

NEW YORK STATE

DEPARTMENT OF CORRECTIONS & COMMUNITY SUPERVISION



Research Report

The Foreign-Born Under Custody

Population & The IRP

- 2013 -



The Division of Program Planning, Research and Evaluation

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EXECUTIVE SUMMARY

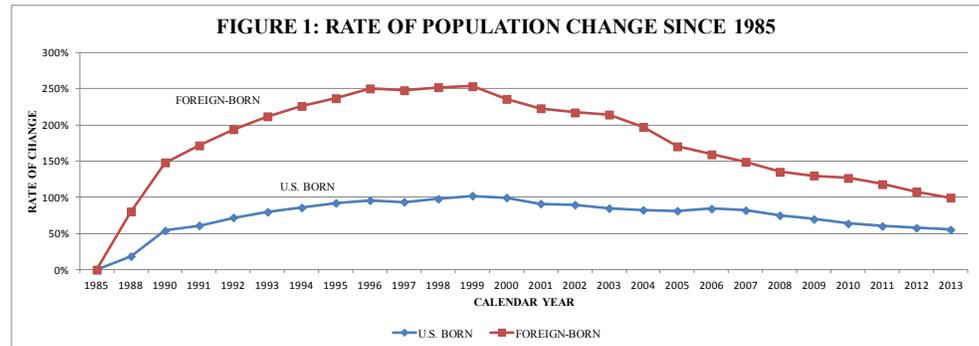
- The proportion of foreign-born offenders in the Department's under custody population has been declining since 2000. Foreign-born offenders now represent 10% of the total under custody population. The decline in the proportion of foreign-born offenders in the under custody population is largely attributable to the Institutional Removal Program (IRP).
- The Institutional Removal Program (IRP) is a comprehensive program designed to efficiently process criminal aliens while under Department custody for the purpose of preparing them for deportation from the United States immediately upon their release from Department custody.
- The goal of the IRP is to promote public safety by removing criminal aliens from the United States. The Department released 14,217 criminal aliens to the Bureau of Immigration and Customs Enforcement (ICE) between 2003 and 2013 for either immediate deportation or transfer to ICE or the United States Marshals Service.
- Not all foreign-born offenders are amenable to deportation. Foreign-born offenders who are not amenable to deportation include those who obtain citizenship through the naturalization process and those who derive citizenship through their parents.
- The proportion of naturalized citizens in the Department's foreign-born under custody population has risen dramatically, from 4% in 1994 to 21% in 2013. This dramatic increase in the proportion of naturalized and derivative citizens in the Department's foreign-born under custody population is, at least in part, a product of a federal initiative that began in 1996 called Citizenship USA.
- Between 1995 and 2009, 2,107 non-violent foreign-born inmates were released on average 27.3 months prior to the completion of their minimum term of imprisonment. The 207 cases released between 2010-2013 were released 19.6 months early. It is estimated that the ECPDO program has resulted in a \$157 million savings in operating and capital costs as of December 31, 2013.
- The total estimated cost savings attributable to the televideo deportation hearing program is \$5.4 million.
- The Department received \$14 million in SCAAP reimbursement in 2013. From 1995 to date, the Department has received over \$667 million in Federal reimbursement under SCAAP.
- The effectiveness of the IRP and annual SCAAP reimbursements have eased the financial burden on the Department that prompted the Department to initiate a law suit against the federal government in the early 1990's.

PROFILE OF NEW YORK STATE'S FOREIGN-BORN PRISON POPULATION

FOREIGN-BORN UNDER CUSTODY POPULATION

This report had its origins in the early 1990's when the Department's under custody population was experiencing tremendous growth. Between 1985 and 1999 the native-born under custody population increased 102%, from 31,213 in 1985 to 63,121 in 1999. In contrast, the foreign-born under custody population increased 253%, from 2,629 offenders in 1985 to 9,291 in 1999, or more than double the rate of increase in the native-born under custody population.

