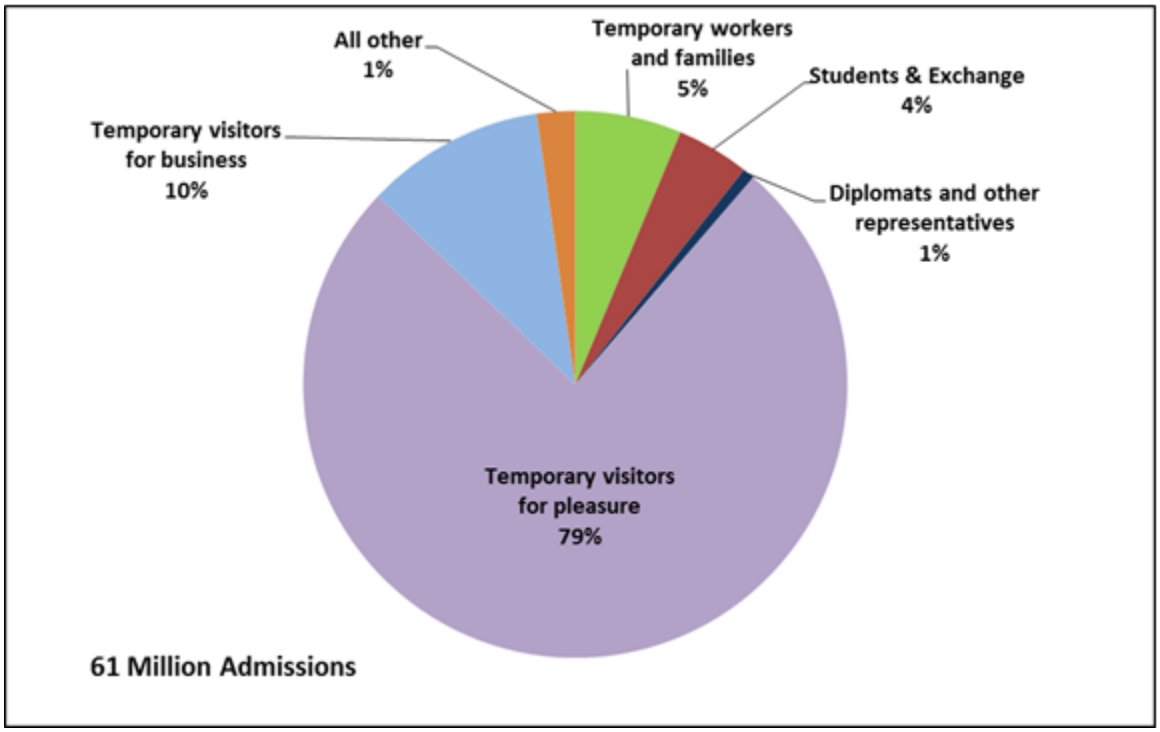
In addition to DOS consular officers interviewing aliens applying for visas, DHS Customs and Border Protection (CBP) inspects foreign nationals when they seek to enter the United States. CBP policy typically requires about one-quarter of nonimmigrants entering the United States to fill out the arrival records, which are colloquially called I-94 admissions because I-94 is the immigration form number. For example, Mexican nationals with border crossing cards and Canadian nationals traveling for business or tourist purposes are specifically excluded from the I-94 admission totals. I-94 data presented in **Figure 12** recorded admissions (for which one person can have several) rather than persons.

I-94 admissions have generally inched upwards from FY2003 to FY2013, largely due to CBP's expanded use of I-94 forms at land ports in FY2005. The total nonimmigrant admissions recorded

by CBP have declined somewhat over this same period. In FY2013, the 18.3 million visitors entering under the VWP constituted about 40% of all temporary visitors.

Figure 13. Nonimmigrant I-94 Admissions by Class of Admission

(FY2013)



Source: DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2013*, Table 25.

Visitors dominated the 61.0 million I-94 admissions in FY2013, as presented in **Figure 13**. Almost four-fifths of all I-94 admissions were tourists in FY2013 and another 10% were business visitors. The other substantial categories were students and exchange visitors (4%) and temporary workers and families (5%).

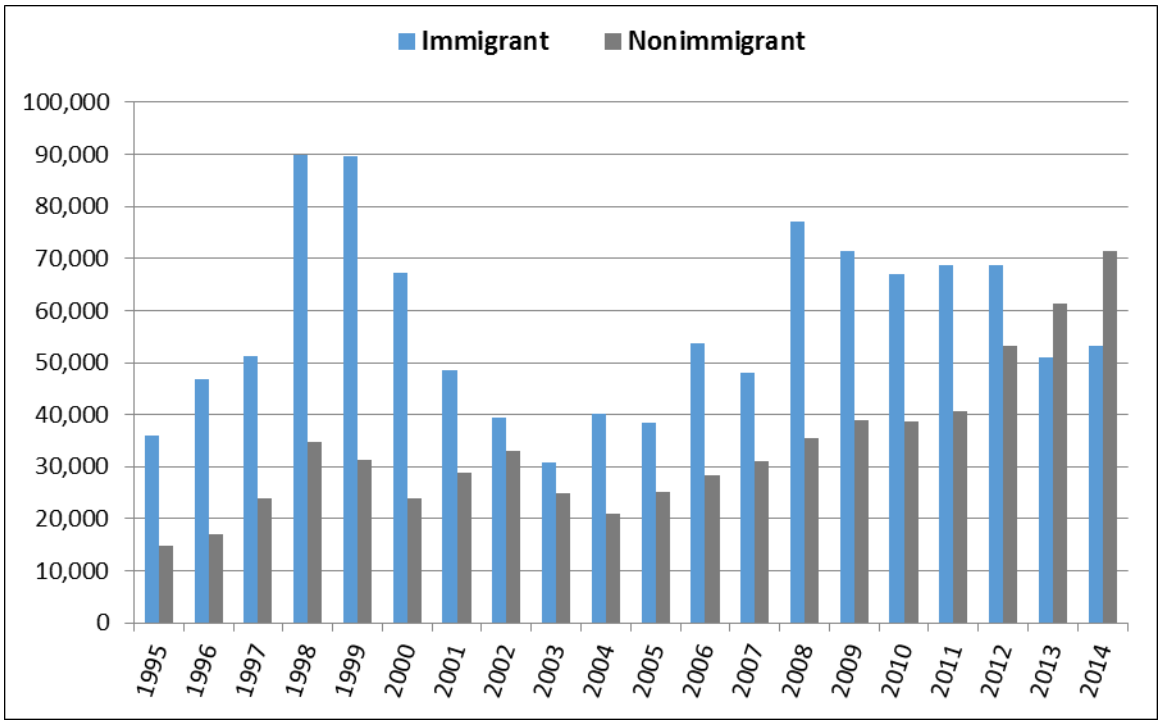
For further background and analysis, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*; and CRS Report RL32221, *Visa Waiver Program*.

