

123338

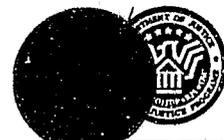
**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Public Domain/OJP/NIJ
U.S. Department of Justice
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.



International Summaries

A Series of Selected Translations in Law Enforcement and Criminal Justice

National Institute of Justice /NCJRS
NCJ 123338

From France

Foreign Nationals in the French Criminal Justice System

Statistics raise questions about why a growing number of foreigners is straining France's already crowded court dockets and prisons.

by Pierre Tournier
and Philippe Robert

Introduction

In France, recent public debates have centered on the growing problem of alien delinquency, an especially sensitive issue since court dockets and prisons are over capacity. These discussions are fueled by unofficial statistics, often cited by people who neither know where the numbers came from nor what they mean. Official statistics frequently fare no better: though different branches of the criminal justice system often include information on alien status or national origin in their statistics, that information is scattered or buried among other variables.

Uncertainties about statistics, methodologies

The information regarding an offender's nationality is sometimes fairly straightforward, but the manner in which this

This is a summary of *Les étrangers dans les statistiques pénales* by Pierre Tournier and Philippe Robert. Published by Centre de Recherches Sociologiques sur le Droit et les Institutions Pénales in Paris, 1989. The original contains 256 pages and includes a bibliography. Summary published spring 1990.

information is obtained frequently raises questions. The legal status of foreigners is often complicated, and many criminal justice agents, including those who are required to fill out intake forms, are unsure about how to deal with these issues. Many experts believe that the nationality, which appears on a criminal document and all subsequent statistical forms, is based primarily on information supplied by the suspect.

In practice, it appears that suspects' initial statements to the police are automatically transcribed and transferred *en toto* to all subsequent documents. Criminal justice agents are allowed a great deal of discretion in filling out intake forms, and coincidental factors—such as whether suspects carry citizenship papers or have a foreign appearance—may play a large part in how they determine nationality. A more thorough verification of an offender's nationality may be required for certain offenses, such as illegal immigration.

Extent of foreign nationals in criminal justice system

Uncertainties about the number of foreigners within the French criminal justice system led to a study funded by the

French Department of Research. The project, "France—a Multi-Cultural Society," focused on three goals:

- Compiling a body of statistical information on foreigners by drawing pertinent details from the available data;
- Clarifying sources of information;
- Defining the limits of statistical validity by systematically pointing out biases.

This report summarizes the results of the study, which categorized statistics according to the different criminal justice institutions involved. Beginning with prison records, considered the most reliable source, the authors present the data in a way that more accurately reflects the situation of foreigners in French prisons.

Prison statistics

Quarterly censuses of the populations in French correctional institutions were studied and data were augmented with computerized searches of the court records, prison registers, and inmate criminal records.

NCJRS

MAY 5 1992

ACQUISITIONS

International Summaries

Prison population falls, but foreign inmate census remains relatively stable

Between 1968 and 1987, the overall French prison population decreased several times as a result of amnesties and judicial reforms; for each general decline, however, the corresponding decrease was far more noticeable among foreign inmates. While the number of French inmates decreased by 25.7 percent between 1968 and 1987, the number of foreign inmates dropped by only 12.6 percent. Between 1985 and 1986, the disparity was even more striking: the general prison population dropped by 2.1 percent, but the number of foreign inmates rose by 2.9 percent.

The statistics do not clarify the reasons for these differences, which may be attributed to a large number of foreigners in pretrial detention moving into the prison system. This discrepancy could also result from the tendency of law enforcement officials to seize foreigners under *mis en cause* (brought in for questioning) status. Once in detention, the foreigners are frequently investigated for immigration status and other legal problems.

Countries of origin begin to shift over years

In 1968, 97 percent of the foreign prison population was made up of Europeans and Africans. Over the next several years, however, important shifts occurred in the nationality of foreign inmates. By 1987, almost 3 percent of inmates came from North and South America and 9 percent from Asia.

In the intervening years, the number of European-origin inmates decreased by one-half. While the number of African inmates was once very few, this segment of the prison population had grown and the countries represented had shifted considerably. The number of Algerian inmates decreased by 50 percent, while the number of inmates from other countries soared dramatically: Moroccans by 300 percent, Tunisians by 400 percent, and those from other African countries (predominantly Senegal, Zaire, and Mali) by 1000 percent.

Biases

One must use caution when considering the overrepresentation of foreigners in the prison population. In France, as in other European countries, visitors who enter the criminal justice system are often counted separately under the category of *touristes*. At other times, they are placed into the general category of "foreigners," which also includes immigrants, illegal aliens, and those on work visas.

These different categories of foreigners are sometimes grouped together, rather than being systematically separated. This practice may introduce biases into the calculation of foreign incarceration. While statistics appear to indicate significant differences between foreign and French inmates, they may instead reflect biases on the part of law enforcement professionals, rather than increased criminal activity by foreigners. For whatever reason, the methodology of gathering the statistics leads to a wide margin of error and questionable validity.