However, beginning in 2000, the pattern began to reverse. The native-born under custody population between 2000 and 2013 dropped 22%, from 62,324 in 2000, to 48,519 in 2013. During the same time period, the foreign-born under custody population dropped 41%, from 8,830 in 2000 to 5,248 in 2013, or nearly 1.8 times the rate of decrease in the native-born under custody population. This trend is graphically displayed in Figure 1.



The proportion of foreign-born offenders in the Department's under custody population has been declining since 2000. Foreign-born offenders now represent 10% of the total under custody population (see Table 1).

TABLE 1										
NUMBER OF INCARCERATED OFFENDERS UNDER DOCCS CUSTODY BY PLACE OF BIRTH AT YEAR END										
	1985	1995	1996	1997	1998	1999	2000	2001	2002	2003
U.S. Born	31,213 90.2%	59,985 86.9%	61,119 86.5%	60,447 86.1%	61,733 86.7%	63,121 86.9%	62,324 87.3%	59,691 87.3%	59,224 87.5%	57,705 87.3%
Foreign-Born	2,629 7.6%	8,854 12.8%	9,209 13.0%	9,143 13.0%	9,254 13.0%	9,291 12.8%	8,830 12.4%	8,489 12.4%	8,337 12.3%	8,261 12.5%
Not Yet Known	775 2.2%	213 0.3%	321 0.5%	617 0.9%	205 0.3%	231 0.3%	200 0.3%	170 0.2%	94 0.1%	144 0.2%
Total	34,617 100.0%	69,052 100.0%	70,649 100.0%	70,207 100.0%	71,192 100.0%	72,643 100.0%	71,354 100.0%	68,350 100.0%	67,655 100.0%	66,110 100.0%

TABLE 1 (CONTINUED)

**NUMBER OF INCARCERATED OFFENDERS UNDER DOCCS CUSTODY
BY PLACE OF BIRTH AT YEAR END**

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
U.S. Born	56,966 87.8%	56,595 88.5%	57,527 89.3%	56,823 89.6%	54,624 89.6%	53,003 89.4%	51,115 89.3%	50,034 89.4%	49,253 89.8%	48,519 89.6%
Foreign-Born	7,815 12.0%	7,106 11.1%	6,814 10.6%	6,545 10.3%	6,182 10.1%	6,049 10.2%	5,958 10.4%	5,734 10.2%	5,467 10.0%	5,248 9.7%
Not Yet Known	124 0.2%	229 0.4%	69 0.1%	57 0.1%	127 0.2%	227 0.4%	156 0.3%	211 0.4%	145 0.3%	375 0.7%
Total	64,905 100.0%	63,930 100.0%	64,410 100.0%	63,425 100.0%	60,933 100.0%	59,279 100.0%	57,229 100.0%	55,979 100.0%	54,865 100.0%	54,142 100.0%

The decline in the proportion of foreign-born offenders in the under custody population is largely attributable to the Institutional Removal Program (IRP). The IRP, a joint effort involving the Department, the Bureau of Immigration and Customs Enforcement (ICE), and the Executive Office for Immigration Review (EOIR), is designed to efficiently process criminal aliens while under Department custody for the purpose of preparing them for deportation from the United States immediately upon their release from Department custody. The data presented above suggest that the IRP goal of reducing the number and proportion of deportable criminal aliens in the under custody population has been successful. The impact of the IRP will be discussed in a later section of this report.

IMMIGRATION STATUS

Foreign nationals who enter the United States without a visa and without presenting themselves for inspection to Border Patrol or ICE agents are classified as illegal aliens. In addition, foreign nationals who enter the United States with a temporary visa are classified as illegal aliens if they overstay the duration of their visa. Both of these illegal alien status categories make the foreign national summarily deportable. Cubans who entered the United States during the mass emigration between April and October of 1980 are classified as Mariel Cubans. A small proportion of the Cubans emigrating in 1980 had been in Cuban prisons before the Castro regime inserted them into the flotilla. These Cuban criminals presented a significant public safety problem, which led the federal government to develop a separate classification for them known as Mariel Cubans.