Inadmissibility

Foreign nationals not already legally residing in the United States who wish to come to the United States generally must obtain a visa to be admitted. The burden of proof is on the foreign national to establish eligibility for a visa. Most importantly, foreign nationals must not be deemed inadmissible according to the specified grounds in INA Section 212(a). These Section 212(a) inadmissibility criteria are health-related grounds, criminal history, security and terrorist concerns, public charge (e.g., indigence), seeking to work without proper labor certification, illegal entrants and immigration law violations, ineligible for citizenship, and aliens illegally present or previously removed.

Figure 14. Aliens Denied Visas Under §212(a) Inadmissibility

(FY1994-FY2014)



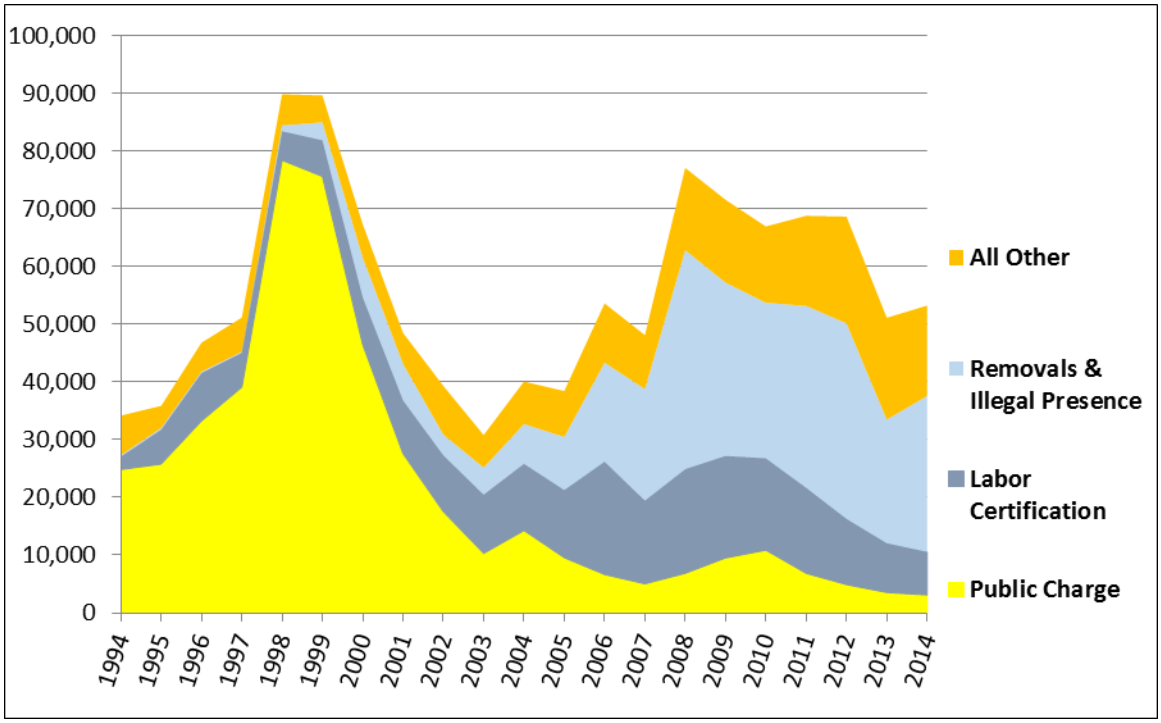
Source: CRS presentation of initial determination data from Table 20 of annual reports of the DOS Office of Visa Statistics.

As **Figure 14** shows, Section 212(a) denials for *nonimmigrant* visas have increased in the past decade, while such denials for *immigrant* visas have generally declined since 2008. FY2013 represented the first year where denials for nonimmigrant visas outnumbered those for immigrant visas.

Until FY2005, public charge[5] exclusions were the leading grounds of inadmissibility over the 21-year period for the trend analysis of inadmissibility for LPRs shown in **Figure 15**. More recently, prior removals/illegal presence has become the top single ground of inadmissibility, followed by labor certification. Increased Section 212(a) denials based on other immigration law violations are depicted at the right among "all other."

Figure 15. LPR Inadmissibility by Legal Grounds

(FY1994-FY2014)



Source: CRS presentation of initial determination data from Table 20 of annual reports of the DOS Office of Visa Statistics.

For further background and analysis, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*; and CRS Report R43589, *Immigration: Visa Security Policies*.