The 1985 statistics show a significant difference between foreign inmates and French counterparts. Foreigners are predominantly young: they make up 33 percent of the inmates in two age groups (18 year olds and below and 25-39 year olds) and 25 percent of two other age groups (18-24 year olds and 40-49 year olds), but they accounted for only 20 percent of those 50 years old and over. Many foreign inmates are also unemployed or laborers: 45 percent were classified as "without profession" or "blue collar workers."

Illegal immigration, narcotics violations lead to detention

Because many of the foreign inmates had committed several offenses, it is often difficult to determine the reason for conviction. Data from 1985, however, indicate that the primary reasons were illegal immigration (violations of public order) and narcotics violations (offenses against persons).

The 1985 statistics also specified the imprisonment status of inmates as they entered correctional institutions. While

75 percent of French inmates first entered the system on pretrial detention, 90 percent of foreigners entered under this status. Of the foreign detentions, 48 percent were ordered by an examining magistrate, and 43 percent were imposed even before the case was submitted to the court. During 1985, 44 percent of those committed to prison very early in the criminal justice process were foreigners.

Separate monthly statistics on imprisoned illegal aliens reflect the large number of foreigners imprisoned simply because of immigration offenses rather than for property, violence, misdemeanors, and other crimes. Of the 23,019 foreigners who served prison terms in 1985, 3,688 were illegal aliens who had committed other offenses as well; for 4,042 other inmates, illegal immigration was the only offense.

Disproportionate number of imprisoned foreigners

When the percentage of foreigners in the overall French population is compared to the percentage of foreigners in prison, the foreign inmate population seems especially high. In 1968, foreigners accounted for only 5.28 percent of the national population, but 16 percent of the prison census; by 1982, foreigners accounted for 6.78 of the general population, but 23 percent of the inmate population.

Researchers evaluated the number of inmates imprisoned in pretrial custody, comparing detention rates for both French citizens and foreign inmates. When the detention rate for foreigners was divided by that of French citizens, researchers found that the rate of incarceration for foreigners changed to a factor of 4.2 for men and 5.1 for women.

Department of Interior Statistics

Police arrest rates

Though the Department of the Interior publishes statistics on reported crimes, resolved cases, and arrests, only the arrest records include information on

nationality. Even these statistics were sketchy, permitting only very rough demographic comparisons according to sex, age, and nationality. Specific information on nationality is not included, and categories are listed only as "French" or "foreigner." These statistics indicate that 16.1 percent (130,597) of the 809,059 persons arrested during 1986 were foreigners.

Information on the offenses for which the inmates were arrested was more detailed. When compared to the general population, a large number of foreigners were arrested for certain offenses, including breaking immigration laws (96.5 percent), drug dealing (43.7 percent), shoplifting (20 percent), concealing stolen goods (19.8 percent), and armed robbery (19.2 percent). On the other hand, few foreigners were arrested for such offenses as check fraud (4.7 percent), domestic violence (6.8 percent), and embezzlement (7.5 percent).

Charge rates among foreigners climb dramatically

Researchers studied the category *mis en cause* (brought in for questioning). From 1972 to 1986 the percentage of the general population implicated in crimes rose by only 11 percent, but the percentage of foreigners climbed by 76 percent. The proportion of foreigners actually arrested and charged with a crime rose from 10 percent to 16 percent. Violations of immigration laws account for some of this dramatic increase. The number of persons arrested for illegal immigration doubled between 1973 and 1981. When illegal immigration is excluded, the percentage of foreigners arrested peaked between 1973 and 1976 and has since continued at a relatively stable 13-14 percent.

Statistics between 1973 and 1986 show little variation between the arrest rates of French citizens and foreigners. One conspicuous exception is the number of foreigners arrested for shoplifting (15.6 percent of the total arrests in 1973 and 20 percent in 1986). The rising rate of foreigners arrested for domestic violence is even more striking, rising from 6.9 percent in 1973 to 15.4 percent in 1986.

This increase has been caused primarily by drug-related problems.

A close analysis of the 1986 data revealed that these high foreign arrest rates resulted from statistics derived from a different source that used stricter reporting controls. As a result, the figures for 1986 could not be directly compared to the earlier statistics. The increase in arrest rates actually reflects a change in recording practices more than a change in the criminal activity of foreigners.

Court Statistics

Statistics from preliminary hearings and sentencing records were somewhat vague and proved least informative in the analysis of foreign offenders. According to the figures from 1985, 15.5 percent of all foreigners in France were charged with some type of crime. Further, the statistics may indicate a tendency to detain foreigners before a trial and sometimes before charging them: 51 percent of the foreigners were in pretrial detention at the time of their preliminary hearing, compared to 30 percent of French citizens.

Incomplete court records make long-term analysis difficult

Court records cannot be used for long-term analysis because nationality was not included as a variable between 1979 and 1982. Changes in recording practices also distort statistics by indicating a dramatic increase in the conviction rate for foreigners (up by 59.5 percent) from 1983 to 1984. Statistics from 1983 court records, which included specific information on foreign offenders, indicated that most were convicted for either using false documents (43 percent) or dealing in drugs (37.2 percent). Very few foreigners were involved in such offenses as involuntary manslaughter, involuntary injury, driving without a permit, or check fraud. The 1983 statistics indicate that more foreigners (42.5 percent) received prison terms than French citizens (34.7 percent). Foreigners also received suspended sentences less frequently (40 percent) than French citizens (60 percent). Nearly 25 percent of the foreign

offenders failed to appear in court as opposed to 15.7 percent of French offenders.