Foreign nationals who are granted legal permanent resident status are permitted to stay in the United States indefinitely. However, legal permanent residents who are convicted of specified crimes are subject to deportation.

Finally, there are two classes of foreign-born offenders who obtain the status of United States citizen: (1) those foreign-born offenders who obtain citizenship through the process of naturalization, and (2) those foreign-born offenders who derive citizenship through parents who became United States citizens through the process of naturalization.

The proportion of naturalized citizens in the Department’s foreign-born under custody population rose dramatically, from 4% in 1994 to 21% on December 31, 2013.

This dramatic increase in the proportion of naturalized and derivative citizens in the Department’s under custody population reflects, at least in part, the cumulative impact of a federal initiative that began in 1996 called Citizenship USA.

Under this plan, the Immigration and Naturalization Service (the forerunner of ICE) encouraged immigrants to apply for citizenship. However, the United States Department of Justice Inspector General report (2000) noted problems with the criminal background check that was supposed to be done for all naturalization applicants. A review of citizenship USA naturalization applications supervised by independent auditor KPMG found that 10,800 persons (or 1%) had been arrested for at least one felony and probably should not have been granted citizenship.

TABLE 2**ALIEN STATUS OF FOREIGN-BORN INCARCERATED OFFENDERS 1994-2003**

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Awaiting Determination	1,084 13%	1,195 14%	1,253 14%	1,006 11%	755 8%	889 10%	585 7%	349 4%	375 5%	380 5%
Illegal Alien	2,650 31%	2,637 30%	2,094 23%	2,387 27%	2,673 29%	2,811 30%	2,808 32%	2,841 34%	2,868 34%	2,943 36%
Legal Permanent Resident	4,047 47%	4,098 47%	4,724 52%	4,633 51%	4,677 51%	4,561 49%	4,358 50%	4,179 49%	3,983 48%	3,844 47%
Naturalized Citizen	383 4%	445 5%	532 6%	566 6%	671 7%	692 7%	758 9%	840 10%	862 10%	891 11%
Mariel Cuban	410 5%	339 4%	449 5%	411 5%	404 4%	278 3%	277 3%	252 3%	232 3%	203 2%
Total	8,574 100%	8,714 100%	9,052 100%	9,003 100%	9,180 100%	9,231 100%	8,786 100%	8,461 100%	8,320 100%	8,261 100%

TABLE 2 (CONTINUED)**ALIEN STATUS OF FOREIGN-BORN INCARCERATED OFFENDERS 2004-2013**

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Awaiting Determination	472 6%	373 5%	380 6%	363 6%	303 5%	389 6%	399 7%	522 9%	254 5%	399 8%
Illegal Alien	2,821 36%	2,562 36%	2,465 36%	2,384 36%	2,311 37%	2,212 37%	2,188 37%	2,052 36%	2,128 39%	2,003 38%
Legal Permanent Resident	3,477 44%	3,068 43%	2,800 41%	2,601 40%	2,336 38%	2,167 36%	2,145 36%	1,962 34%	1,855 34%	1,664 32%
Naturalized Citizen	871 11%	923 13%	996 15%	1,040 16%	1,088 18%	1,148 19%	1,116 19%	1,098 19%	1,134 21%	1,107 21%
Mariel Cuban	174 2%	180 3%	173 3%	157 2%	144 2%	133 2%	110 2%	100 2%	96 2%	75 1%
Total	7,815 100%	7,106 100%	6,814 100%	6,545 100%	6,182 100%	6,049 100%	5,958 100%	5,734 100%	5,467 100%	5,248 100%

COUNTRIES OF ORIGIN

Almost half (48%) of all foreign-born offenders under Department custody originate from countries in the Caribbean. South America and Central America provide the second and third largest regions of origin (13% each). Forty-three percent of the foreign-born offenders under Department custody come from the Dominican Republic, Jamaica, and Mexico.