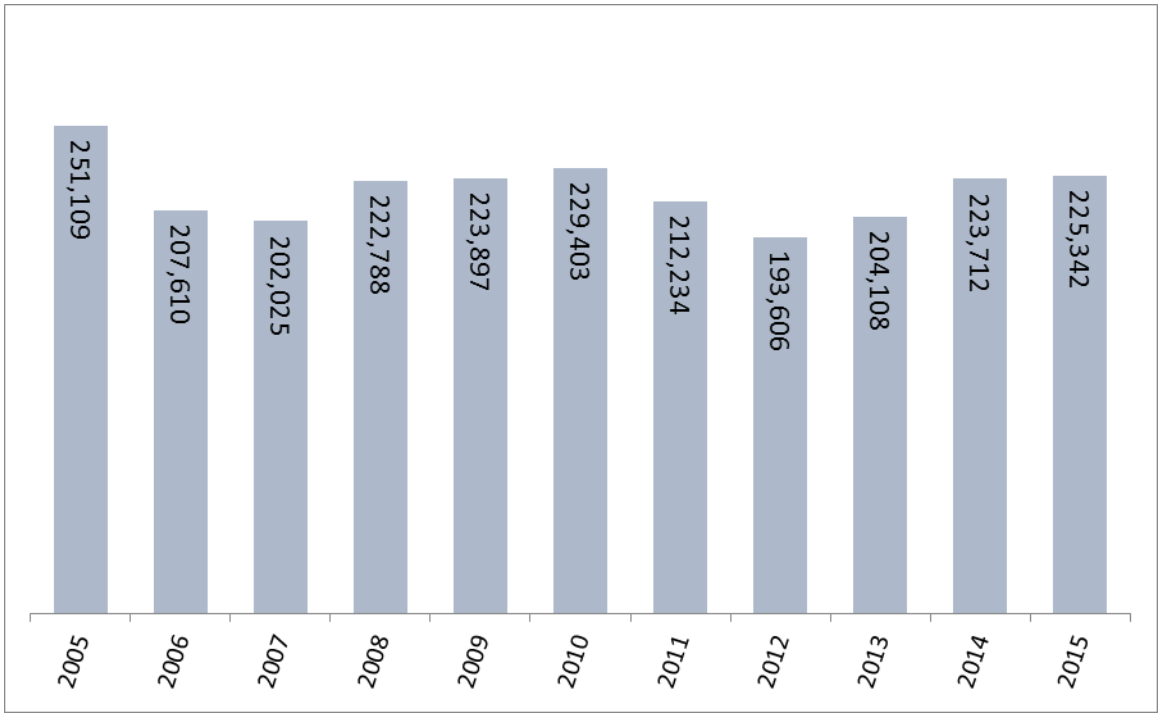
The INA requires the inspection of all aliens who seek entry into the United States; possession of a visa or another form of travel document does not guarantee admission into the United States. As a result, all persons seeking admission to the United States must demonstrate to a CBP inspector that they are a foreign national with a valid visa and/or passport or that they are a U.S. citizen. CBP officers can permit an alien to voluntarily withdraw their application for admission and return to their home country. CBP officers can also summarily exclude an alien arriving through the Visa Waiver Program and those arriving without proper documentation, unless the alien expresses the intention to apply for asylum or has a fear of persecution or torture. Immigration judges with the U.S. Department of Justice's Executive Office for Immigration Review (EOIR) decide all other inadmissibility cases resulting from inspections.

[5] The term "public charge" in immigration refers to a foreign national who becomes indigent or unable to support themselves. Applicants for immigrant status can overcome the public charge ground for exclusion based on their own funds, prearranged or prospective employment, or an affidavit of support from someone in the United States.

As **Figure 16** shows, the number of inadmissible aliens at ports of entry has not fluctuated greatly over the eleven-year period for which data are available. Reports published by the DHS Office of Immigration Statistics indicate that CBP recorded 225,342 foreign nationals arriving at a port of entry who were inadmissible in FY2015.

Figure 16. Inadmissible Aliens at Ports of Entry

(FY2005-FY2015)



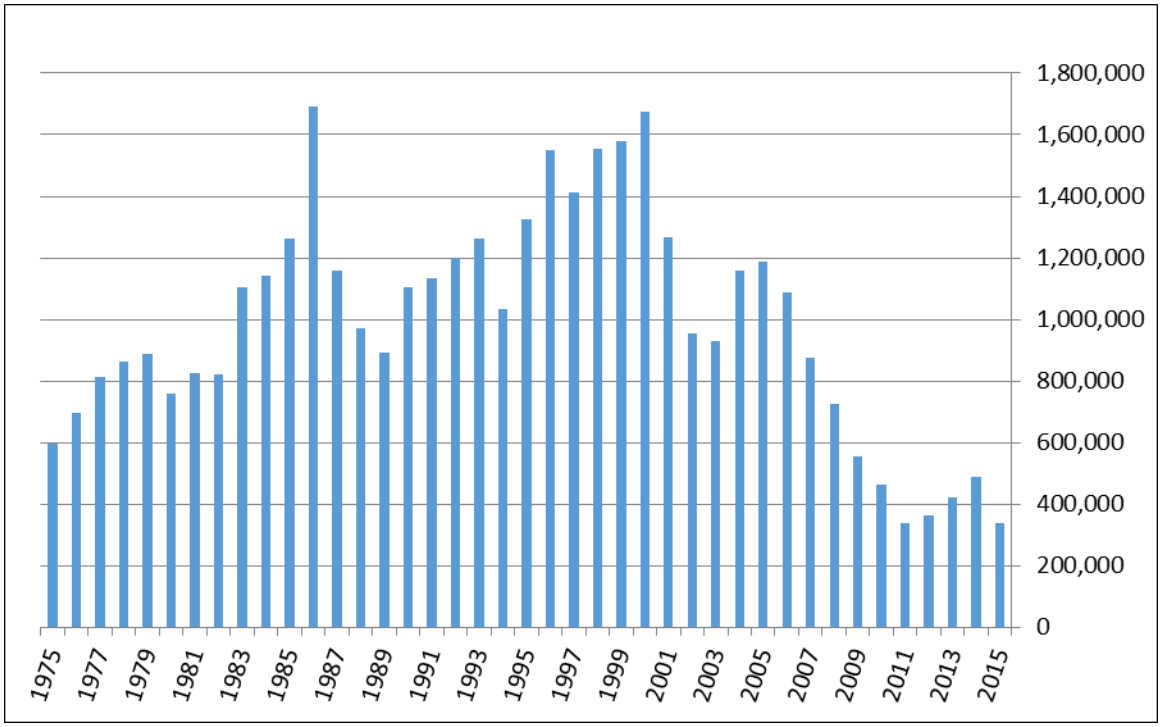
Source: *Fiscal years 2005-2013: Yearbook of Immigration Statistics: 2013*, Table 36, DHS Office of Immigration Statistics; Fiscal years 2014-2015: DHS Press Releases, accessed by CRS on March 10, 2016 at https://www.dhs.gov/news/2014/12/19/dhs-releases-end-year-statistics and https://www.ice.gov/news/releases/dhs-releases-end-fiscal-year-2015-statistics, respectively.

According to DHS, four countries accounted for almost two-thirds of all aliens whom CBP deemed inadmissible in FY2013, the most recent year for which country-of-origin data are available. Mexican nationals accounted for 28% of inadmissible aliens, followed by persons from Canada (14%), the Philippines (11%), and Cuba (9%).

For further background and analysis, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*.

Border Security

Figure 17. U.S. Border Patrol Apprehensions
(FY1975-FY2015)



Source: DHS, United States Border Patrol, *Total Illegal Alien Apprehensions By Month - FY 2000 to FY 2015*, accessed by CRS on March 6, 2016 at https://www.cbp.gov/newsroom/media-resources/stats.

