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A Rising Share: Hispanics and Federal Crime

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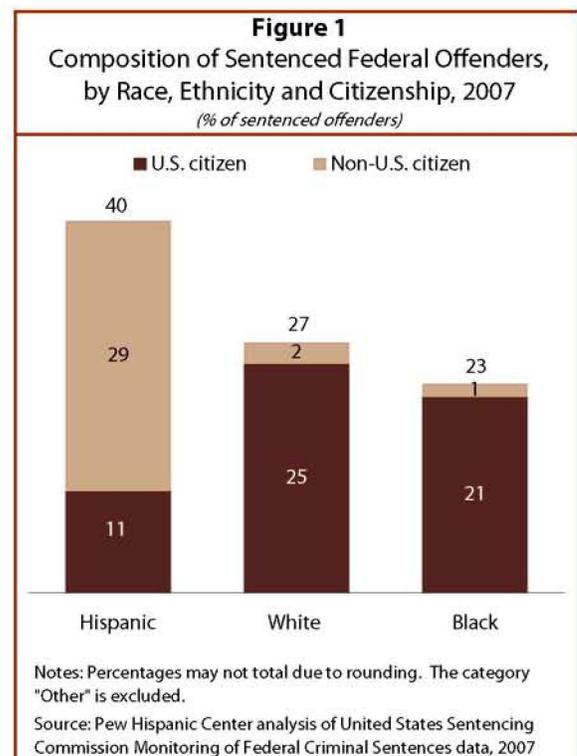
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Executive Summary

Sharp growth in illegal immigration and increased enforcement of immigration laws have dramatically altered the ethnic composition of offenders sentenced in federal courts. In 2007, Latinos accounted for 40% of all sentenced federal offenders—more than triple their share (13%) of the total U.S. adult population. The share of all sentenced offenders who were Latino in 2007 was up from 24% in 1991, according to an analysis of data from the United States Sentencing Commission (USSC) by the Pew Hispanic Center, a project of the Pew Research Center.

Between 1991 and 2007, enforcement of federal immigration laws became a growing priority in response to undocumented immigration.¹ By 2007, immigration offenses represented nearly one-quarter (24%) of all federal convictions, up from just 7% in 1991. Among those sentenced for immigration offenses in 2007, 80% were Hispanic.

This heightened focus on immigration enforcement has also changed the citizenship profile of federal offenders. In 2007, Latinos without U.S. citizenship represented 29% of all federal offenders. Among all Latino offenders, some 72% were not U.S. citizens, up from 61% in 1991. By contrast, a much smaller share of white offenders (8%) and black offenders (6%) who were sentenced in federal courts



¹ The number of undocumented immigrants in the U.S. increased from 3.9 million in 1992 (Passel, 2005) to 11.9 million in 2008 (Passel and Cohn, 2008). Published reports indicate an increasing level of immigration enforcement activity since the mid-1990s. According to the USSC, implementation of Operation Gatekeeper by the Immigration and Naturalization Service (INS) in 1995 resulted in more immigration cases entering federal courts (USSC, 2004). According to a report from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, the number of immigration prosecutions filed by federal prosecutors more than quadrupled since 2001. And according to the Migration Policy Institute, Immigration and Customs Enforcement's Fugitive Operations Teams arrested nearly 34,000 immigrants in fiscal 2008 as part of its National Fugitive Operations Program. This was a nearly 17-fold increase since fiscal 2003 (Mendelson, Strom and Wishnie, 2009).

in 2007 were not U.S. citizens.²

The total number of offenders sentenced in federal courts more than doubled from 1991 to 2007. During this period, the number of sentenced offenders who were Hispanic nearly quadrupled and accounted for more than half (54%) of the growth in the total number of sentenced offenders. One reason all of these figures have risen so sharply is that immigration offenses, unlike most other criminal offenses, are exclusively under the jurisdiction of federal rather than state or local courts.

In 1991, three times as many Hispanics were sentenced in federal courts for drug crimes (60%) as for immigration crimes (20%). By 2007, that pattern had reversed; among Hispanic offenders sentenced in federal courts, 48% were sentenced for an immigration offense and 37% for a drug offense.

Among sentenced immigration offenders, most were convicted of unlawfully entering or remaining in the U.S. Fully 75% of Latino offenders sentenced for immigration crimes in 2007 were convicted of entering the U.S. unlawfully or residing in the country without authorization, and 19% were sentenced for smuggling, transporting or harboring an unlawful alien. The convictions broke down largely along citizenship lines. Among sentenced non-citizen Latino immigration offenders, more than eight-in-ten (81%) were convicted of entering unlawfully or residing in the U.S. without authorization. In contrast, more than nine-in-ten (91%) U.S. citizen Latino immigration offenders were convicted of smuggling, transporting or harboring an unlawful alien.

Hispanics who were convicted of any federal offense were more likely than non-Hispanics to be sentenced to prison. But among all federal offenders sentenced to prison, Hispanics were also more likely than blacks or whites to receive a shorter prison term. These racial and ethnic disparities in sentencing appear to be linked to USSC guidelines that attach clear boundaries for the types of sentences that can be meted out for different types of crimes.

This report examines the ethnic, racial and citizenship status of sentenced offenders in federal courts. It is important to note that the federal courts represent a relatively small share of the overall criminal justice system in the United States.

The United States Sentencing Commission

The United States Sentencing Commission (USSC) was established in 1984 to create sentencing guidelines for the federal courts as part of the Sentencing Reform Act. One of its missions is to collect data on all federal criminal cases sentenced under the Federal Sentencing Guidelines ([USSC, 2007a](#)). The data files available from the USSC include all cases that resulted in a sentence from fiscal 1991 through fiscal 2007.

² Offenders without U.S. citizenship are either legal (resident) aliens, illegal aliens or of indeterminate immigration status. Sentenced offenders who hold U.S. citizenship are either citizens by birth or naturalized citizens. It is not possible to determine the birth country of sentenced offenders in the USSC's Monitoring of Federal Criminal Sentences data files.