TABLE 3

**FOREIGN-BORN INCARCERATED OFFENDERS
UNDER DOCCS CUSTODY ON
DECEMBER 31, 2013
BY REGION OF BIRTH**

	FREQUENCY	PERCENT
NORTH AMERICA	524	10%
CARIBBEAN	2,512	48%
CENTRAL AMERICA	658	13%
SOUTH AMERICA	675	13%
EUROPE	356	7%
AFRICA	137	3%
NEAR EAST	74	1%
ASIA	286	5%
SOUTH PACIFIC	26	0%
TOTAL	5,248	100%

TABLE 4

**TOP TEN COUNTRIES OF ORIGIN
OF FOREIGN-BORN INCARCERATED OFFENDERS
UNDER DOCCS CUSTODY ON
DECEMBER 31, 2013**

	FREQUENCY	PERCENT
DOMINICAN REPUBLIC	1,026	20%
JAMAICA	747	14%
MEXICO	471	9%
GUYANA	262	5%
EL SALVADOR	228	4%
TRINIDAD AND TOBAGO	222	4%
HAITI	188	4%
CUBA	183	3%
EQUADOR	178	3%
HONDURAS	159	3%
TOP TEN TOTAL	3,664	70%
OTHER COUNTRIES OF BIRTH	1,584	30%
TOTAL FOREIGN-BORN POPULATION	5,248	100%

COMMITMENT OFFENSES

Seventy-eight percent of the foreign-born offender population were committed for violent felony offenses. In contrast, 64% of the native-born offender population were committed for violent felony offenses. Moreover, the foreign-born offender population was twice as likely as the native-born offender population to be convicted of a Class A felony offense, the most serious classification (28% and 14%, respectively).

TABLE 5

**US BORN INCARCERATED OFFENDERS UNDER DEPARTMENT CUSTODY
ON DECEMBER 31, 2013
BY CRIME CLASS AND TYPE OF COMMITMENT OFFENSE**

CRIME CLASS	TYPE OF COMMITMENT OFFENSE						TOTAL
	VIOLENT FELONY	OTHER COERCIVE	DRUG OFFENSES	PROPERTY & OTHER OFFENSES	YOUTHFUL OFFENDER	JUVENILE OFFENDER	
A-I FELONY	6,082 20%	0 0%	171 3%	0 0%	0 0%	93 62%	6,346 13%
A-II FELONY	119 0%	0 0%	460 8%	0 0%	0 0%	0 0%	579 1%
CLASS B FELONY	10,396 34%	269 7%	3,131 51%	99 2%	0 0%	52 34%	13,947 29%
CLASS C FELONY	8,243 27%	431 11%	1,368 22%	237 4%	0 0%	5 3%	10,284 21%
CLASS D FELONY	5,990 19%	1,760 44%	781 13%	3,334 51%	0 0%	1 1%	11,866 24%
CLASS E FELONY	76 0%	1,522 38%	197 3%	2,902 44%	0 0%	0 0%	4,697 10%
YOUTHFUL OFFENDER	0 0%	0 0%	0 0%	0 0%	800 100%	0 0%	800 2%
TOTAL	30,906	3,982	6,108	6,572	800	151	48,519
ROW PERCENT	64%	8%	13%	14%	2%	0%	100%

TABLE 6

**FOREIGN-BORN INCARCERATED OFFENDERS UNDER DEPARTMENT CUSTODY
ON DECEMBER 31, 2013
BY CRIME CLASS AND TYPE OF COMMITMENT OFFENSE**

CRIME CLASS	TYPE OF COMMITMENT OFFENSE						TOTAL
	VIOLENT FELONY	OTHER COERCIVE	DRUG OFFENSES	PROPERTY & OTHER OFFENSES	YOUTHFUL OFFENDER	JUVENILE OFFENDER	
A-I FELONY	1,230 30%	0 0%	80 17%	0 0%	0 0%	6 86%	1,316 25%
A-II FELONY	30 1%	0 0%	129 27%	0 0%	0 0%	0 0%	159 3%
CLASS B FELONY	1,702 42%	31 12%	182 38%	30 9%	0 0%	1 14%	1,946 37%
CLASS C FELONY	658 16%	63 25%	51 11%	42 12%	0 0%	0 0%	814 16%
CLASS D FELONY	468 11%	93 36%	23 5%	149 43%	0 0%	0 0%	733 14%
CLASS E FELONY	4 0%	70 27%	9 2%	124 36%	0 0%	0 0%	207 4%
YOUTHFUL OFFENDER	0 0%	0 0%	0 0%	0 0%	73 100%	0 0%	73 1%
TOTAL	4,092	257	474	345	73	7	5,248
ROW PERCENT	78%	5%	9%	7%	1%	0%	100%