Border Patrol apprehensions of foreign nationals between ports of entry fell to a 40-year low in FY2011 and then fluctuated more recently as **Figure 17** shows. Apprehensions had peaked at 1.7 million in 1986, the year Congress enacted IRCA. Since 1986, Congress has passed at least four laws authorizing increased Border Patrol personnel, and there has been a corresponding increase in appropriations. Border Patrol staffing has more than doubled over the past decade and increased more than nine-fold since 1998. As of September 30, 2015, the Border Patrol had 20,273 agents, up from a total of 2,268 Border Patrol agents in 1980.[6]

Annual Border Patrol apprehensions generally increased between FY1991 and FY2000, climbing from 1.13 million in FY1991 to 1.68 million in FY2000. Apprehensions have generally fallen since that time (with the exception of FY2004-FY2006), reaching a 40-year low of 327,577 in FY2011 before increasing to 479,377 in FY2014 and then declining again to 337,117 in FY2015.

Border patrol apprehensions data count events rather than people. Thus, an unauthorized migrant who is caught trying to enter the country three times in one year counts as three apprehensions. The percentage of apprehended aliens whom the Border Patrol makes subject to some form of high-consequence enforcement (i.e., criminal charges, formal removal, lateral repatriation, or

[6] Department of Homeland Security press release Remarks by Secretary Jeh Johnson (and accompanying slides), "Border Security in the 21st Century," October 9, 2014.

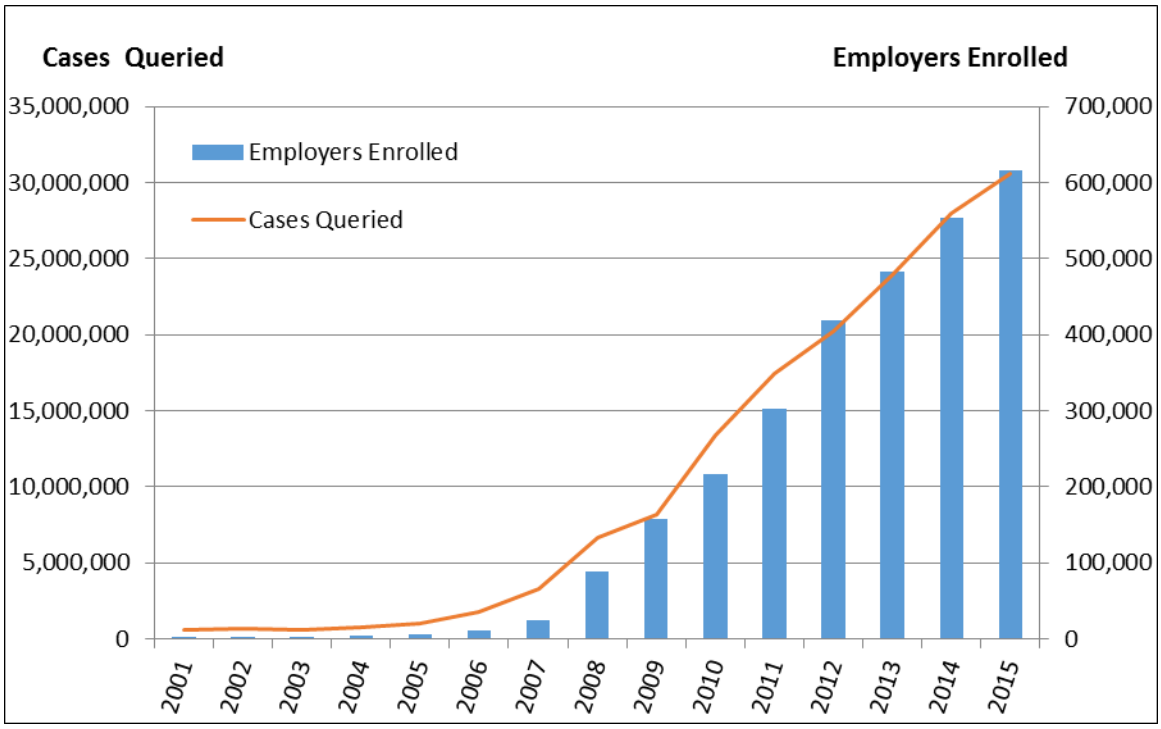
interior repatriation) has increased in recent years, reaching 86% (452,664 out of 529,393) in FY2012, the most recent year for which data are available.

For further background and analysis, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*.

Employment Eligibility Verification

Figure 18. Number of Employers Enrolled in E-Verify and Cases Submitted

(FY2001 to FY2015)



Source: CRS presentation of data from U.S. Citizenship and Immigration Services and *DHS Congressional Budget Justification*, multiple years.

All employers are currently required to participate in a paper-based employment eligibility verification system in which they examine documents presented by every new hire to verify the person's identity and work eligibility. The INA states that an employer is in compliance "if the document reasonably appears on its face to be genuine." The new hire must submit a document that establishes both identity and authorization to work (e.g., U.S. passport or LPR card) or submit two documents, one establishing identity (e.g., driver's license) and the other establishing authorization to work (e.g., Social Security card). Employers must retain these employment eligibility verification (I-9) forms.

Employers may opt to participate in an electronic employment eligibility verification program, E-Verify, which checks the new hire's employment authorization through Social Security Administration and, if necessary, DHS databases. E-Verify evolved from the Basic Pilot program, one of the three employment verification pilots authorized by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 to be implemented and the only one still in operation. It began in November 1997 in the five states with the largest unauthorized alien populations at the time. In December 2004, in accordance with P.L. 108-156, the program became

