

P R O J E C T  
M E M O R A N D U M

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Deportable Aliens  
Released from the Los  
Angeles County Jail

A Comparison of 1990, 1995,  
and 2002 Release Cohorts

LAURA J. HICKMAN, MARIKA SUTTORP,  
JENNIFER WONG AND K. JACK RILEY

PM-1911-LASD

SEPTEMBER 2005

PREPARED FOR THE LOS ANGELES COUNTY SHERIFF DEPARTMENT

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## PREFACE

In June 2000, the County of Los Angeles was awarded a \$2.3 million grant by the U.S. Department of Justice, Office of Community Oriented Policing, to “develop and test a working model of interagency coordination and technology integration that will intensify law enforcement efforts to reduce the incidence of crimes committed by criminal aliens who continually re-enter the county following deportation” (CCJCC, 2002: 1). This interagency partnership was named the High Intensity Criminal Alien Apprehension and Prosecution (HI-CAAP) program.

The grant specified that an evaluation be part of HI-CAAP. In April 2002, the Los Angeles County Sheriff’s Department contracted with the RAND Corporation to conduct this research. The effort consisted of two separate studies. One was a process evaluation assessing the implementation of the HI-CAAP partnership. A report on the results of this study entitled, *Identifying Deportable Aliens in the Los Angeles County Jail: Implementing the HI-CAAP Federal-Local Partnership* was published in October 2004 and is available through the publications section of RAND’s website, <http://www.rand.org> (Raymond et al., 2004).

This report presents the findings of the second study funded under the HI-CAAP partnership. The goal of this research was to replicate two previous studies conducted by the Countywide Criminal Justice Coordination Committee (CCJCC). These studies describe the characteristics and recidivism of deportable aliens released from Los Angeles County Jail in 1990 and 1995. The present study examines the characteristics of deportable aliens released over a 30-day period in 2002 and compares these findings with those of the two previous studies.

The data for this study were collected by the Los Angeles County Sheriff’s Department in cooperation with the Los Angeles District Office of the former Immigration and Naturalization Service (which became the Department of Homeland Security Immigration and Customs Enforcement, or ICE, on March 1, 2003). At the conclusion of the 30-day study period, the data were turned over to RAND for analysis. For the purpose of examining recidivism after a one-year follow-up period, the Los Angeles County Sheriff’s Department provided RAND with a data file containing the criminal records of all foreign-born inmates released from the jail during the 30-day study period. For inmates who were released to the custody of immigration officials, immigration outcome data were provided by ICE in July 2005.



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## SUMMARY

### INTRODUCTION

Throughout the 1980s and 1990s, Los Angeles (L.A.) County officials grew increasingly concerned about large numbers of deportable aliens cycling through the county jail system. Particular concerns were raised about the negative impact of these criminally-involved deportable aliens on local public safety and on local criminal justice resources. There has historically been no means to directly measure the size of the deportable alien population. The most comprehensive effort to quantify the problem to date was conducted by the L.A. Countywide Criminal Justice Coordination Committee (CCJCC). In a series of studies, CCJCC identified and described the characteristics of male deportable aliens released from the county jail over a one-month period in both 1990 and in 1995.

Given the sizeable population identified in these two time periods, L.A. County officials raised questions about whether the deportable alien presence has increased or decreased over time. This report presents the findings of a 2002 replication of the 1990 and 1995 jail studies. Its goal is to compare the 2002 findings with those of 1990 and 1995 and to reveal any changes in the representation, characteristics, and/or recidivism of deportable aliens released from L.A. County Jail.

Through the mid-1990s, there was no method to electronically check fingerprints of arrestees against immigration records. While law enforcement agencies rely on fingerprint-based electronic databases to identify individuals, the Immigration and Naturalization Service (INS) was relying on a name-based identification system. Thus, identification of deportable aliens required immigration agents stationed at the jail to execute a much slower, less reliable, and more resource-intensive process of in-person interviews and name-based database searches. The greatest impediments to consistent identification of deportable aliens in this process were the restrictions on inmate time in custody and immigration personnel resources.

Since the 1990 and 1995 CCJCC jail studies, federal immigration law has both expanded the categories of aliens who are deportable and has established a new mechanism for removing them. In addition to these changes at the national level in immigration law and procedures, there have been changes in L.A. County relevant to the context of the present study. L.A. County criminal justice officials formed a partnership with INS to devise more effective and consistent methods for deportable alien identification. This partnership, dubbed HI-CAAP (High Intensity Criminal Alien Apprehension and Prosecution), is specifically focused on previously deported criminal aliens but its efforts promise to increase identification of deportable aliens in general.

Legal and procedural changes are probably more influential to the present study's time period than the more obvious changes that occurred in the wake of the September 11, 2001, terrorist attacks on the United States. On March 1, 2003, INS was moved from the Department of Justice into a new federal Department of Homeland Security and its functions split among separate agencies. The new entity responsible for interior immigration enforcement is Immigration and Customs Enforcement (ICE). We can find no evidence of substantial alteration in the practices of ICE in the initial period of transition from INS. This is relevant because our study follow-up period spans from September 2, 2002, to September 3, 2003, nearly evenly split between the last six months of INS and the first six months of ICE.