THE INSTITUTIONAL REMOVAL PROGRAM

The dramatic increase in the Department's foreign-born population between the mid-1980's and the early 1990's led New York State to file a lawsuit against the federal government which sought to force the federal government to take custody of all illegal aliens and Mariel Cubans under the Department's custody. The Clinton Administration sought a negotiated settlement with New York State when additional states filed or threatened to file similar law suits.

Attorney General Reno told New York State that the federal government did not have enough prison space to take New York's illegal alien prison population but offered a two prong strategy to solve the problem. First, the U.S. Justice Department would assign additional resources to identify illegal aliens under the Department's custody, charge them, and lodge deportation orders against them before the completion of their term of imprisonment. This strategy was designed to physically remove the criminal aliens from the United States thereby reducing both the number and proportion of illegal aliens in New York State's under custody prison population. Second, the federal government would appropriate funds through the State Criminal Alien Assistance Program (SCAAP) that would provide partial reimbursement to the states for costs associated with incarcerating illegal criminal aliens.

The resulting Institutional Removal Program (IRP) was the product of the cooperative efforts of the Department, the Bureau of Immigration and Customs Enforcement (ICE), and the Immigration Court (also known as the Executive Office for Immigration Review – EOIR). The Department has released 14,217 criminal aliens to ICE between 2003 and 2013 for either immediate deportation or transfer to the custody of ICE or the United States Marshals Service.

In addition to the public safety goal, the IRP and SCAAP save the Department money in the following ways.

1. Efficiently processing criminal aliens through the Immigration Court and generating deportation orders for them prior to their release from Department custody;
2. Minimizing transportation costs through the televideo deportation hearing program (see *Research In Brief series, Televideo Deportation Hearings*);
3. Maximizing the number of criminal aliens deported from the United States, thereby reducing the foreign-born under custody population by minimizing the annual number of return parole violators and new court commitments admitted to Department custody (see *Research In Brief series, IRP Releases & Return Rates*);
4. Saving approximately \$157 million in operational costs through Early Conditional Parole for Deportation Only (ECPDO) by deporting criminal aliens convicted of non-violent offenses prior to their initial parole hearing (see *Research In Brief series, Early Conditional Parole for Deportation Only*); and
5. Offsetting the operational costs associated with incarcerating undocumented criminal aliens by providing New York State over \$667 million through the State Criminal Alien Assistance Program (SCAAP) (see *Research In Brief series, SCAAP*).

The New York IRP, as it has come to be known, is promoted by ICE as a model program. ICE proactively encourages other states to adopt the New York IRP model which has led other jurisdictions to contact the Department for information about the program. The Washington Times published an editorial on January 16, 2008 which highlighted the cost savings directly attributable to the IRP.

EARLY CONDITIONAL PAROLE FOR DEPORTATION ONLY (ECPDO)

One of the key components of the New York IRP is the statutory authorization to release certain non-violent criminal aliens to ICE for purposes of deportation only. The relevant section of the Sentencing Reform Act of 1995, codified in the New York State Executive Law §259-i(d)(i), authorizes the New York State Board of Parole to release criminal aliens who have been convicted of non-violent felony offenses and have a final order of deportation prior to the completion of their earliest possible release date. These pre-parole eligibility releases are referred to as Early Conditional Parole for Deportation Only (ECPDO) releases.