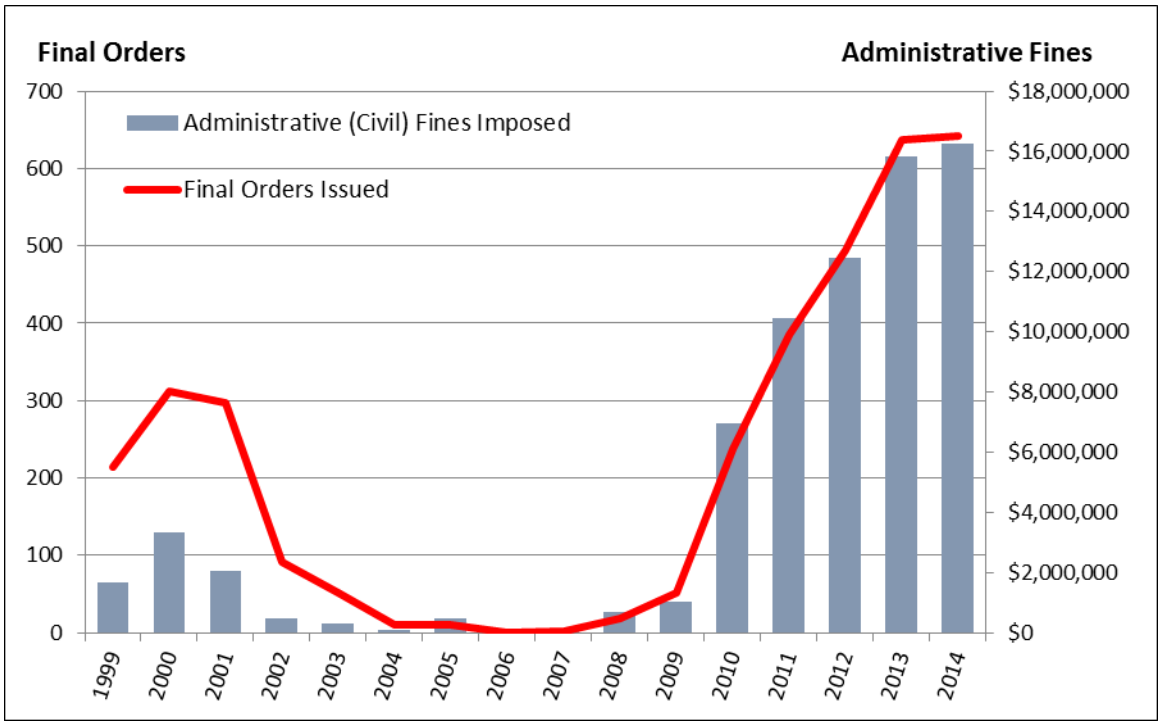
available nationwide. The number of employers enrolled in E-Verify grew from 5,900 in FY2005 to 617,000 by the end of FY2015. These data indicate that roughly 10% of U.S. employers were participating in E-Verify by the close of FY2015. **Figure 18** shows a comparable increase over time in the number of E-Verify cases that employers have submitted. The number of cases has grown from just under 1 million in FY2005 to 30.5 million in FY2015.

For further background and analysis, see CRS Report R40446, *Electronic Employment Eligibility Verification*.

Worksite Enforcement

Figure 19. Administrative (Civil) Charges and Fines under INA §274A

(FY1999-FY2014)



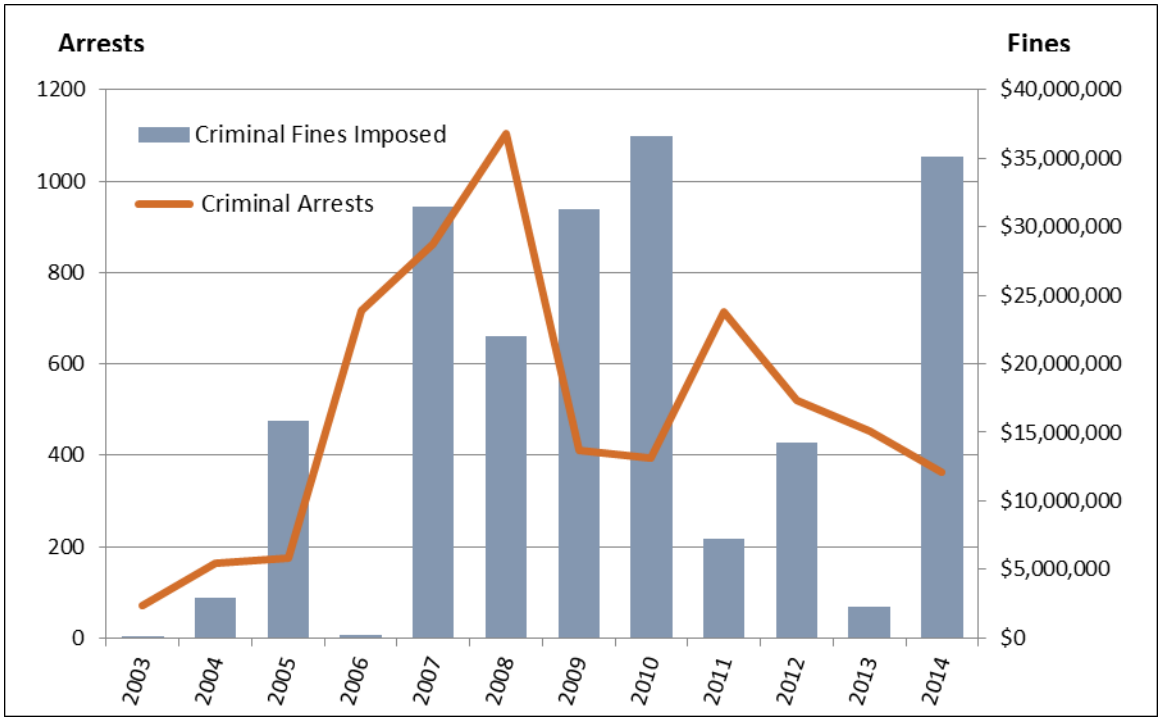
Source: Data provided to CRS by ICE, July 2008, April 2010, and March 2015.

Under INA Section 274A, it is unlawful for an employer to knowingly hire, recruit or refer for a fee, or continue to employ an alien who is not authorized to be so employed. Employers who engage in unlawful employment may be subject to civil and/or criminal penalties. If DHS's Immigration and Customs Enforcement (ICE) believes that an employer has committed a civil violation, the employer may receive a "Final Order" for civil money penalties, a settlement, or a dismissal. In April 2009, ICE issued new guidance on immigration-related worksite enforcement that emphasized targeting criminal aliens and employers who cultivate illegal workplaces.

According to data provided by ICE, 642 employers were subject to civil penalties in FY2014, up from zero in FY2006 (**Figure 19**). A total of $16.3 million in administrative fines were imposed in FY2014—a figure that exceeds the level of total fines imposed cumulatively from FY1999 through FY2009.

Figure 20. Criminal Charges and Fines under INA §274A

(FY2003-FY2014)



Source: Data provided to CRS by ICE, July 2008, April 2010, and March 2015.

Employers convicted of having engaged in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens may face criminal fines and/or imprisonment. It is also a criminal offense for a person to knowingly produce, use, or facilitate the production or use of fraudulent immigration documents. Criminal fines peaked at $36.6 million in FY2010, declined to considerably lower levels between FY2011-FY2013, and increased to $35.1 million in FY2014 (**Figure 20**).