According to the Bureau of Justice Statistics, in 2004 only 6% of all offenders sentenced for a felony were sentenced in a federal court; the remainder were sentenced in a state court ([Durose and Langan, 2007](#)).

Inmates in State Prisons, Federal Prisons and Local Jails

Inmates held in federal prisons represent a small share of all inmates held in correctional facilities in the United States. According to the Bureau of Justice Statistics, in 2007 nearly 2.3 million inmates were held in state prisons, federal prisons or local jails. Only about 200,000, or 8.6%, were held in federal prisons and facilities.

Hispanics represented nearly one-in-three (31%) inmates incarcerated in federal prisons in 2007, a greater share than whites (28%) but a smaller share than blacks (37%) ([Bureau of Justice Statistics Program](#)). This stands in sharp contrast to the ethnic and racial makeup of state prisons and local jails, where more than nine-in-ten (91%) of the 2.3 million inmates in this country are held. Among inmates held in state prisons, 19% were Hispanic, 36% were white and 39% were black in 2005 ([West and Sabol, 2008](#)). Among inmates held in local jails, 16% were Hispanic, 43% were white and 39% were black in 2007 ([Pastore and Maquire, 2009](#)).

According to the [Pew Center on the States](#) (2008), incarceration rates vary greatly across racial and ethnic groups. In 2006, 1.5% of Hispanic adults were incarcerated, while 3.4% of blacks and less than 1% of whites were behind bars.

The data for this report are from the United States Sentencing Commission's Monitoring of Federal Criminal Sentences data files for fiscal years 1991 through 2007. These files contain information on all federal court cases in which an offender was sentenced. Only those cases with documentation compiled by the USSC are included in the data files. Prior to fiscal 1991, the commission utilized an alternative data collection method ([Reedt and Widico-Stroop, 2008](#)); data from those years are not included in the analysis presented in this paper.

Key findings of this report include:

Demographics of Sentenced Federal Offenders

- Hispanics represented 40% of all sentenced federal offenders in 2007, the single largest racial and ethnic group among sentenced federal offenders. Whites constituted 27% of federal sentenced offenders and blacks 23%. The remainder (10%) are Asians, Native Americans and those whose race and ethnicity is indeterminate.
- More than seven-in-ten (72%) of Hispanics sentenced in federal courts in 2007 did not hold U.S. citizenship. They accounted for 29% of all federal offenders in 2007.

- Latino offenders who did not hold U.S. citizenship represented a greater share of all Latino offenders in 2007 than in 1991—72% versus 61%.
- Between 1991 and 2007, the number of Hispanics sentenced in federal courts nearly quadrupled (270%), rising faster than the number of offenders sentenced in federal courts over this period and accounting for 54% of the growth in the total number of offenders.
- In 2007, more than half (56%) of all Latino offenders were sentenced in just five of the nation's 94 U.S. district courts. All five are located near the U.S.-Mexico border: the Southern (17%) and Western (15%) districts of Texas, the District of Arizona (11%), the Southern District of California (6%), and the District of New Mexico (6%).

Offense Convictions in Federal Courts

- Among all Hispanics sentenced in federal courts in 2007, 48% were sentenced for immigration offenses, 37% for drug offenses and 15% for other offenses.
- Of Hispanic offenders with U.S. citizenship, more than half (56%) were sentenced for drug offenses, 14% for immigration offenses and 30% for all other offenses.
- Of Latino offenders who did not hold U.S. citizenship, more than six-in-ten (61%) were sentenced for immigration offenses, 30% for drug offenses and 9% for all other offenses.
- Much of the increase in the number of Hispanics sentenced in federal courts has come from a rise in the number of offenders sentenced for immigration offenses between 1991 and 2007.
- Three-fourths of Hispanic immigration offenders were sentenced for entering the U.S. unlawfully or residing in the country without authorization. Nearly two-in-ten (19%) were sentenced for smuggling, transporting or harboring an unlawful alien.
- More than eight-in-ten (81%) non-citizen Hispanic immigration offenders in 2007 were sentenced for entering the U.S. unlawfully or residing in the country without authorization. In contrast, fully 91% of Latino immigration offenders who were U.S. citizens were sentenced for smuggling, transporting or harboring an unlawful alien.

Prison Sentences

- In 2007, Hispanics sentenced in federal courts were more likely than non-Hispanic offenders to receive a prison sentence—96% versus 82%.
- Hispanics sentenced in federal courts in 2007 received shorter prison sentences than blacks or whites—46 months versus 91 months for blacks and 62 months for whites.
- Hispanics who did not hold U.S. citizenship were more likely to receive a prison sentence in 2007 than those who were citizens—98% versus 90%.
- The average prison sentence for Hispanics fell from 58 months in 1991 to 46 months in 2007.
- Non-U.S. citizen Latinos received shorter prison sentences (40 months) in 2007 than Hispanics with U.S. citizenship (61 months).

About this Report

This report examines the characteristics of offenders sentenced in federal courts. It does not provide an examination of offenders in state or local courts, where the majority of all offenders are sentenced. The data for this report are from the USSC's Monitoring of Federal Criminal Sentences data for fiscal years 1991 to 2007. These files are the main source of information about the characteristics of federal offenders and their sentences.

A Note on Terminology

The terms "Hispanic" and "Latino" are used interchangeably in this report. The terms "whites" and "blacks" are used to refer to the non-Hispanic components of their population.

The terms "undocumented" and "illegal" are used interchangeably in this report.

Non-U.S. citizens are individuals who are legal (resident) aliens, illegal aliens or individuals without U.S. citizenship whose alien status is unknown.

U.S. citizens are citizens by birth or naturalized citizens.