There were 2,314 ECPDO releases from Department custody between January 1, 1995 and December 31, 2013. During this time period, 61% of ECPDO releases were Class A Felons. The felony class breakdown of all ECPDO releases is as follows:

FELONY CLASS*	RELEASE YEAR			TOTAL
	1995-2000	2001-2006	2007-2013	
A-I FELONY	153	25	25	203
A-II FELONY	466	543	189	1,198
CLASS B FELONY	240	195	150	585
CLASS C FELONY	116	46	27	189
CLASS D FELONY	76	19	18	113
CLASS E FELONY	16	4	5	25
YOUTHFUL OFFENDER	0	0	1	1
TOTAL	1,067	832	415	2,314

*Class A-I felonies are the most serious and Class E felonies are the least serious
 ** Youthful Offenders who are legal permanent residents cannot be deported based upon their felony conviction however, Youthful Offenders who are illegal aliens can be deported on the basis of their illegal status.

**TABLE 8
ESTIMATED COST SAVINGS
FOR EARLY CONDITIONAL PAROLE
FOR DEPORTATION ONLY RELEASES**

Between 1995 and 2009, 2,107 non-violent foreign-born inmates were released on average 27.3 months prior to the completion of their minimum term of imprisonment. The 207 cases released between 2010-2013 were released 19.6 months early. It is estimated that the ECPDO program has resulted in a \$157 million savings in operating and capital costs as of December 31, 2013.

EARLY RELEASE PRIOR TO PE DATE	ECPDO
Time Frame	January 1, 1995 - December 31, 2009
Early Releases	2,107
Average Savings Per Release to PE Date In Months	27.3
Annual Cost Per Inmate	\$29,000
Operational Savings	\$139,009,325
Monthly Capital Cost Per Bed	\$363
Capital Construction Avoidance Savings*	\$12,127,830
COMBINED SAVINGS	\$151,137,155
Time Frame	January 1, 2010 - December 31, 2013
Early Releases	207
Average Savings Per Release to PE Date in Months	19.6
Marginal Cost Savings Per Inmate Per Month***	\$1,500
Operational Savings	\$6,085,800
Bed Savings**	70
Total Savings January 1, 1995 - December 31, 2013	\$157,222,955

* Capital Construction Avoidance is calculated from 1995 through 2000.

** As of December 31, 2013

*** Based on work done by DCJS Research on the Results First Project

TELEVIDEO DEPORTATION HEARINGS

Another cost savings component of the IRP is the televideo deportation hearing initiative. Beginning in April 1998, a pilot program was implemented in which initial deportation hearings were conducted via video teleconferencing equipment at selected facilities. The pilot program was successful and televideo deportation hearings now cover every Department correctional facility. All ICE and Immigration Court IRP activities are centered in the Downstate and Ulster reception centers for male foreign-born offenders and the Bedford Hills reception center for female offenders.

Between January 1, 1999 and December 31, 2013, there were 27,960 televideo deportation hearings conducted. The increase in televideo deportation hearings in 2005 was due to greater administrative efficiencies introduced by ICE which resulted in an increase in deportation charges being lodged against criminal aliens under the Department's custody. The decrease in televideo hearings since 2005 is attributable to three factors:

1. a reduction in the backlog of cases ICE needed to refer to the Immigration Court that was a direct result of the administrative improvements made by ICE in 2004,
2. a decline in the Department's foreign-born admissions and under custody population, and
3. an increase in the proportion of naturalized and derivative foreign-born citizens who are not amenable to deportation.

TABLE 9																
NUMBER OF TELEVIDEO HEARINGS																
BY HUB																
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Clinton Hub	98	407	322	335	299	247	538	389	269	288	296	305	355	377	307	4,832
Elmira Hub	4	9	0	0	39	52	173	97	140	118	95	54	110	105	89	1,085
Great Meadow Hub	5	174	187	179	187	218	420	278	230	223	235	204	272	205	229	3,246
Green Haven Hub	0	0	0	0	0	0	0	0	0	0	0	4	5	0	1	10
New York City Hub	0	0	0	0	0	0	1	0	4	0	0	0	0	0	0	5
Oneida Hub	4	0	348	243	188	276	374	246	260	252	259	201	252	286	226	3,415
Watertown Hub	619	576	508	313	164	348	496	384	318	293	310	300	336	295	270	5,530
Wende Hub	1,000	1,226	1,013	665	559	628	1,059	652	613	528	478	389	447	314	266	9,837
Total	1,730	2,392	2,378	1,735	1,436	1,769	3,061	2,046	1,834	1,702	1,673	1,457	1,777	1,582	1,388	27,960

The total estimated cost savings attributable to the televideo deportation hearing program is \$5,419,196
 (\$5,502,998 transportation, staff, and housing costs minus \$83,802 televideo equipment connection costs).