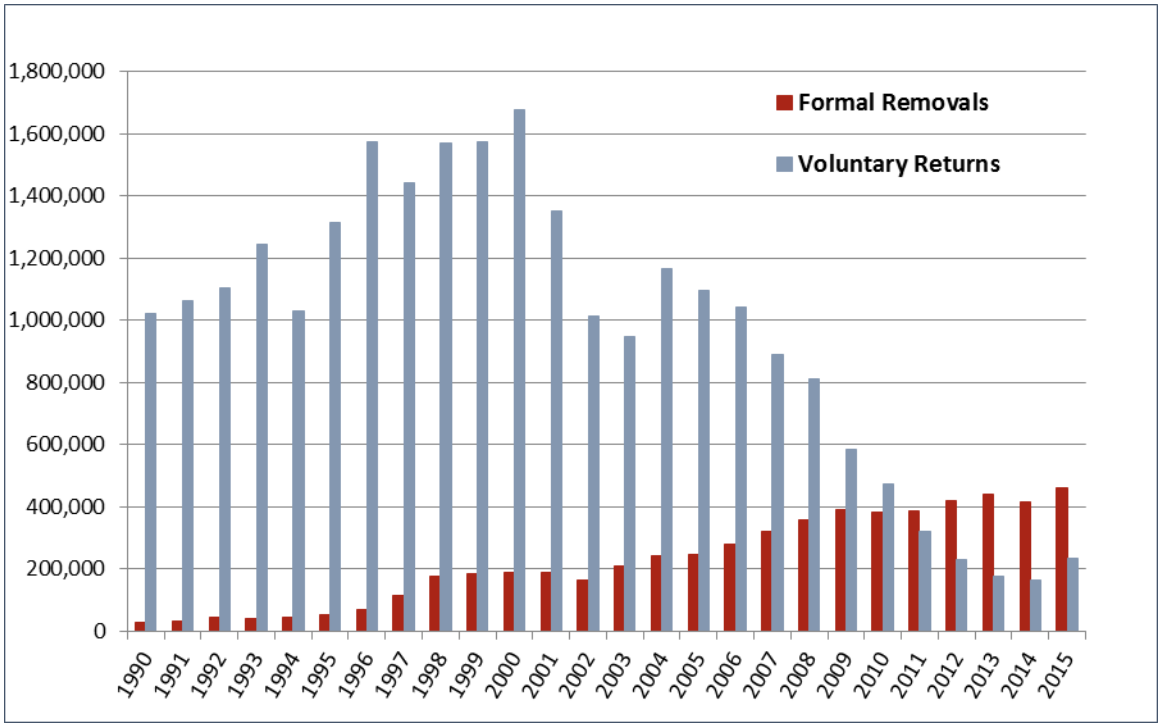
Between FY2003 and FY2008, the number of criminal arrests in worksite enforcement operations increased as shown in **Figure 20**; some of the yearly changes, as from FY2005 to FY2006, were marked. Between FY2008 and FY2009, the number of individuals arrested on criminal charges plummeted. Since FY2011, there has been a steady decline in the number of arrests.

For further background and analysis, see CRS Report R40002, *Immigration-Related Worksite Enforcement: Performance Measures*.

Alien Removals

Figure 21. Alien Formal Removals and Voluntary Returns

(FY1990-FY2015)



Source: DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics*, multiple fiscal years.

Note: ICE reported removal statistics differ from those published by the DHS Office of Immigration Statistics.

The specific grounds for which foreign nationals are removed from the United States are found in INA Section 237. These grounds are comparable to the inadmissibility grounds. They include foreign nationals who are inadmissible at time of entry or violate their immigration status; commit certain criminal offenses (e.g., crimes of moral turpitude, aggravated felonies, alien smuggling, high-speed flight); fail to register (if required under law) or commit document fraud; are security risks (such as aliens who violate any law relating to espionage, engage in criminal activity that endangers public safety, partake in terrorist activities, or genocide); become a public charge within five years of entry; or vote unlawfully. Generally, an immigration judge determines whether an alien is removable.

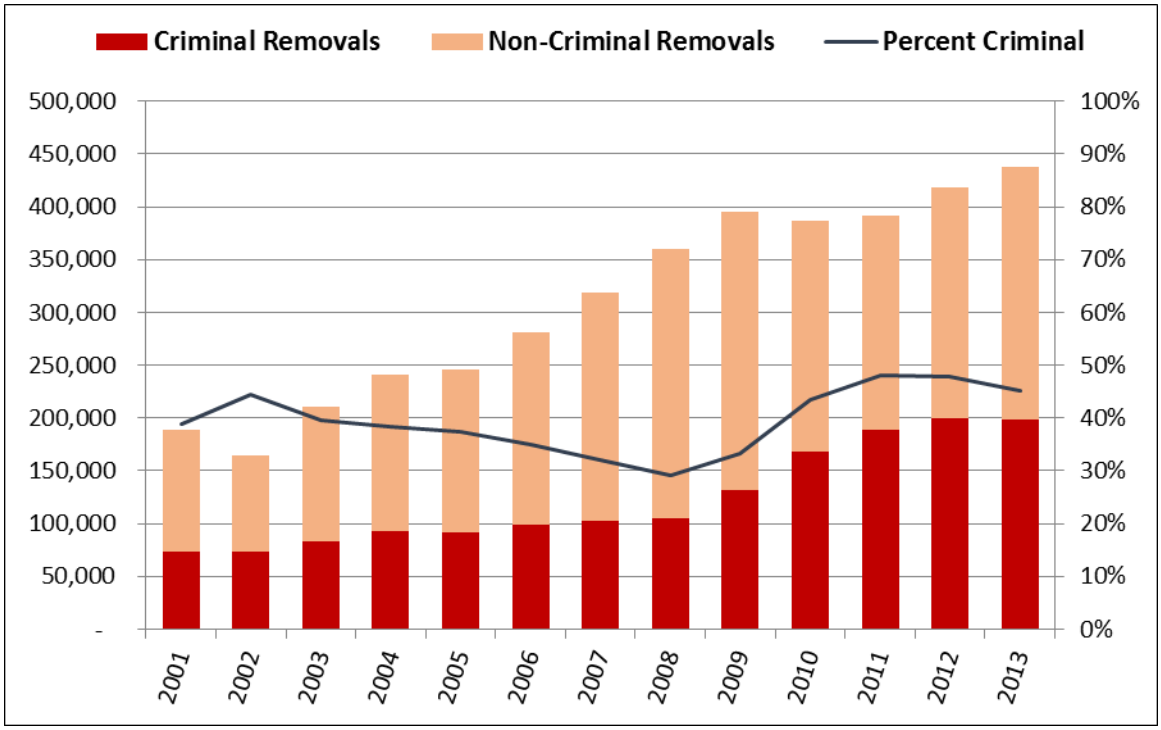
Both formal removals and voluntary returns increased steadily during the 1990s. However, voluntary returns (i.e., permitting aliens to leave the United States on their own recognizance and at their own expense) have declined from 1.68 million in FY2000 to 0.2 million in FY2015 while formal removals have increased over the same period from 188,000 in FY2000 to 462,000 in FY2015 (**Figure 21**).