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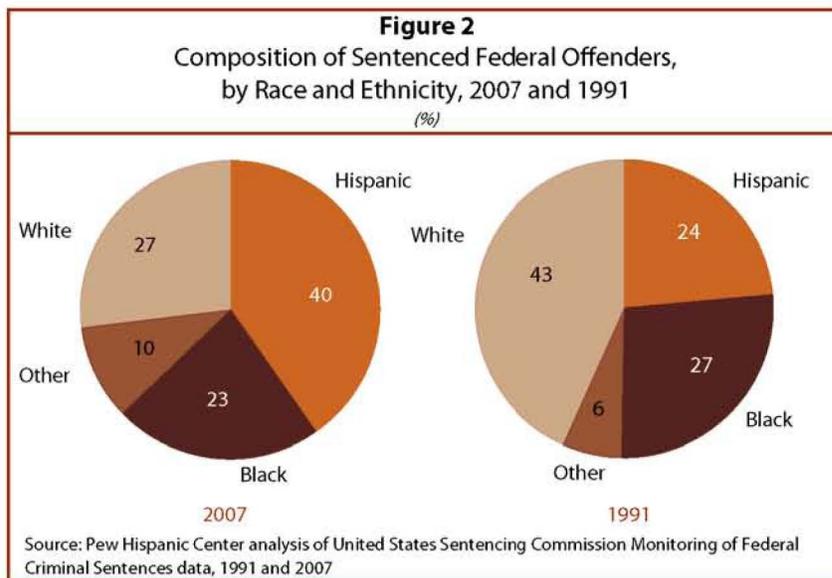
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Changing Demographics of Sentenced Federal Offenders

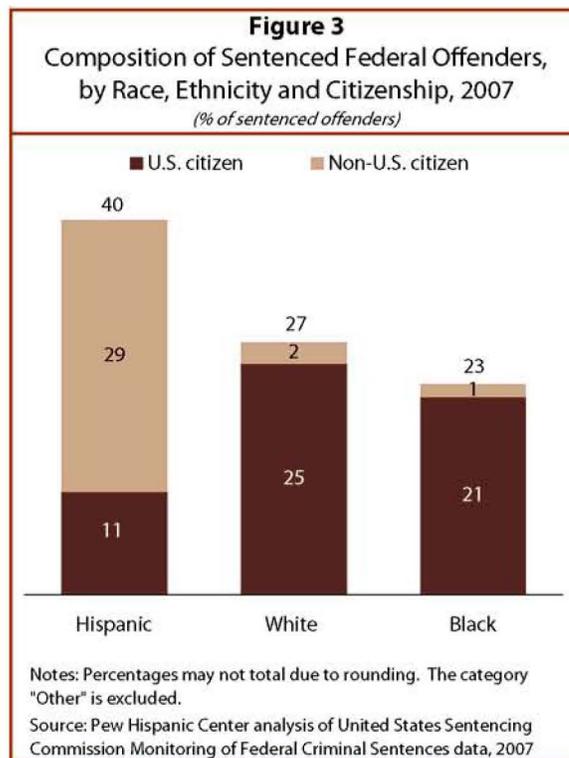
Hispanics Largest Group among Federal Offenders

In 2007, four-in-ten (40%) offenders sentenced in federal courts were Hispanic, a share larger than whites (27%) or blacks (23%). This is a marked change from the demographic composition of offenders sentenced in 1991, when 24% of offenders were Hispanic, 43% white and 27% black.



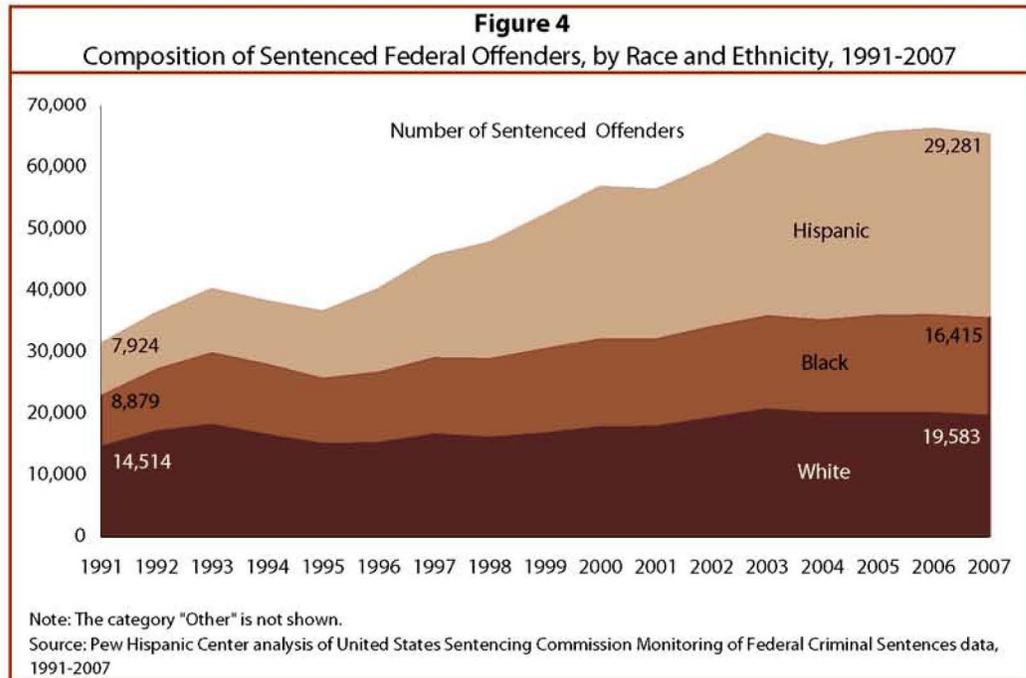
Latino offenders are far more likely than other offenders to be non-citizens. Among Latino sentenced offenders in 2007, more than seven-in-ten (72%) did not have U.S. citizenship. In comparison, among white and black offenders, small shares did not hold U.S. citizenship – 8% and 6% respectively.

Non-citizen Hispanics represent a significant share of all offenders sentenced in federal courts. In 2007, 29% of all sentenced federal offenders were non-U.S. citizen Hispanics, larger than the share of offenders who were white or the share who were black.