Conclusions

Foreign prison population is disproportionate

Though the disparity between the three types of statistics—official prison censuses, Department of the Interior figures, and court records—makes generalizations difficult, some disturbing issues emerge. Foreigners account for barely 6 percent of the total population of France, but 16 percent of those brought in for questioning. Since 1 out of every 10 persons brought in for questioning ultimately receives a prison sentence, one would think that the foreign population of French prisons would be relatively low. In fact, the opposite is true: one out of every four inmates is a foreigner.

Impact of illegal immigration on statistics

The drastic rise in illegal immigration arrests stems from a change in immigration policy. In the economic expansion following World War II, Western European countries welcomed foreign workers, but as the labor market began to shrink in the mid-1970's, most countries put an end to immigration. Despite restrictions and the threat of prison, illegal immigrants continue to pour across the borders from the overpopulated and economically underdeveloped countries of the southern hemisphere, mostly from northern Africa.

In France, the battle against illegal immigration has become a top government priority and has escalated as forces of the extreme right focus their criticism and attacks on foreigners. The police have found that foreigners make easy targets because they are a highly visible and vulnerable population: conspicuous in appearance, often unemployed, poorly educated, and inadequately housed. Further, illegal immigrants can often be prosecuted for several offenses simultaneously.

International Summaries

Thus, the repression of illegal immigration alone accounts for the increase of foreigners among those arrested for crimes. When this offense is excluded, the rate of foreign arrests drops by 22 percent; since illegal immigration is always included in statistics, however, delinquency rates for foreigners are virtually meaningless. The offense also significantly contributes to the present overcrowding of jails; one-third of all foreign inmates serve their terms because of violations of immigration laws, and for one out of five, this is the only or principal reason for imprisonment.

Other reasons lead to high percentage of foreign inmates

Illegal immigration is not sufficient to explain the large number of foreigners in the prison population. Statistics revealed that foreigners tend to be arrested for offenses which traditionally receive prison terms—*thefts and violent offenses*—rather than economic offenses or traffic violations. Further, judges and juries seemed predisposed to prison sentences for these defendants, most of whom were young, undereducated, and poor.

Studies revealed that 80 percent of the inmates were in prison not as convicted offenders, but on pretrial detention; further, half of the prison stay for a given group of inmates is spent in detention. Here again, foreigners receive worse treatment than French citizens. Although foreigners appear less frequently in the preliminary investigation, they are more frequently placed under pretrial detention (51 percent of foreigners as opposed to 30 percent of French suspects).

The decision to place suspects in pretrial custody depends less on the legal situation than on the likelihood that suspects

will appear in court. With a higher rate of failure to appear in court, foreigners are more likely to be placed in pretrial custody; in 1983, 23.5 percent of the foreign defendants as opposed to 15.7 percent of French suspects failed to keep their court dates. As a result, foreign suspects seem to be likely candidates for prison from a very early point in the criminal justice process.

Criminal Activities of Foreigners

The question remains as to whether these statistics provide any general indication of the extent of foreign involvement in the overall crime rate. Here, every individual offense requires careful consideration.

Illegal immigration. As victimless crimes, immigration violations go unreported unless the police have discovered a specific suspect. Given the great number of highly visible and virtually defenseless potential suspects, this high priority offense can be expected to have a very high detection rate. The same reasoning may hold true for other crimes such as drug-related offenses: foreigners are often conspicuous and, therefore, are easy prey.

Robbery and burglaries. Although most robberies and burglaries are reported, the vast majority of the suspects remain unknown, making it difficult to speculate on the extent of foreign involvement. In those cases (1 out of 10) where police or victims succeed in identifying a suspect, foreign involvement is less than the average.

Violent crimes. Because the victim often knows the offender, violent offenses such as spouse abuse frequently go unreported. If the offender is a relative, victims often prefer to consider the ag-

gression a family quarrel rather than a crime. On the other hand, the more "foreign" the offender appears to the victim, the greater the likelihood the crime will be reported to the police. As a result, a large percentage of foreigners are implicated in violent offenses, though one might suspect this rate would be lower if all violent offenses were reported.

Shoplifting. The statistics indicate that foreigners were arrested for shoplifting far more often than they were for other types of theft. While it may appear that foreigners have a natural inclination for shoplifting, the more plausible explanation is that the security agents of commercial establishments are more inclined to report the foreigner to police rather than choose an alternative solution, as frequently offered to other shoplifters. The researchers suspect that the rate of foreign shoplifting would stabilize if all cases were reported to the police.

These considerations show how caution should be used when interpreting statistics on foreign delinquency. Rather than simply taking the numbers at face value, researchers must consider not only the numerous statistical factors of influence, but also the biases of the criminal justice system.

The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.