For further background and analysis, see CRS Report R43892, *Alien Removals and Returns: Overview and Trends*.

Criminal Aliens

Figure 22. Criminal and Non-criminal Aliens Removed from the United States

(FY2001-FY2013)



Source: DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics*, multiple fiscal years.

Note: ICE removal statistics differ from those published by the DHS Office of Immigration Statistics.

DHS's Immigration and Customs Enforcement (ICE) manages four interior enforcement programs that target criminal aliens. The *Criminal Alien Program* (CAP) is an umbrella program that includes several systems for initiating removal proceedings against criminal aliens within federal, state, and local prisons and jails. The INA *§287(g) program* enables ICE to delegate certain immigration enforcement functions to state and local law enforcement agencies pursuant to memorandums of agreement between such agencies and ICE. The *National Fugitive Operations Program* (NFOP) pursues at-large criminal aliens and fugitive aliens.

The *Priority Enforcement Program* (PEP, formally called Secure Communities) is an information sharing program between DHS and the Department of Justice (DOJ). Under the program, when participating law enforcement agencies submit the fingerprints of people being booked into jails to the Federal Bureau of Investigation (FBI) for criminal background checks, the fingerprints are also automatically checked against DHS databases, and potential matches are forwarded to ICE's Law Enforcement Support Center.

In 1986, Congress made deporting aliens who had been convicted of certain crimes an enforcement priority. Between 1988 and 1996, Congress enacted measures, including the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996, which expanded the definition of aggravated felons and created additional criminal grounds for removal.

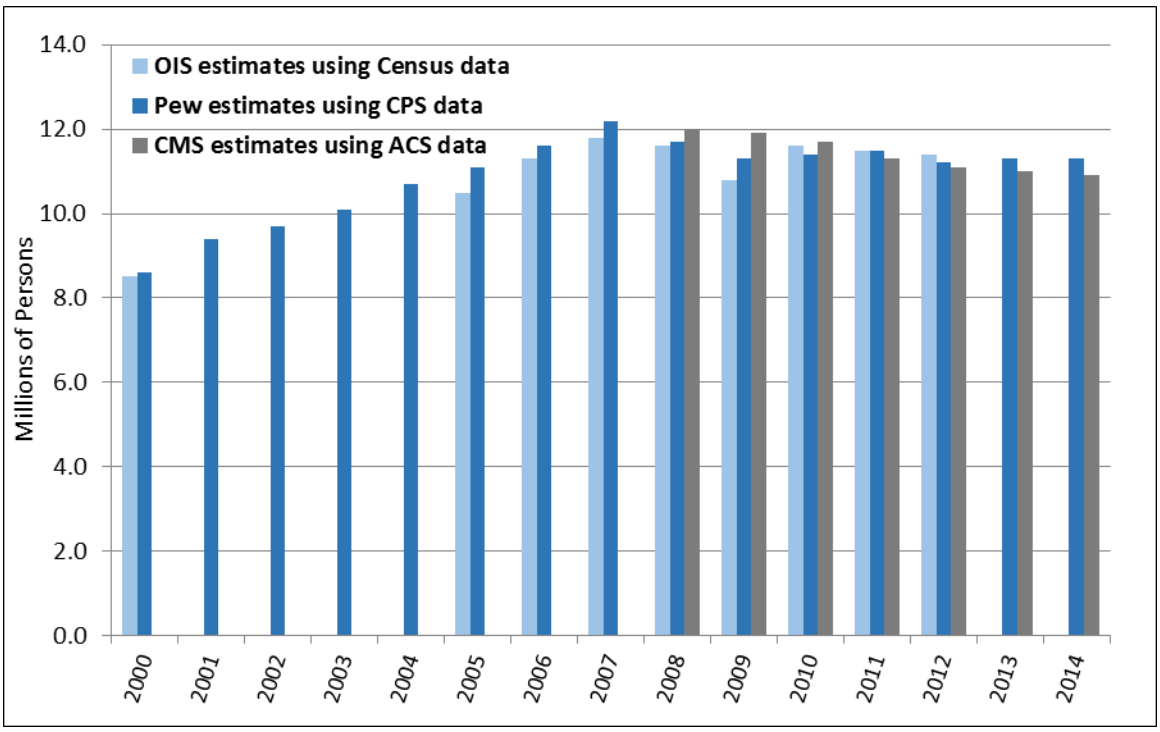
The number of criminal aliens removed from the United States has increased 137% over the past decade, from 73,298 in FY2001 to 198,394 in FY2013 (**Figure 22**). As a percentage of all removals, criminal aliens accounted for 45% in FY2013.

For further background and analysis, see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*; and CRS Report RL32480, *Immigration Consequences of Criminal Activity*.

Unauthorized Resident Aliens

Figure 23. Estimated Number of Unauthorized Resident Aliens

(CY2000-CY2014)



Source: Jeffrey S. Passel and D'Vera Cohn, "Unauthorized immigrant population stable for half a decade," Pew Research Center (**Pew**), July 22, 2015; Michael Hoefer, Bryan Baker and Nancy Rytina, Estimates of the Unauthorized Immigrant Population Residing in the United States (multiple years), DHS Office of Immigration Statistics (**OIS**); and Robert Warren, "US Undocumented Population Drops Below 11 Million in 2014, with Continued Declines in the Mexican Undocumented Population," Center for Migration Studies (**CMS**).

Note: OIS used 2000 decennial Census data for 2005-2009 estimates and 2010 decennial Census data for 2010-2012 estimates.

The three main components of the unauthorized resident alien population are (1) aliens who enter the country surreptitiously without inspection, (2) aliens who overstay their nonimmigrant visas, and (3) aliens who are admitted on the basis of fraudulent documents. In all three instances, the aliens are in violation of the INA and subject to removal.

Estimates derived by the Pew Research Center using the March Supplement of the Current Population Survey (CPS) indicate that the unauthorized resident alien population rose from 8.6 million in 2000 to a peak of 12.2 million in 2007. It subsequently declined and has remained

relatively stable since 2010 (**Figure 23**). Pew's estimate of the unauthorized population in 2014 was 11.3 million.