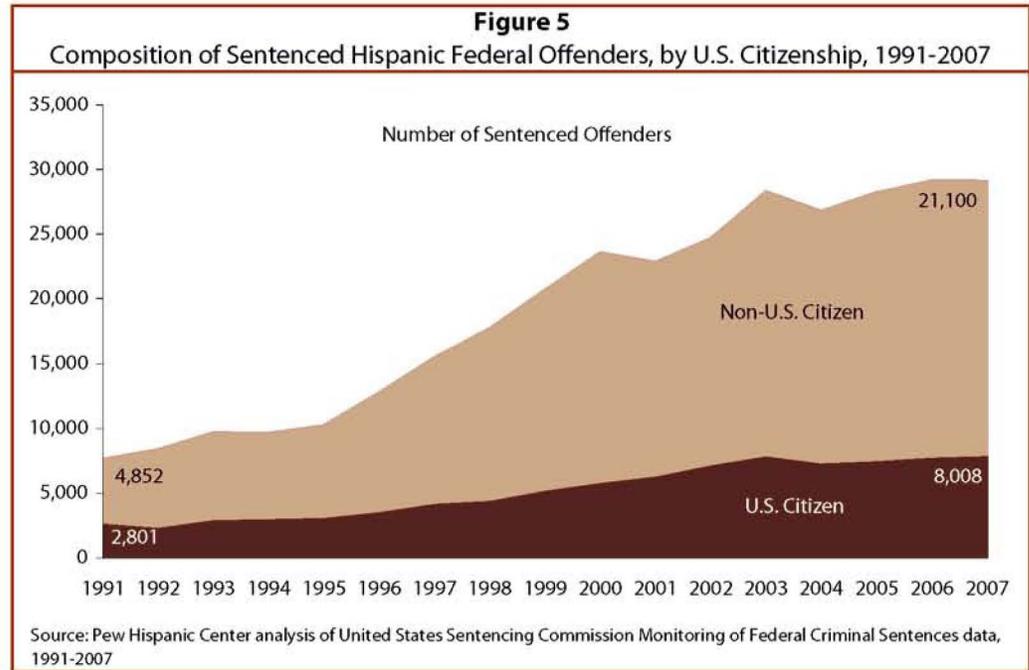


Hispanics and a Growing Federal Caseload, 1991-2007

Between 1991 and 2007, the number of offenders sentenced in federal courts more than doubled (118%). During this same period, the number of sentenced Hispanic offenders nearly quadrupled (270%), from 7,924 in 1991 to 29,281 in 2007. Hispanics accounted for more than half (54%) of the growth in the number of sentenced federal offenders over this period.



To a large extent, the growth in the number of Hispanics sentenced in federal courts has come from Hispanics who do not hold U.S. citizenship. Between 1991 and 2007, Hispanics without U.S. citizenship accounted for 41% of the growth in the total number of offenders sentenced in federal courts.



Hispanic Offenders in Federal District Courts

In 2007, more than half (56%) of all Hispanics sentenced in the 94 federal district courts were sentenced in one of five courts: the Southern (17%) and Western (15%) districts of Texas, the District of Arizona (11%), the Southern District of California (6%) and the District of New Mexico (6%). All five courts are located along the U.S.-Mexico border.

Accordingly, majorities of those sentenced in 2007 in the Southern District of Texas (89%), the District of Puerto Rico (86%), the Western District of Texas (78%), the District of New Mexico (71%) and the District of Arizona (69%) were Hispanic. In all five districts, non-U.S. citizen Hispanic offenders made up majorities of all Hispanics sentenced.

This geographic distribution of Hispanic offenders was less concentrated in 1991, though a similar concentration of cases in border districts was evident. In that year, 52% of all Hispanics

Table 1
Top 10 Federal District Courts Where Hispanics Are Sentenced

PERCENT OF ALL SENTENCED HISPANICS

Federal District Court	Rank	Share
Texas South	1	16.9
Texas West	2	15.3
Arizona	3	11.1
California South	4	6.2
New Mexico	5	6.1
Florida South	6	3.3
New York South	7	2.4
Puerto Rico	8	2.3
Florida Mid	9	2.2
California Central	10	2.1

PERCENT OF SENTENCED OFFENDERS WHO ARE HISPANIC

Federal District Court	Rank	Share
Texas South	1	88.8
Puerto Rico	2	85.8
Texas West	3	77.6
New Mexico	4	70.5
Arizona	5	68.8
California South	6	56.1
Washington East	7	55.0
California East	8	52.3
Idaho	9	47.0
Texas North	10	44.8

Source: Pew Hispanic Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 2007

sentenced in federal courts were sentenced in one of five district courts: the Southern District of Texas (20%), the Western District of Texas (10%), the Southern District of California (9%), the Southern District of Florida (7%) and the District of Arizona (6%).

Offense Convictions in Federal Courts in 2007

Crimes of Sentenced Federal Offenders

More than half (59%) of all offenders sentenced in federal courts in 2007 were sentenced for drug crimes (35%) or immigration crimes (24%). Drug crime convictions were the most prevalent offenses among sentenced offenders who were white (31%) or black (44%). In contrast, among Latino offenders, the share sentenced for drug crimes (37%) was second to the share sentenced for immigration offenses (48%).

The distribution of offenders' crimes was substantially different for Latinos who held U.S. citizenship and those who did not. In 2007, more than half (56%) of Hispanic offenders with U.S. citizenship were sentenced for drug offenses, 14% for immigration offenses and 30% for all other offenses. In contrast, more than six-in-ten (61%) non-citizen Latino offenders were sentenced for immigration offenses, 30% for drug offenses and 9% for violent, property, white collar and fraud, firearms and other offenses.