**THE IMPACT OF THE IRP ON MAXIMIZING
RELEASES OF FOREIGN-BORN OFFENDERS TO ICE**

The Department has historically reported on all foreign-born offenders in its statistical reports. However, since naturalized citizens are not deportable, it is necessary to remove foreign-born citizens from the base when reporting on the effectiveness of the policy of deporting criminal aliens.

**TABLE 10
CATEGORY OF RELEASE BY YEAR EXCLUDING NATURALIZED CITIZENS**

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	TOTAL
RELEASE TO COMMUNITY	485 21%	465 20%	342 15%	271 14%	242 13%	264 15%	236 15%	287 19%	277 19%	271 21%	268 22%	3,408 17%
RELEASE TO ICE	1,567 69%	1,601 70%	1,782 77%	1,439 76%	1,405 78%	1,305 75%	1,160 75%	1,064 72%	1,082 74%	923 71%	889 72%	14,217 74%
RELEASE TO OTHER WARRANT AUTHORITY	90 4%	100 4%	99 4%	109 6%	75 4%	79 5%	78 5%	75 5%	63 4%	52 4%	47 4%	867 5%
OTHER RELEASE	129 6%	135 6%	96 4%	71 4%	72 4%	81 5%	74 5%	61 4%	50 3%	49 4%	39 3%	857 5%
TOTAL	2,271 100%	2,301 100%	2,319 100%	1,890 100%	1,794 100%	1,729 100%	1,548 100%	1,487 100%	1,472 100%	1,295 100%	1,243 100%	19,349 100%

When foreign-born naturalized citizens are excluded, nearly three-quarters (74%) of the foreign-born offenders released since 2003 have been released to ICE custody. An additional 5% of foreign-born releases were released from the Department directly to the custody of a warrant issuing law enforcement authority.

IMPACT OF THE IRP ON RETURN RATES

The Department follows annual release cohorts for three years to determine their return rates. These return-to-custody analyses include both first releases for new commitments as well as releases for returned parole violators. The data provided herein, however, consist solely of new court commitment first releases because too few ECPDO and CPDO releases return to custody to necessitate an examination of ECPDO and CPDO return parole violators.

The Department return-to-custody data indicate that 38 percent of the native-born offenders released during calendar year 2009 and 19 percent of the foreign-born offenders released to the community (i.e., offenders not amenable to deportation at the time of their release) returned to Department custody within three years. In stark contrast, however, only 2 percent of the foreign-born releases to ICE custody returned within three years, (one) 1 ECPDO release was returned to custody, and no CPDO releases were returned to custody. Consequently, these data show that criminal aliens released to ICE custody as the result of conditional paroles for deportation only or ICE warrants, rarely return to Department custody.

**TABLE 11
IMPACT OF THE IRP ON RETURN RATES**

THREE YEAR FOLLOW-UP OF 2009 FIRST RELEASES

	Number Released	Number Returned	Percent Returned
U.S. Born Releases	15,076	5,724	38%
Releases to Community			
Return, New Commitment		1,452	10%
Return, Parole Violator		4,272	28%
Foreign-Born Releases	1,325	57	4%
Release to Community	172		
Return, New Commitment		8	5%
Return, Parole Violator		25	15%
Total		33	19%
ECPDO	67		
Return, New Commitment		0	0%
Return, Parole Violator		1	1%
Total		1	1%
CPDO	27		
Return, New Commitment		0	0%
Return, Parole Violator		0	0%
Total		0	0%
Release to ICE Warrant	991		
Return, New Commitment		6	1%
Return, Parole Violator		15	2%
Total		21	2%
Release to Other Warrant	68		
Return, New Commitment		0	0%
Return, Parole Violator		2	3%
Total		2	3%
GRAND TOTAL	16,401	5,781	35%

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

The State Criminal Alien Assistance Program (SCAAP) provides partial reimbursement to states and localities for the costs associated with the incarceration of undocumented criminal aliens. From 1995 to date the Department has received over \$667 million in Federal reimbursement under the SCAAP program.