## **METHODOLOGY**

The 1990 CCJCC study established the initial methodology by relying on self-reported place of birth information to identify foreign-born inmates. Arrestees reporting a place of birth other than the United States or one of its territories were classified as foreign-born. Place of birth information is recorded in a field within the jail's Automated Jail Information System (AJIS). For the 1990 study, AJIS data were used to identify all foreign-born inmates released from L.A. County Jail through the Inmate Reception Center (IRC), the single entry and exit point for male inmates in the county jail system. The study captured data on all foreign-born male inmates released during the 31 days of May 1990.

While it was standard policy for immigration agents to conduct screening interviews of foreign-born inmates at the jail, in practice agents were few in number and not available at all times when inmates were set for release. During the 1990 study period, special arrangements were made with INS to increase the staffing of immigration agents to ensure their availability to screen all foreign-born inmates set for release. In July 1992, CCJCC examined rearrests for all deportable aliens over a 12-month follow-up period.

Using a similar methodology, the 1995 study sought to identify and interview all foreign-born inmates exiting L.A. County Jail through IRC during the 30 days of June 1995. Unlike the 1990 study, this study counted convicted offenders on work release as part of the release cohort. During the 30-day jail study period, INS again increased the number of immigration agents so that they would be available around the clock during the entire study period to screen all foreign-born inmates set for release. To measure recidivism, a random sample of 300 releasees was selected from the 1,504 deportable aliens released to INS custody, and criminal records for this sample were analyzed over a 12-month follow-up period.

The sample for the 2002 study includes those male foreign-born inmates released between August 4 and September 2, 2002. It was necessary for this study to use some additional means of identifying deportable aliens. INS was unable to provide an adequate number of agents

to interview all foreign-born releasees from IRC and, unlike previous time periods, inmates were also released directly from court. Thus, to determine deportability status, the 2002 study relied on AJIS records of detainers and custody transfers to immigration, County Consolidated Criminal History Reporting System (CCHRS) records, and Law Enforcement Support Center (LESC) responses to Sheriff Department queries. Despite these multiple methods, we were unable to determine the deportability status of 15 percent of the foreign-born releasees.

## RESULTS

**Number of Deportable Aliens.** The results of the study revealed that while the overall size of the release cohort was similar in 1995 and 2002, the foreign-born inmate population declined from 28 percent in 1995 to 21 percent in 2002. Among all foreign-born releasees, the proportion of deportable aliens also declined from a 61 percent peak in 1995 to 56 percent in 2002.

The previous two studies reported no missing data. For the 2002 study, we were unable to obtain deportability status for 433 (15%) of foreign-born releasees. Counting only those for whom deportability status is known, 2002 had the highest proportion of deportable aliens among foreign-born releases relative to the other two time periods. They made up 66 percent in 2002, 61 percent in 1995, and 58 percent in 1990. Among all male releasees, however, 2002 was second to 1995, with 14 percent and 17 percent deportable aliens, respectively.

**Demographics.** The demographics of deportable aliens reported in the previous studies were limited to age and nationality. Deportable aliens were somewhat older on average in 2002, with 47 percent aged 30 and over compared to 33 percent in 1995. (Age was not reported in 1990.) For nationality, like the two previous time periods, Mexicans represent the vast majority of deportable aliens in 2002, followed distantly by El Salvadorans. Nationals of Mexico and Central and South America represented 99 percent of the deportable aliens in both 1990 and 1995, and 92 percent in 2002.

**Previous Deportation.** Between 1990 and 2002, there was a substantial increase in the share of previously deported aliens in the release cohort. In 1990, 11 percent of the deportable aliens were found to have been previously deported whereas the share was 28 percent in 2002. The 1995 study did not gather data on previous deportation.

**Current Charges and Jail Stay.** The most recent time period is the only one in which there was a greater share of deportable aliens held on misdemeanor charges rather than on felony charges. This was somewhat unexpected, given the overall trend toward reserving jail space for more serious pre-trial and convicted offenders.

Because the previous two studies do not describe how the most serious charge was determined for each alien, we could not confidently replicate their procedures. In fact, with the exception of drug offenses, it is not clear how the 1995 cohort even roughly compares to 1990 on the most serious charge type. Drug charges were the most serious for the majority (35%) of 1990 deportable releasees, relative to 27 percent in 1995 and 17 percent in 2002. While it appears that drug charges have declined among deportable aliens over the 12-year period, this result must be interpreted with caution because of the lack of information about how the category was constructed in the two earlier time periods. “Other” offenses (largely made up of driving-related crimes) were the most frequent serious charge type in 2002 (37%) followed by person offenses (29%).

In 2002, the average length of jail stay for deportable aliens was 11 days longer overall compared to 1995, but for deportable aliens bound for state prison or other custody, the average length of stay was 35 days longer in 1995 than in the later time period. Average length of stay was not reported for 1990 but instead was reported in categories by range of days. By this measure, the length of stay overall was nearly identical for 1990 and 2002, with the majority (70%) staying 60 days or less.

In all three time periods, the majority of released deportable aliens were convicted offenders. In 2002, the proportion of convicted offenders was highest (84%) but not substantially different than that of 1990 (83%) and 1995 (79%). The composition of convicted offenders, however, has nearly completely reversed. In the previous two time periods, the substantial majority of convicted deportable aliens were being released as a result of completion of a sentence, whereas in 2002, the majority were being transferred to state prison or other law enforcement/legal custody. Among non-convicted deportable aliens, the majority in all three time periods were those released on bond or citation.