Table 2
Offenses of Sentenced Federal Offenders, 2007
(%)

	ALL	NON-HISPANIC		HISPANIC		
		White	Black	All	U.S. Citizen	Non-U.S. Citizen
Drugs	34.8	31.5	43.5	36.8	56.0	29.7
Immigration	24.1	5.7	2.6	48.4	14.0	61.4
White Collar and Fraud	16.2	26.9	19.4	6.6	11.5	4.6
Firearms	11.5	13.8	24.4	4.6	10.5	2.4
Other	7.5	13.3	3.7	2.2	4.6	1.3
Violent	3.1	4.5	3.5	0.8	1.9	0.4
Property	2.7	4.3	3.0	0.6	1.5	0.3

Source: Pew Hispanic Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 2007

Among sentenced Latino immigration offenders in 2007, fully 75% were convicted of entering the U.S. unlawfully or residing in the country without authorization, and 19% were convicted of smuggling, transporting or harboring an unlawful alien. The convictions broke down largely along citizenship lines. Among sentenced non-citizen Latino immigration offenders, more than eight-in-ten (81%) were convicted of entering the U.S. unlawfully or residing in the country without authorization. In contrast, more than nine-in-ten (91%) U.S.

citizen Latino immigration offenders were convicted of smuggling, transporting or harboring an unlawful alien.

Table 3
Offense Types Among Offenders Sentenced for Immigration Crimes, 2007
(% among Immigration offenders)

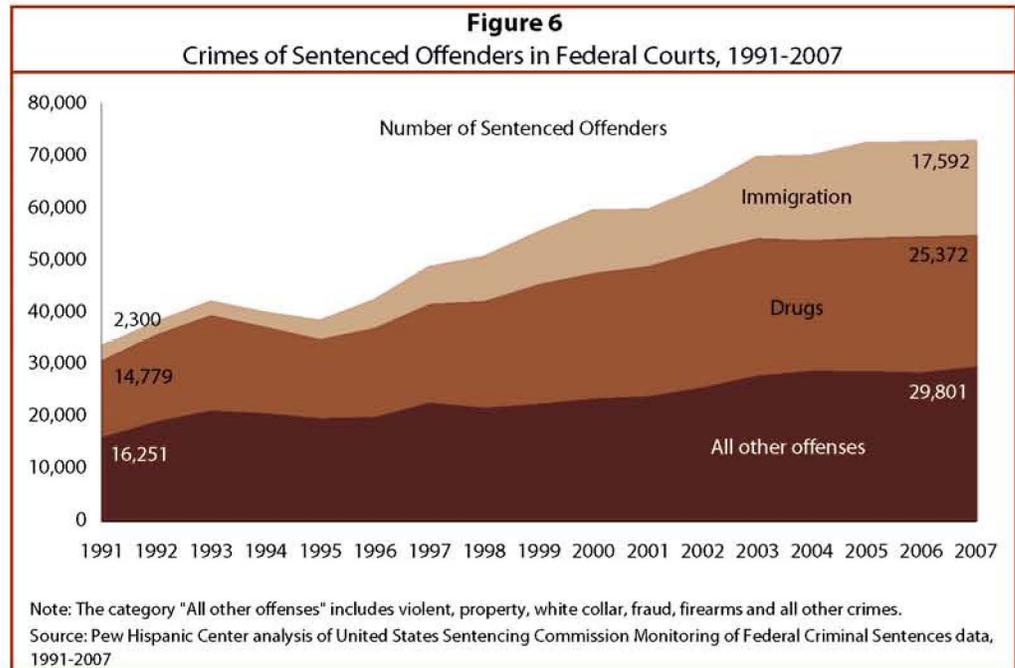
Immigration Offense	ALL	NON-HISPANIC		HISPANIC		
		White	Black	All	U.S. Citizen	Non-U.S. Citizen
Smuggling, transporting or harboring of an unlawful alien	21.5	58.8	25.3	19.0	90.6	12.5
Unlawfully entering or remaining in U.S.	70.1	24.8	42.5	74.7	3.7	81.2
Other	8.4	16.4	32.2	6.3	5.7	6.3

Note: "Other" category includes trafficking in identity documents or making false statements with respect to citizenship
Source: Pew Hispanic Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 2007

Immigration Crimes a Growing Share of the Federal Caseload between 1991 and 2007

Beginning in 1995, the Immigration and Naturalization Service (INS) implemented an initiative called Operation Gatekeeper, which was designed to increase border security. Since that time, the number of immigration offenders in federal courts has increased from less than 10% of all cases prior to 1996 to 24% in 2007 (USSC, 2004).

As the U.S. federal government sentenced more offenders for immigration crimes, a growing share of Hispanics were sentenced for those crimes. This is particularly true for Hispanic offenders without U.S. citizenship. Between 1991 and 2007, the share of non-U.S. citizen Hispanics sentenced for immigration crimes more than doubled from 28% to 61%.

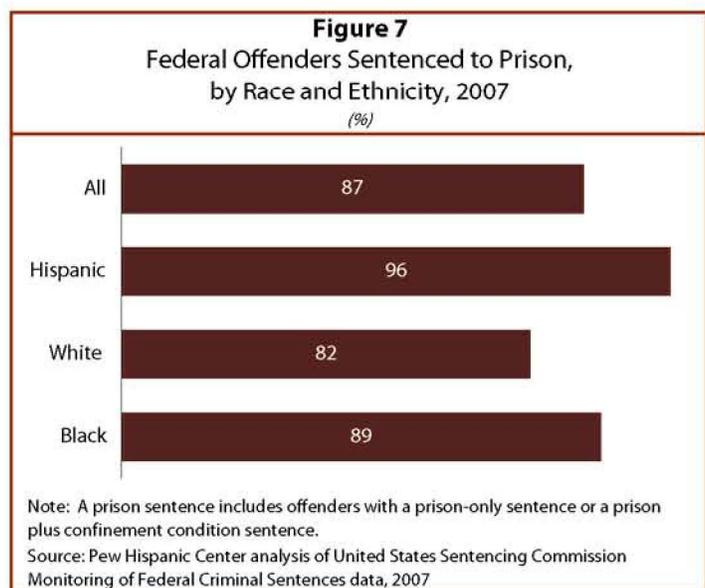


Sentences Issued to Offenders in Federal Courts

Types of Sentences Issued

Under USSC sentencing guidelines, sentenced offenders in federal courts typically receive one of five sentences: a fine; a prison-only sentence; a prison sentence plus confinement conditions; a probation sentence plus confinement conditions; or a probation-only sentence. A prison sentence (a prison-only sentence or a prison plus confinement condition sentence) is the most common punishment imposed on offenders sentenced in federal courts. Nearly nine-in-ten (87%) federal offenders in 2007 were ordered to be incarcerated in prison.