The appropriation for SCAAP in FFY 2013 was \$245 million. Of that amount roughly 2.8% is routinely taken off the top for administrative costs leaving \$238,140,000 million to be doled out in reimbursement to the states and localities. The Department received an FFY 2013 SCAAP award of \$14,093,549 (or roughly 5.9% of the total appropriation).

The FFY 2014 SCAAP appropriation is \$180 million. Of that amount \$174,960,000 will likely be available for reimbursement after administrative costs have been taken out. Assuming the Department will receive the same proportion of the available SCAAP funds as it did in FFY 2013 (i.e., 5.9%) we could expect an FFY 2014 SCAAP award of approximately \$10.3 million.

TABLE 12

NEW YORK STATE SCAAP AWARDS

AWARD YEAR	DOCCS	NYC DOC	LOCALITIES	TOTAL
1995	\$13,405,808	\$0	\$0	\$13,405,808
1996	\$46,842,600	\$15,571,566	\$405,213	\$62,819,379
1997	\$60,903,689	\$29,250,432	\$4,332,301	\$94,486,422
1998	\$55,900,860	\$33,425,997	\$7,092,093	\$96,418,950
1999	\$54,011,658	\$32,296,346	\$6,858,918	\$93,166,922
2000	\$66,385,899	\$38,830,599	\$9,062,062	\$114,278,560
2001	\$55,738,099	\$32,114,199	\$6,916,623	\$94,768,921
2002	\$58,403,799	\$30,736,199	\$8,024,972	\$97,164,970
2003	\$25,405,342	\$15,975,239	\$2,418,460	\$43,799,041
2004	\$30,859,709	\$20,667,392	\$5,468,334	\$56,995,435
2005	\$24,022,356	\$15,893,255	\$2,899,202	\$42,814,813
2006	\$33,864,661	\$21,010,799	\$6,381,350	\$61,256,810
2007	\$28,069,430	\$18,870,708	\$6,620,616	\$53,560,754
2008	\$23,909,899	\$17,911,891	\$7,034,990	\$48,856,780
2009	\$26,045,254	\$11,870,015	\$8,526,302	\$46,441,571
2010	\$17,927,031	\$13,450,977	\$5,919,949	\$37,297,957
2011	\$18,560,857	\$12,366,801	\$6,914,645	\$37,842,303
2012	\$13,371,017	\$9,535,609	\$10,574,522	\$33,481,148
2013	\$14,093,549	\$9,477,810	\$5,825,390	\$29,396,749
Total	\$667,721,517	\$379,255,834	\$111,275,942	\$1,158,253,293
AVERAGE PROPORTION	58%	33%	10%	100%

CONCLUSION

The foreign-born offender population increased dramatically in New York State between 1985 and 1999. Beginning in 2000, the overall under custody population began to decline, and the foreign-born population has decreased at a faster rate than the native-born population.

The precipitous decline in the foreign-born population as compared with the native-born population can largely be attributed to the success of a joint federal-state partnership referred to as the Inmate Removal Program (IRP). The goal of the IRP is to identify criminal aliens and lodge deportation orders against them prior to their release from Department custody. The successful removal of criminal aliens from the United States has greatly contributed to the decline in the Department's foreign-born under custody population. This decline in the Department's foreign-born under custody population saves the Department money because SCAAP provides only partial reimbursement for the costs of incarcerating criminal aliens. The effectiveness of the IRP and annual SCAAP reimbursements have eased the financial burden on the Department that prompted the Department to initiate a law suit against the federal government in the early 1990's.