**Immigration Outcomes.** In each study year, immigration agents took into custody eligible deportable aliens directly upon their release from jail in order to face immigration proceedings. In 1990 and 1995, immigration agents took into custody all eligible deportable aliens. In 2002, only 57 percent of the 1,266 eligible deportable aliens were taken into INS custody. Of those, 75 percent in both 1990 and 2002 either agreed to voluntarily depart the country or were ordered formally deported by a judge (or subject to expedited removal in 2002). This compares to 82 percent in 1995. For all three time periods, it is important to note that this represents the share of deportable aliens that was expected to leave the country. It is not the share of aliens that actually did depart.

**Recidivism.** The method of examining recidivism used in 1990 suffers from some considerable limitations. All deportable aliens were included in the follow-up sample, including the 25 percent of deportable aliens who were transferred to state prison and other custody,

including that of INS. This means that at least some of these individuals (if not most) were still in custody at the end of the one-year follow-up period and had no opportunity to engage in repeat offending in the community. Thus, the 41 percent rearrest rate found in 1990 for all deportable aliens is an underestimate of the rearrest rate of deportable aliens who were actually released into the community. The 2002 replication found a (much lower) 28 percent rearrest rate. This may be, however, entirely due to the much larger portion of the 2002 cohort released to prison or other custody (67%). In 1990, deportable aliens were rearrested an average of 1.97 times during the one year follow-up period, compared to a nearly identical average of 1.9 in 2002.

The 1995 study reports recidivism only on a random sample of those taken into INS custody. This method presents a similar problem as the 1990 study because the sample may include individuals held in INS custody throughout the entire follow-up period (with no opportunity to reoffend). The 1995 report indicated that 45 percent of those released to INS custody were rearrested. It is not possible to assess what share of these individuals had actually been removed and returned across the border and what share never really departed. The 2002 replication of this methodology suffers from these same limitations. Thus, while the 2002 rearrest rate was dramatically lower than the 1995 rearrest rate, at 19 percent, this does not allow us to conclude that fewer deported/removed aliens are making their way back across the U.S. border. As with the 1990 study, the average number of rearrests was identical in 2002 (1.8) and 1995 (1.8).

## **CONCLUSIONS**

Perhaps the most pressing question for interested policymakers is whether the problem of criminally involved deportable aliens is growing better or worse for L.A. County Jail. This question is generally motivated by concerns about growth in the size of the illegal alien population. It is indeed possible that these results could have been obtained as a result of more illegal aliens in the L.A. County area. While there is evidence that the size of the illegal alien population is increasing nationally (U.S. Census Bureau, 2003), we cannot rule out the possibility that the increase in deportable aliens among the 2002 foreign-born releasees was entirely due to changes in federal immigration legislation.

While these legal changes increase the number of deportable aliens, the post-September 11, 2001, environment could be expected to decrease the utility of relying on self-report to identify them. Since the study period launched within 11 months of the September 2001 terrorist attacks, both legal and illegal aliens may have become more hesitant (relative to the earlier time periods) to disclose their foreign birth out of heightened awareness or concern about detention

and deportation. This would result in a more extensive undercounting of deportable aliens in 2002 than in the previous two time periods.

L.A. County criminal justice officials recognized the limitations of reliance on self-reported place of birth and formed a partnership with INS to devise more effective and consistent methods for deportable alien identification. This partnership, dubbed HI-CAAP (High-Intensity Criminal Alien Apprehension and Prosecution), is specifically focused on previously deported criminal aliens, but its efforts promise to increase identification of deportable aliens in general. While it is possible that the efforts of the HI-CAAP partnership played some role in the greater percentage of deportable aliens identified among the 2002 foreign-born releasees, with the available data we were unable to directly address this question.

A second key issue for policymakers is whether the recidivism of deportable aliens has increased or decreased since 1995. Using the same methodology as the previous studies, the findings of this study indicate a substantially lower rearrest rate in the 2002 cohort relative to both previous studies. *There are major limitations in the interpretation of these results, however.* The 1990 study's use of all deportable aliens in its recidivism study underestimates the percentage of repeat rearrests because it includes those who were likely incarcerated during the entire follow-up period. Repeating this same strategy with the 2002 cohort is even more problematic because of a sizeable increase in the share of deportable aliens transferred to prison or other custody upon release from jail. The 2002 rate was more than double that of 1990. A comparison of the two time periods would only be meaningful if we could compare rearrest percentages for non-incarcerated deportable aliens in both time periods.

The 1995 study examined the recidivism only of those taken into INS custody upon release from L.A. County Jail. It suffers from some of the same interpretation problems as the 1990 study. Even though the majority (82%) of deportable aliens taken into INS custody were ordered deported or agreed to voluntarily depart during the sixteen-month immigration follow-up period, the 1995 report lacks sufficient detail to fully understand what the results represent. Specifically, the report does not give data on what share of aliens was released from INS custody before disposition of their case and on what share was actually removed from the country in accordance with their disposition.

According to studies conducted by the U.S. Department of Justice Inspector General in 1996 and 2003, in about half of the cases it sampled aliens were released from INS custody pending resolution of their immigration case. For those released, upon final case resolution, only 11 percent of aliens were found to have been removed in the 1996 study and only 13 percent in the 2003 study. For those technically defined as criminal aliens, there was a higher rate of removal found in 2003 (35%) but this rate still did not approach the majority of nondetained criminal aliens. INS was far more efficient at removal of deportable aliens in custody during the

two time periods, with 94 percent in the 1996 review and 92 percent in the 2003 study (U.S. DOJ, 1996, 2003).

The findings from these Inspector General audit reports suggest that at least in the case of those released from INS (or, after March 1, 2003, ICE) custody pending the resolution of their cases, it is *most likely that they were not removed from the country*.