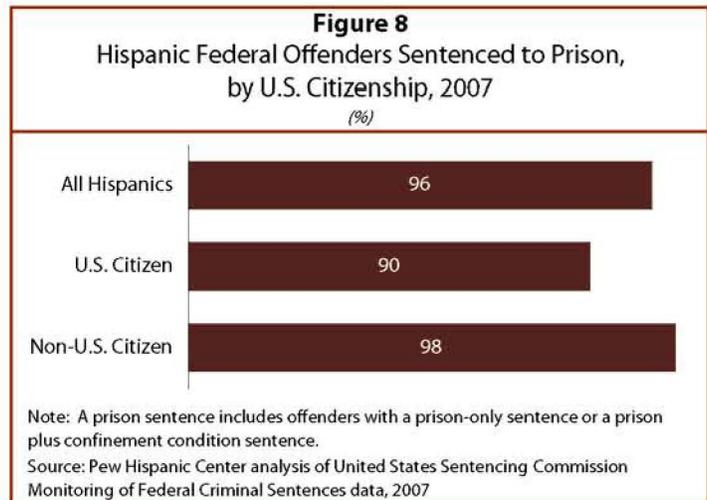
Fully 96% of immigration offenders received a prison sentence in 2007, compared with 95% of drug offenders, 94% of firearms offenders and 94% of violent offenders. Property offenders were least likely to be



sentenced to prison (44%) in 2007.

While large majorities of federal offenders received a prison sentence, some groups of offenders were more likely than others to receive one. In 2007, 96% of Latino offenders, and 98% of non-U.S. citizen Latino offenders, were sentenced to prison. In contrast, 89% of black offenders and 82% of white offenders received a prison sentence.

Because the USSC guidelines provide clear sentencing recommendations for all offenses, disparities in the prevalence of prison sentences among racial and ethnic groups are linked to differences in the types of crimes they committed. For example, Hispanics are much more likely than whites or blacks to be sentenced for an immigration or drug offense—two of the crimes most likely to be punished with a prison sentence. In 2007, 85% of Hispanics were sentenced for either a drug or immigration offense. This was 40 percentage points greater than any other racial or ethnic group: 46% of black offenders and 37% of white offenders were sentenced for drug or immigration offenses.



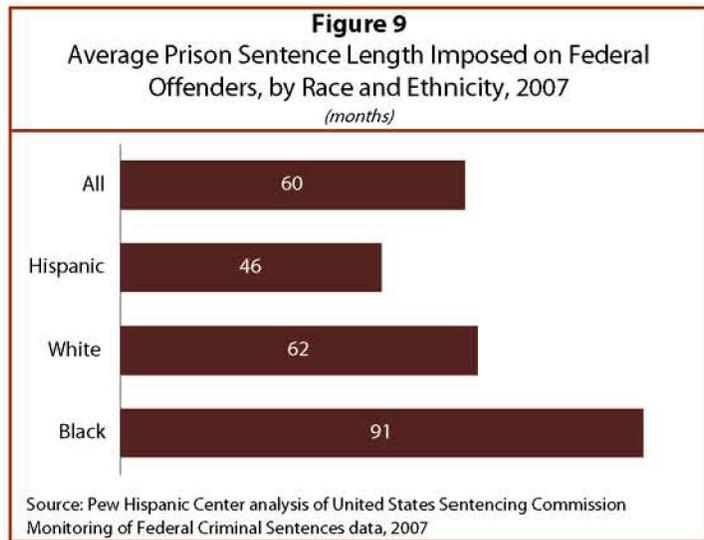
Types of Sentences Imposed in Federal Courts

Convicted offenders in federal courts typically receive one of the following five sentences. For more detail, see Appendix B.

- Fine: Offenders only fined, not imprisoned or given confinement conditions.
- Prison Only: Offenders only imprisoned, not fined or given confinement conditions.
- Prison Plus Confinement Conditions: Offenders receive a prison sentence plus a form of alternative confinement such as community confinement, home detention or intermittent confinement.
- Probation Plus Confinement Conditions: Offenders receive probation plus a form of alternative confinement such as community confinement, home detention or intermittent confinement.
- Probation Only: Offenders put on probation, not fined, imprisoned or given confinement conditions.

Average Prison Sentence Length

Among those who were sentenced to prison³ in 2007, the average sentence was 60 months. Black offenders on average received the longest sentences (91 months), followed by whites (62 months) and Hispanics (46 months). Among Latino offenders sentenced to prison, those who did not hold U.S. citizenship received prison sentences of 40 months in 2007. In contrast, Latino offenders with U.S. citizenship received longer prison sentences of 61 months.