Demographers at DHS's Office of Immigration Statistics (OIS) have produced estimates consistent with those of Pew using 2000 and 2010 decennial Census data. The 2010 data used by OIS for its more recent estimates was adjusted using data from the American Community Survey (ACS). Although their ACS-adjusted estimates tend to be lower than the Pew estimates using the Current Population Survey (CPS), the trends are comparable.

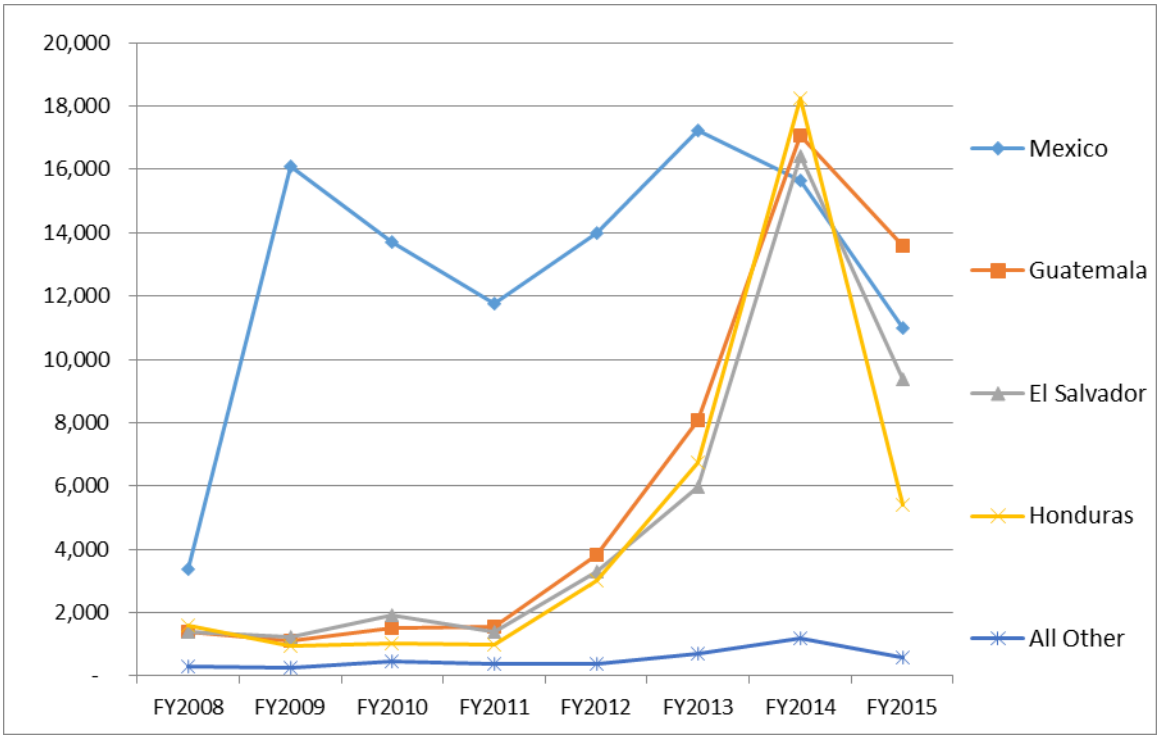
Demographers at the Center for Migration Studies, using a third type of similarly rigorous methodology, have also produced estimates consistent with those of Pew using data from the American Community Survey. These estimates, undertaken for fewer years, show that the unauthorized alien population has been consistently declining in recent years, from a high of 12.0 million persons in 2008 to 10.9 million in 2014.

The most recent OIS report estimated that 42% of the 11.4 million unauthorized residents in 2012 had entered from 2000 to 2010. In recent years, several factors including increased border security, record numbers of alien removals, and high unemployment have depressed the levels of illegal migration, yet the estimated number of unauthorized aliens residing in the United States has remained above 10 million for over a decade.

For further background and analysis, see CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*, and CRS Report R41207, *Unauthorized Aliens in the United States: Policy Discussion*.

Unaccompanied Alien Children

Figure 24. Unaccompanied Alien Children Apprehensions, by Country of Origin
(FY2008-FY2015)



Source: DHS, United States Border Patrol.

Unaccompanied alien children (UAC) are defined in statute as aliens who are under age 18, lack lawful immigration status in the United States, and are without a parent or legal guardian in the United States or lack a parent or legal guardian in the United States who is available to provide care and physical custody.

In the past several years, the number of such unaccompanied children seeking to enter the United States along the U.S.-Mexico border has surged to historically high levels. Apprehensions of UAC, mainly at the Mexico-U.S. border, increased from 8,041 in FY2008 to a peak of 68,445 in FY2014, before declining to 39,970 in FY2015 (**Figure 24**). In the first four months of FY2016 (not shown in **Figure 24**), apprehensions reached 20,455, a 102% increase over the same period FY2015 and a 24% increase over FY2014. Four countries account for almost all of the UAC cases (El Salvador, Guatemala, Honduras, and Mexico) and much of the recent increase has come from El Salvador, Guatemala, and Honduras.

Several agencies in the Department of Homeland Security (DHS) and the Department of Health and Human Services' (HHS's) Office of Refugee Resettlement (ORR) share responsibilities for the processing, treatment, and placement of UAC. Congress has expressed increasing concern over this situation because of its implications for border security and U.S. immigration policy.

For further background and analysis, see CRS Report R43599, *Unaccompanied Alien Children: An Overview*.

Author Information

William A. Kandel
Analyst in Immigration Policy

Acknowledgments

This report was authored by Ruth Ellen Wasem, CRS Specialist in Immigration Policy, who retired in June 2016.

Key Policy Staff

Area of Expertise	Name
Border security, temporary protected status, EB-5 program	Carla Argueta
Border security, terrorism, organized crime	Jerome Bjelopera
Employment eligibility verification, legalization, guest workers, and worksite enforcement	Andorra Bruno
Interior enforcement, detention and removal, Visa Waiver Program, investors	Alison Siskin
Legal immigration, family-based, naturalization, integration, criminal aliens, intercountry adoption	William Kandel
Legal immigration, employment-based, inadmissibility, document integrity and fraud, visa policy	Ruth Ellen Wasem
Legislative Attorney (immigration enforcement issues)	Michael Garcia
Legislative Attorney (legal immigration and citizenship issues)	Margaret Lee
Legislative Attorney (immigration enforcement issues)	Kate Manuel

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