A second challenge for interpretation is that the 1995 immigration outcomes were examined for four months *longer* than the period over which recidivism was tracked. For aliens whose cases were resolved and deportation/removal executed during these extra four months, rearrests cannot represent recidivism-after-reentry since rearrest data were no longer being collected. This further strengthens the counter-argument that the 1995 recidivism data likely represent reoffending by deportable aliens who never really left the country. That is, the results should not be interpreted to largely represent reoffending after deportation/removal and illegal reentry across the U.S. border.

In replicating this same (admittedly problematic) approach, the present study found a substantially lower rearrest rate (45% in 1995 versus 19% in 2002). Like the comparison with the 1990 study, interpretation of this difference is not clear. The substantially lower rearrest rate in 2002 may be due to a larger percent of the group remaining in custody throughout the entire follow-up period. Thus, these findings cannot be used to draw any conclusions about the effectiveness of post-September 11 efforts to strengthen U.S. border protections against illegal entry or of the more local efforts of HI-CAAP partnership.

Unfortunately, the overall conclusions of this report may be disappointing to policymakers looking to understand patterns over time in the representation and recidivism of deportable aliens released from L.A. County Jail. The lack of detailed data reporting and methodological limitations of the two previous reports make comparisons with 2002 data largely uninformative. If we look only at the 2002 data, it appears that deportable aliens still have a significant presence among male releasees overall and likely make up the majority of foreign-born releasees. Even though most deportable aliens (57%) were released from L.A. County Jail directly into the custody of INS, state prison, or another law enforcement agency, just over one in four (28%) were rearrested for a new crime within one year of their jail release. Of the 452 rearrested at least once, 221 (49%) were arrested two or more times and 48 (11%) were arrested four or more times during the one-year follow-up period. Each new arrest presented an opportunity to identify and remove these criminally involved deportable aliens from the community. These apparent missed opportunities justify the public safety motivation of the HI-CAAP partnership efforts to improve local-federal cooperation and coordination in addressing criminally involved deportable aliens in L.A. County.



## **ACKNOWLEDGMENTS**

This research was made possible through the efforts of a number of individuals and organizations. At the Los Angeles County Sheriff's Department, we would like to thank Lieutenant Mark Weldon, Captain Tom Laing, Sargent Tommy Zeller, Senior Deputy Wood, Information Systems Analyst Jim Poe, Lieutenant Mico Robles, and Captain Anthony Argott. Numerous other Sheriff's Department staff provided critical assistance, such as data entry and activities supporting the foreign-born inmate interview process. From the Information Systems Advisory Body, we thank John Aerts. From the former Immigration and Naturalization Service, now Department of Homeland Security Immigration and Customs Enforcement, we thank Kevin Jeffery, Doraluz Ancona, Rudy Garcia, Norma Benales-Garibay, and several immigration agents who conducted interviews of and recorded data on foreign-born inmates. At CCJCC, we are grateful for the assistance of Peggy Shuttleworth and Craig Marin.



## ABBREVIATIONS

| <b>Symbol</b> | <b>Definition</b>  |
|---------------|--|
| AJIS          | Automated Jail Information System                          |
| CCHRS         | County Consolidated Criminal History Reporting System      |
| CCJCC         | Countywide Criminal Justice Coordination Committee         |
| DACS          | Deportable Alien Control System                            |
| GAO           | Government Accountability Office                           |
| HI-CAAP       | High Intensity Criminal Alien Apprehension and Prosecution |
| ICE           | Immigration and Customs Enforcement                        |
| INS           | Immigration and Naturalization Service                     |
| IRC           | Inmate Reception Center of the Los Angeles County Jail     |
| LA            | Los Angeles  |
| LESC          | Law Enforcement Support Center                             |
| NCIC          | National Crime Information Center                          |
| SCAAP         | State Criminal Alien Assistance Program                    |

## 1. INTRODUCTION

Throughout the 1980s and 1990s, Los Angeles (L.A.) County officials grew increasingly concerned about large numbers of deportable aliens cycling through the county jail system. Particular concerns were raised about the negative impact of these criminally involved deportable aliens on local public safety and on local criminal justice resources. Despite these concerns, there has historically been no means to directly measure the size of the deportable alien population. The most comprehensive effort to quantify the problem to date was conducted by the L.A. Countywide Criminal Justice Coordination Committee (CCJCC). In a series of studies, CCJCC identified and described the characteristics of male deportable aliens released from the county jail over a one-month period in both 1990 and in 1995. The studies showed that deportable aliens made up 11 percent (1,933) of the 17,774 inmates in the 1990 release cohort and 17 percent (2,416) of the 14,446 inmates in the 1995 release cohort. Because of the enormous size of the L.A. County jail system, these percentages translate into substantial numbers of deportable aliens. If these one-month release cohorts are representative of the rest of year, the estimated number of male deportable aliens released from L.A. County jail was approximately 22,000 in 1990 and 29,000 in 1995.

Given this large population identified in the early- and mid-1990s, L.A. County officials have raised questions more recently about whether the deportable alien presence has increased or decreased over time. This report presents the findings of a 2002 replication of the 1990 and 1995 jail studies. Its goal is to compare the 2002 findings with those of 1990 and 1995 and to reveal any changes in the representation, characteristics, and/or recidivism of deportable aliens released from L.A. County Jail.