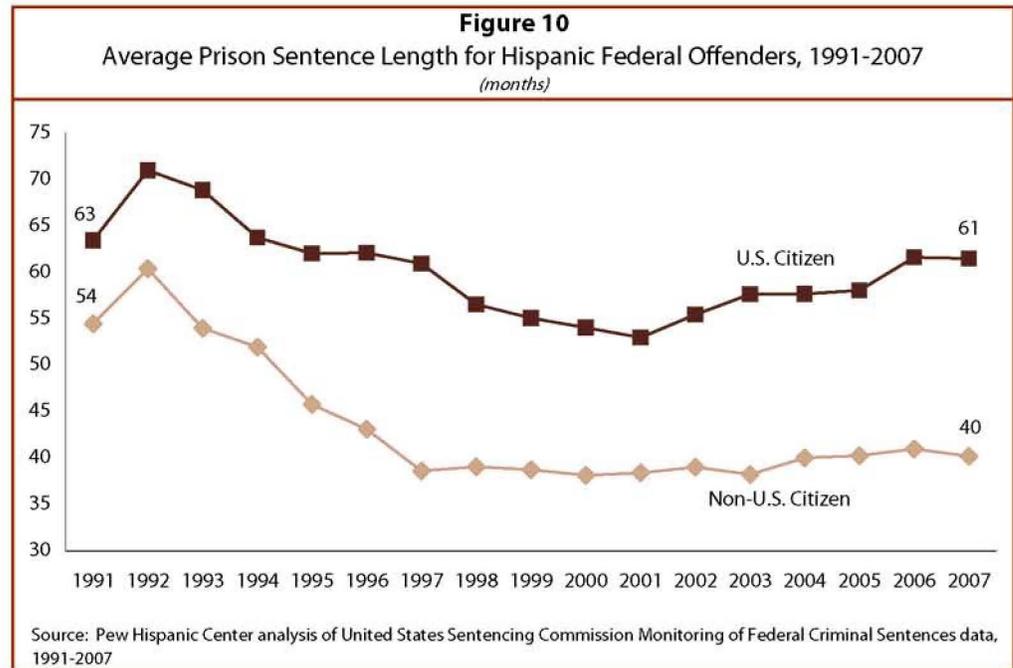
Between 1991 and 2007, the length of the average prison sentence among federal offenders remained unchanged at 60 months. However, this stability masks differences among racial and ethnic groups. Between 1991 and 2007, the average prison sentence for blacks increased 24%, from 74 months to 91 months. For whites, the average prison sentence length increased 17%, from 53 months to 62 months.

The experience of Hispanic offenders was markedly different. Between 1991 and 2007, the average prison sentence length for all Hispanics fell from 58 months to 46 months. Most of this decline in sentence length was due to the fall in sentence length for non-U.S. citizen Hispanics. For them, prison sentences declined by 26%, from 54 months in 1991 to 40 months in 2007. Non-U.S. citizen Hispanics received the least severe sentences among all offenders sentenced to prison since 1995. In contrast, the average prison sentence for U.S. citizen Hispanic offenders fell slightly, from 63 months in 1991 to 61 months in 2007.

Just as with the type of sentence an offender receives, the length of a prison sentence is closely related to the crime. In 2007, drug crime offenders received the longest prison sentences, averaging 84 months. This was followed by offenders sentenced for firearms crimes (81 months) and violent crimes (77 months). Immigration offenders had the shortest prison sentences, which averaged 25 months.

³ Average prison sentence length was calculated only for offenders whose prison sentence was from one month up to 470 months. Offenders whose sentence was 470 months (a life sentence) or greater were excluded. The prison sentence length calculation includes those who were sentenced to time served.

The decrease in average prison sentence lengths for Hispanic offenders is likely due to the shift in types of crimes for which they were sentenced. In 1991, more Hispanics were sentenced for drug crimes (60%) than immigration crimes (20%). However, by 2007, among Hispanic offenders, immigration convictions made up nearly half (48%) of all cases.



References

- Durose, Matthew R., and Patrick A. Langan, "[Felony Sentences in State Courts, 2004](#)," NCJ 215646, Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs, July 2007.
- Mendelson, Margot, Shayna Strom and Michael Wishnie, "[Collateral Damage: An Examination of ICE's Fugitive Operations Program](#)," Migration Policy Institute, February 2009.
- Passel, Jeffrey, "[Unauthorized Migrants: Numbers and Characteristics](#)," Pew Hispanic Center, June 14, 2005.
- Passel, Jeffrey and D'Vera Cohn, "[Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow](#)," Pew Hispanic Center, October 2, 2008.
- Pastore, Ann L. and Kathleen Maguire, eds. [Sourcebook of Criminal Justice Statistics](#), Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs, 2009.
- Pew Center on the States, "[One in 100: Behind Bars in America 2008](#)," January 10, 2008.
- Reedt, Louis and Jessica Widico-Stroop, "[Changing Face of Federal Criminal Sentencing: Seventeen Years of Growth in the Federal Sentencing Caseload](#)," U.S. Sentencing Commission, December 2008.
- U.S. Sentencing Commission, [Federal Sentencing Guidelines Manual](#), 2007a.
- U.S. Sentencing Commission, [Sourcebook of Federal Sentencing Statistics](#), 2007b.
- U.S. Sentencing Commission, [Fifteen Years of Guidelines Sentencing: An Assessment of How Well the Federal Criminal Justice System is Achieving the Goals of Sentencing Reform](#). Washington DC, 2004.
- West, Heather C. and William J. Sabol, Ph.D., "[Prisoners in 2007](#)," NCJ 224280, Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs, December 2008.

Appendix A: Classification of Federal Offenses

Offense categories defined in this report were created by collapsing the primary offense categories utilized by the U.S. Sentencing Commission. The Commission determines an offender's primary offense category by examining the offense conviction with the highest statutory maximum.⁴ Below is the description of the primary offense categories that make up the offense categories used in the analyses for this report.

Drugs

Trafficking includes drug distribution/manufacture, drug distribution/manufacture: conspiracy, continuing criminal enterprise, drug distribution; employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

Communication Facility includes use of a communication facility in a drug trafficking offense.

Simple Possession includes distribution of a small amount of marijuana and simple possession.

Immigration

Immigration includes trafficking in U.S. passports; trafficking in entry documents; failing to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; being an unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

Violent

Murder includes first-degree murder, felony with death resulting, second-degree murder and conspiracy to murder (with death resulting).

Manslaughter includes both involuntary and voluntary manslaughter.

Sexual Abuse includes sexual abuse of a minor, transportation of minor for sex, sexual abuse of a ward, criminal sexual abuse and abusive sexual contact.

Assault includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to

⁴ These descriptions are those used by the USSC and are from the 2007 [Sourcebook of Federal Sentencing Statistics](#), Appendix A.

murder, obstructing or impeding officers, minor assault and conspiracy that includes assault with attempt to murder.

Robbery includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery and carjacking.

Property

Arson also includes damage by explosives.

Burglary/Breaking & Entering includes post office burglary, burglary of Drug Enforcement Administration premises (pharmacy), burglary of other structure, bank burglary and burglary of a residence.

Auto Theft includes auto theft (including parts), receipt/possession of stolen auto or parts and altered identification numbers/trafficking in altered (auto).

Larceny includes bank larceny, theft from benefit plans, other theft: mail/post office, receipt/possession of stolen property (not auto), other theft; property, larceny/theft-mail/post office, larceny/theft; property (not auto) and theft from labor union.

White Collar and Fraud

Fraud includes odometer laws and regulations, insider trading, and fraud and deceit.

Embezzlement includes embezzlement: property, embezzlement from labor unions, embezzlement; mail/post office, embezzlement from benefit plans and bank embezzlement.

Forgery/Counterfeiting includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

Bribery includes payment to obtain office, bribe involving officials, bribery: bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

Tax Offenses include receipt/trafficking in smuggled property, aid, etc., in tax fraud: fraud, tax returns, statements, etc.; fraud, false statement/perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; and regulatory offenses: taxes; failure to deposit taxes in trust account; nonpayment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

Money Laundering includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report and failure to report monetary transactions.

Extortion/Racketeering includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering and violent crimes in aid of racketeering.

Antitrust includes bid-rigging, price-fixing and market allocation agreement.

Firearms

Firearms includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc., in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

Other

Gambling/Lottery includes engaging in a gambling business, transmission of wagering information, obstruction to facilitate gambling and interstate transportation of wagering paraphernalia.

Civil Rights includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc., of eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude and slave trade; intercept communication or eavesdropping; and conspiracy to deprive an individual of civil rights.

Pornography, Prostitution includes dealing in obscene matter, transportation of minor for prostitution, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

Offenses in Prisons includes contraband in prisons, riots in federal facilities and escape.

Administration of Justice includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of a witness, perjury or subornation of perjury, misprision of a felony and accessory after the fact.

Environmental/Fish and Wildlife includes waste discharge and offenses relating to specially protected fish, wildlife and plants.

National Defense includes evasion of export controls and exportation of arms, etc., without a license.

Food and Drug includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

Kidnapping/Hostage includes ransom taking and hostage/kidnapping.

Other Miscellaneous Offenses includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; recordkeeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense – aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

Appendix B: Classification of Sentences Imposed

The following classification for the types of sentence imposed comes from Variable Codebook for Individual Offenders – Standardized Research Data Files for Fiscal Years 1999-2007. These descriptions are those used by the U.S. Sentencing Commission and come from the 2007 [Sourcebook of Federal Sentencing Statistics](#), Appendix A.

The Fine Only category includes those offenders that received neither a prison or probation sentence, but only a fine.

The Prison category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The Prison plus confinement conditions category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The Probation Only category includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

The Probation plus confinement conditions category includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

Prison sentences for any offender are expressed in months. Currently the U.S.S.C. assigns life sentences a value of 470 months. Prior to FY 1993, the U.S.S.C. assigned life sentences 360 months. Those who received only probation or probation plus confinement conditions were not included in mean prison sentence calculations.

Appendix C: Data Tables

	ALL	NON-HISPANIC		HISPANIC		
		White	Black	All	U.S. Citizen	Non-U.S. Citizen
1991	33,419	14,514	8,879	7,924	2,801	4,852
1992	38,258	17,041	10,639	8,640	2,412	5,926
1993	42,107	18,121	12,166	9,936	3,062	6,644
1994	39,971	16,448	12,005	9,764	3,159	6,499
1995	38,500	14,986	11,135	10,450	3,254	7,013
1996	42,436	15,146	11,966	13,095	3,717	9,075
1997	48,848	16,565	12,891	16,169	4,319	11,163
1998	50,754	16,059	13,251	18,465	4,561	13,123
1999	55,557	16,734	14,249	21,260	5,337	15,345
2000	59,846	17,780	14,762	24,263	5,929	17,644
2001	59,897	17,790	14,767	23,773	6,430	16,411
2002	64,366	19,216	15,353	25,669	7,297	17,367
2003	70,258	20,600	15,714	29,061	7,978	20,315
2004	70,068	19,979	15,647	27,696	7,435	19,342
2005	72,462	20,012	16,420	29,076	7,630	20,581
2006	72,585	20,072	16,399	29,673	7,887	21,241
2007	72,865	19,583	16,415	29,281	8,008	21,100

Note: All Hispanic category includes offenders with unknown citizenship
Source: Pew Hispanic Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 1991- 2007

Table A2
Federal Offenders Sentenced for Immigration Offenses
by Race, Ethnicity and Citizenship, 1991-2007

	ALL	NON-HISPANIC		HISPANIC		
		White	Black	All	U.S. Citizen	Non-U.S. Citizen
1991	2,300	135	156	1,577	131	1,356
1992	1,928	157	129	1,521	83	1,298
1993	2,189	140	172	1,738	83	1,533
1994	2,338	137	163	1,885	76	1,771
1995	3,170	148	224	2,653	71	2,521
1996	4,931	207	220	4,345	175	4,059
1997	6,690	260	257	5,915	226	5,317
1998	8,062	252	266	7,242	241	6,645
1999	9,669	363	339	8,652	379	8,083
2000	11,689	443	371	10,506	456	9,859
2001	10,458	546	316	9,309	536	8,522
2002	11,736	596	349	10,389	619	9,521
2003	15,081	880	461	13,210	953	12,023
2004	15,717	976	463	13,247	857	12,075
2005	17,717	900	473	14,667	1,148	13,259
2006	17,574	986	434	14,533	1,180	13,244
2007	17,592	1,124	421	14,145	1,124	12,950

Note: All Hispanic category includes offenders with unknown citizenship
Source: Pew Hispanic Center analysis of United States Sentencing Commission Monitoring of Federal Criminal Sentences data, 1991- 2007