In addition to local concerns, the results of this study may be of interest nationally because the problems experienced by L.A. County may be present on a smaller scale in many other communities' jail populations as well. It is likely, however, that L.A. County is the national leader in jailing deportable aliens. Through the State Criminal Alien Assistance Program (SCAAP), the federal government established the size of the foreign-born inmate population as a rough indicator of the size of the deportable alien inmate population. According to a recent U.S. Government Accountability Office (GAO) report on SCAAP, the Los Angeles (L.A.) County leads the country in the number of foreign-born inmates in its local jail population. In fiscal year 2003, L.A. County reported more than double the number of foreign-born inmates (18,900) than the local jurisdiction reporting the second highest number, New York City (8,100). In fact, it exceeded all state prison systems in the number of foreign-born inmates, with the exception of the State of California (GAO, 2005, March 29).

In this first chapter, we begin by discussing the standard procedures for identifying deportable aliens in place at the time of the 1990 and 1995 CCJCC studies. We then discuss some of the procedural and legal changes that occurred between the completion of the 1995 study and the launching of the present study.

## **IDENTIFICATION OF DEPORTABLE ALIENS FROM 1990 THROUGH 1995**

As standard practice, law enforcement agencies relied on fingerprint-based electronic databases to identify individuals. Through the mid-1990s, there was no method to electronically check fingerprints of arrestees against immigration records. INS relied on a name-based identification system. (Later, we discuss the federal reorganization when INS became the Department of Homeland Security Immigration and Customs Enforcement or ICE.) Thus, identification of deportable aliens required immigration agents stationed at the jail to execute a much slower, less reliable, and resource-intensive process of in-person interviews and name-based database searches.<sup>1</sup>

During the early- to mid-1990s, standard operating procedures for identifying deportable aliens in L.A. County Jail were typically as follows:

- In the normal course of their duties, local law enforcement officers arrested suspects for any number of criminal offenses and booked them at their local facility or transported them to the county jail.
- During the booking process, all suspects were asked to indicate their place of birth. Those suspects naming a country other than the United States or one of its territories were recorded in the Automated Justice Information System (AJIS) as foreign-born.
- For each foreign-born inmate recorded during booking, AJIS automatically generated a query to INS's Law Enforcement Support Center (LESC), which conducted a name-based search of immigration records. (The LESC was established in 1994 so was not part of standard procedures at the time of the 1990 study). The LESC returned a response to the county jail with immigration status information based on the results of this search.<sup>2</sup>
- Primarily using a list of foreign-born inmates printed out from AJIS (but also consulting the responses sent from LESC), jail staff selected those inmates who were:

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<sup>1</sup> Immigration agents were posted in the jail through the Institutional Hearing Program (established in 1986). This program expanded in 1998 and was renamed the Institutional Removal Program.

<sup>2</sup> Law enforcement officers from all L.A. County local jurisdictions participate in this booking process, including Los Angeles Police Department officers. The City of Los Angeles has a local ordinance, Special Order Number 40, which prohibits officers from asking community members about their immigration status. Determining arrestee immigration status during the jail booking process is separate from and does not violate this city ordinance.

- still in law enforcement custody,
- currently located at the county jail (as opposed to a local booking facility), and
- fully sentenced inmates.
- Selected inmates were scheduled for an interview by immigration agents stationed at the jail.
- Immigration agents interviewed the scheduled foreign-born inmates and reviewed immigration databases to determine immigration status.
- When immigration agents identified a deportable alien, they could lodge a federal immigration detainer against the individual. This detainer provided the legal authority necessary to prevent release from Sheriff's Department custody, should release otherwise be required (e.g., a local prosecutor declines to proceed with the case, a court orders a release, a local jail sentence is completed, etc.)
- Upon release from jail, immigration agents took identified deportable aliens into custody and transported them to a federal holding facility. From there, they faced immigration administrative/court procedures which could result in the alien:
  - being released from custody pending further immigration investigation and/or disposition of their case,
  - being offered the opportunity to voluntarily depart the country in lieu of facing formal deportation proceedings, or
  - facing deportation proceedings in court, which may grant the alien relief by an immigration court, voluntary departure in lieu of formal deportation, or formal deportation.

The greatest impediments to consistent identification of deportable aliens in this process were the restrictions on time in custody and immigration personnel resources. At any one time there may be thousands of foreign-born inmates in the L.A. County jail system. To determine immigration status, each needed to be interviewed before release, which could occur within a few hours or days of their jail admission. Local jail officials lacked the legal authority to detain a foreign-born inmate scheduled for release solely for the purpose of determining immigration status.

Complicating matters further, immigration agents were not present at the jail 24 hours a day or seven days a week. Consequently, deportable aliens escaped detection if there were not enough immigration agents to interview all the foreign-born inmates scheduled for release at any one time and/or if inmates were released during evening and weekend hours when immigration agents were not available. Moreover, immigration agents were not available to interview inmates held at a local booking facility and never transferred to the county jail.

## CHANGES IN IDENTIFICATION OF DEPORTABLE ALIENS SINCE 1995

Since the 1990 and 1995 CCJCC jail studies, federal immigration law has both expanded the categories of aliens who are deportable and established a new mechanism for removing them. The Department of Justice Inspector General provided a summary of the relevant changes in a 2003 report. The following is an excerpt from that report:

- The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The IIRIRA amended and reformed the Immigration and Naturalization Act of 1952 (P. L. 82-414) and other existing immigration laws, including making a significant change to deportation and exclusion procedures. Prior to 1996, aliens arriving at ports of entry with improper or fraudulent documents were often allowed to enter the United States while awaiting court proceedings to determine their admissibility. Those aliens not held in custody frequently absconded and remained in the United States. IIRIRA allowed the INS to refuse entry to aliens without processing them through the immigration courts under a new authority termed "expedited removal." There were 69,730 expedited removals in FY 2001. IIRIRA also increased detention requirements for certain categories of aliens, such as those that engaged in terrorist, criminal, drug trafficking, or immoral activities.
- Interior Enforcement Strategy. In 1999, the INS adopted a new Interior Enforcement Strategy, which established new priorities for the interior enforcement program to identify and remove criminal aliens; attack alien smuggling operations; respond to community complaints about illegal immigration; reduce benefit and document fraud; and make it more difficult for employers to hire illegal aliens. These priorities were based on the potential harm to the nation from the target group or activity; the cost; and the potential for the strategy to be effective, such as reducing the size of the problem, providing deterrence, or benefiting communities.
- Zadvydas v. Davis, 121 U.S. 2491 (2001). In June 2001, the U.S. Supreme Court ruled that the INS may detain aliens under final removal orders only for a period reasonably necessary to carry out their removal. The Court found that detention for up to six months after issuance of the final order was presumptively reasonable. After six months, aliens can request to be released by demonstrating that it is unlikely that they will be removed in the foreseeable future. Unless the INS can refute the alien's claim by demonstrating that removal is pending, show that the alien contributed to the delays, or identify other reasons that bar release (such as suspected terrorist activities or danger to the community), the alien must be released.

Before releasing these aliens, the INS reviews the cases to identify those in which travel documents may be available, removal practicable and in the public interest, and those in which aliens may be violent, pose a risk to the community, or pose a risk for violating their release conditions or fleeing. From January 2001 through September 2002, the INS reviewed 1,710 cases and released 1,034 (60 percent) of the aliens.

- Fugitive Operations Teams. On October 26, 2001, the President signed the USA PATRIOT Act. Among its provisions, the USA PATRIOT Act authorized funding and positions to law enforcement agencies involved in combating terrorism. The INS subsequently received \$5.3 million to apprehend, process, and remove fugitive aliens with final removal orders. In March 2002, the INS distributed the resources and instructed the Districts to proceed expeditiously in hiring and activating their teams. According to the INS, the teams will apprehend fugitive aliens from countries to which they can be removed quickly. As of January 2003, the INS had announced the positions and was in the process of hiring staff for the teams.
- Absconder Apprehension Initiative (AAI). On January 25, 2002, the Deputy Attorney General directed the INS, FBI, USMS, and the United States Attorneys' Offices to implement the AAI to target for removal the more than 300,000 absconders in the United States. The FBI and USMS were directed to

assist the INS with apprehensions while the United States Attorneys, at the INS's request, would prosecute absconder cases. Under the AAI, backlogged cases are reviewed and those containing sufficient biographical information are entered into the National Crime Information Center (NCIC). As of December 2002, the INS reported that the AAI program had resulted in 2,070 apprehensions and 522 removals. The AAI initially focused on absconders from countries with an active al Qaeda presence, followed by absconders with criminal records, and finally on non-criminal cases and cases of unverified voluntary departure.

- Department of Homeland Security (DHS). On November 25, 2002, President Bush signed into law the Homeland Security Act of 2002. This law restructures the Executive branch of the Federal government by combining the functions of several agencies to better meet the threat posed by terrorism. The INS is among the agencies that will be transferred into the DHS on March 1, 2003. Once the INS is transferred, the immigration benefits and immigration law enforcement functions will be separated into the Bureau of Citizenship and Immigration Services, and the Bureau of Border Security. (U.S. DOJ, 2003: 8-10)

A separate report by the Department of Justice Inspector General described several key ways in which 1996 federal legislation expanded the list of criminal convictions for which otherwise legal aliens could be removed from the country. These include crimes of “moral turpitude”<sup>3</sup> carrying an incarceration sentence of one or more years, crimes of domestic violence, stalking and child abuse, and violation of domestic violence-related civil protection orders. The list of deportable crimes defined as “aggravated felonies” was also greatly expanded (see U.S. DOJ, 2002: 46). According to the Inspector General report, the change in legislation relating to moral turpitude is likely to have the most impact on increasing the numbers of deportable aliens. The former definition required that a sentence of a year or more be imposed. The 1996 change allows for deportation upon conviction of a crime that may carry a sentence of one year or more, regardless of whether that sentence length is actually imposed (U.S. DOJ, 2002).

In addition to these changes at the national level in immigration law and procedures, there have been changes in L.A. County relevant to the context of the present study. L.A. County criminal justice officials formed a partnership with INS to devise more effective and consistent methods for deportable alien identification. This partnership, dubbed HI-CAAP (High Intensity Criminal Alien Apprehension and Prosecution), is specifically focused on previously deported criminal aliens but its efforts promise to increase identification of deportable aliens in general. The HI-CAAP partnership created a state-level deported felon file. Between 1995 and 2000, the INS office serving L.A. County provided fingerprint cards on deported aliens to the California Department of Justice, which then added these records to the state criminal history system. The database eventually grew to include approximately 35,000 aliens.

This database receives automated queries from L.A. County. During standard booking procedures, when arrestees report being foreign-born an automated query is generated to the state criminal history system. This system then returns a response to the booking agency

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<sup>3</sup> The specific list of crime types that fall under this term is notoriously difficult to articulate and is still under clarification in the federal courts.

indicating whether the individual was found among those identified as a previously deported alien. If so, a notice is automatically generated to LESC, informing it that a deportable alien is in custody and requesting an immigration detainer to prevent the release of the alien from local law enforcement custody.

In January 2001, the regional INS office discontinued the practice of submitting fingerprint cards on deported aliens to the State of California criminal records system. It cited a lack of resources for this change. Consequently, the California database is significantly outdated but is still queried by L.A. County as part of the standard booking process. For policy reasons the LESC is unwilling to rely on this so-called “HI-CAAP flag” and requires that immigration agents confirm the identity and immigration status of individuals before issuing an immigration detainer. For a more detailed description of this process see our report on implementation of the HI-CAAP partnership (Raymond et al., 2004).

In sum, the jail release cohorts discussed in this report cover 1990 through 2002, a period of considerable change in federal immigration. Beginning after the 1995 CCJCC study, there were improvements in the procedures for identifying and removing deportable aliens and considerable expansion in the types of crimes for which otherwise legal aliens may be removed from the country. These changes are probably more influential to the present study’s time period than the more obvious changes that occurred in the wake of the September 11, 2001, terrorist attacks on the United States. On March 1, 2003, the agency responsible for federal immigration, the Immigration and Naturalization Service (INS), was moved from the Department of Justice into a new federal Department of Homeland Security and its functions split among separate agencies. The U.S. Citizenship and Immigration Services now handles the administration of immigration and naturalization functions. The Customs and Border Protection assumed responsibility for securing the borders against illegal entry. Most relevant for our study population, Immigration and Customs Enforcement (ICE) is responsible for investigation and enforcement of federal immigration law inside the United States, including identifying and removing criminally involved deportable aliens. We can find no evidence of substantial alteration in the practices of ICE in the initial period of transition from INS. This is relevant because our study follow-up period spans from September 2, 2002, to September 3, 2003, nearly evenly split between the last six months of INS and the first six months of ICE.

## 2. METHODOLOGY

In 1990 and 1995, separate studies estimated the proportion of the LA County jail population that consisted of deportable aliens. The goal of the present report is to provide an updated estimate of this number for the year 2002. Before presenting the methodology for this new analysis, we will clarify the meaning of two terms used throughout the report.

Jail Release. For all three studies, jail release does not necessarily mean release into the community. Instead, it refers to release from the custody of the Sheriff's Department and could mean a transfer of custody to another legal authority (such as a California state prison or federal agency).

Deportable Alien. As used in this report, the term "deportable alien" does not necessarily refer to aliens who illegally enter the United States. It also includes those that legally enter but fail to comply with immigration requirements, are convicted of certain offenses specified in federal law, and/or fail to depart the country at the conclusion of their legal stay. None of the three studies had the data to distinguish those deportable aliens who originally entered into the United States legally from those who did not. While all might be referred to as criminally involved aliens by virtue of their involvement in the criminal justice system, we do not use the term "criminal alien" because it does not apply to all deportable aliens. In the context of immigration, the "criminal alien" is a technical term that refers to aliens convicted of a broad range of offenses specified under federal law.

In the sections below, we present the methodology of the two previous CCJCC studies and then describe that of the present study. Methodologies of all three are summarized in Table 2.

### 2.1. METHODOLOGY OF THE 1990 AND 1995 CCJCC STUDIES

We were unable to identify any individuals with detailed first-hand knowledge of the specific procedures used in the 1990 and 1995 studies. Thus, our understanding of the first two studies was based on the limited details provided in the published reports (CCJCC, 1990; CCJCC, 1992; CCJCC, 1997).<sup>4</sup>

The 1990 study established the initial methodology and utilized self-reported place of birth information to identify foreign-born inmates. As a matter of standard practice, used

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<sup>4</sup> Two reports were published on the findings from the 1990 cohort, one in 1990 and the other in 1992. For the sake of clarity, we refer to both of these collectively as the 1990 study and report. The results from the 1995 cohort were published in a single report in 1997. Also for clarity, we refer to this as the 1995 study and report.

primarily for purposes of the federal State Criminal Alien Apprehension Program (SCAAP), arrestees were asked at the time of booking to give their place of birth. Any arrestee reporting a place of birth other than the United States or one of its territories is classified as foreign-born. This information is not routinely verified by any other source of data. Place of birth information is recorded in the jail's Automated Jail Information System (AJIS). For the 1990 study, AJIS data were used to identify all foreign-born inmates released from L.A. County Jail through the Inmate Reception Center (IRC), the single entry and exit point for male inmates in the county jail system.<sup>5</sup> The study captured data on all foreign-born inmates released during the 31 days of May 1990.

While it was standard policy for immigration agents to conduct screening interviews of foreign-born inmates at the jail, in practice, agents were few in number and not available at all times when inmates were set for release. Thus, during the 1990 study period, special arrangements were made with INS to increase the staffing of immigration agents to ensure their availability to screen all foreign-born inmates. During this period, 3,327 inmates set for release were identified as foreign-born, and all were individually interviewed by immigration agents before departing through IRC.

Foreign-born inmates represented 19 percent of the 17,774 inmates released through IRC, but excluded 731 inmates who participated in a work release program, who were extradited, or who were transferred to hospitals and mental institutions. Based on INS interviews, more than half (1,933) of the 3,327 foreign-born releasees were identified as deportable. In July 1992, the CCJCC conducted a follow-up study (CCJCC, 1992) that examined rearrests for the deportable aliens. Specifically, it analyzed criminal records of the deportable cohort for the 12-month period beginning June 1, 1990, and ending May 31, 1991. No records could be found for 58 of the original 1,933 defendants.

Using a similar methodology, the 1995 study sought to identify and interview all foreign-born inmates exiting L.A. County Jail through IRC during the 30 days of June 1995 (CCJCC, 1997). A total of 14,446 male inmates were released through IRC, of which AJIS identified 3,983 (28%) as having a place of birth other than the United States (or its territories) during the arrestee booking process. Unlike the 1990 study, this study counted convicted offenders on work release as part of the release cohort. During the 30-day jail study period, INS again increased the number of immigration agents so that they would be available around the clock during the entire study period to screen all foreign-born inmates set for release. Based on data recorded from the immigration interviews, a total of 2,416 deportable aliens were identified (61% of the 3,983 foreign-born inmates).

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<sup>5</sup> Today, female inmates are also released through IRC.

To measure recidivism, a random sample of 300 releasees (approximately 20 percent) was selected from the 1,504 deportable aliens released to INS custody, and criminal records for this sample were analyzed for the 12-month period following June 30, 1995. Not included in the recidivism analysis were inmates transferred to state prison (because of the high probability of their continued incarceration for the entire 12-month period), or defendants who had been released from jail on bond or citation with active criminal cases still pending. See Table 2 for a summary of the methodology of the 1990 and 1995 studies.

## **2.2. METHODOLOGY OF THE 2002 STUDY**

### **Identification of Foreign-Born Release Population**

The 2002 study shares the same strategy for identification of the population of foreign-born releasees during a 30-day study period. Like the two previous studies, we used the self-reported place of birth information collected as part of standard law enforcement practice at the time of arrestee booking. Those reporting a country of birth other than the United States or one of its territories (such as Puerto Rico or the Virgin Islands) were identified as foreign-born. The sample was identified and drawn from AJIS using two criteria: 1) foreign birth and 2) release between August 4 and September 2, 2002.<sup>6</sup>

### **Identification of Deportable Aliens**

The 2002 study differs from the previous studies in the manner that immigration status was determined. In the previous studies, deportability status was determined (and data entered for the study) by an immigration agent as part of the release process. Because of a new jail release mechanism, however, immigration interviews could not serve as the sole source of deportability status information. At the time of the previous two studies, individuals ordered released from custody in court by a judge were returned to the jail for processing and release through IRC. Thus, these individuals were included in the immigration screening interviews conducted for the 1990 and 1995 studies. A change in policy now requires release of these individuals from Sheriff Department custody immediately at the court location. Thus, foreign-born inmates released from court would be excluded from the study using the previously

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<sup>6</sup> Of the foreign-born inmate records originally provided by the Sheriff's Department, 122 were found to be ineligible for the study. Of those, 43 were found to be native-born U.S. citizens according to LESC records. Another 77 were excluded due to a release falling outside of the August 4—September 2, 2002, study period. Two releasees were also excluded because their departure from jail was due to an escape in one case and death in the other. The data provided also included female inmates but they are excluded here because only males were included in the 1990 and 1995 studies.

established methodology. Individuals released directly from court are generally pretrial defendants whose cases were dismissed or convicted individuals with no additional jail time to serve as part of their sentence. An additional criterion for court release is that there are no other pending warrants or detainers against the individual (including immigration detainers).

Given this additional release mechanism (and other complications with immigration agent interviews discussed below), two additional methods of determining deportability status were used for the 2002 cohort. We discuss each of these methods below and provide a summary in Table 2.

Immigration Agent Screening Interviews. Like the two previous jail studies, the plan for the 2002 study was for immigration agents stationed at IRC to be available around-the-clock for the 30-day jail study period to screen all self-identified foreign-born inmates set for release. Unfortunately, at the launch of the data collection period, the local INS office had insufficient resources to provide immigration agents to staff the jail around-the-clock or even to conduct screening interviews of all inmates set for release at times when agents were present. This presented a problem because the Sheriff's Department lacks legal authority to detain foreign-born inmates (otherwise set for release) solely to await the availability of an immigration agent. In the case of custody transfers, the Sheriff's Department elected not to delay the departure of buses transporting inmates to a California state prison to await the availability of an immigration agent to interview one or more of the foreign-born passengers. Consequently, only 759 (36%) of the 2,102 foreign-born IRC releasees were interviewed at the jail by immigration agents during the 2002 study.

The actual interview conducted by immigration agents did not generate any data for use in the jail study. We classified foreign-born releasees as deportable if (subsequent to the interview) an immigration detainer<sup>7</sup> was lodged and/or the inmate was taken directly into INS custody upon release from jail. Using this method, we were able to determine the deportability status for 661 individuals.

There were another 98 foreign-born releasees interviewed by immigration agents who could not be classified using INS detainers and custody transfers. All 98 were released pending trial on bond, citation, or their own recognizance. There was an existing agreement between local criminal justice agencies and INS that gives priority to resolving local criminal charges before deportable aliens are given over to face immigration proceedings.<sup>8</sup> Thus, we used an alternative method to determine deportability status for this group (discussed below). See Table 1.

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<sup>7</sup> A detainer indicates that another legal authority is asserting grounds to take an individual into custody. This provides legal means for the Sheriff's Department to keep deportable aliens in custody and to transfer custody to INS rather than releasing them outright.

<sup>8</sup> This agreement remains in place in L.A. County since the creation of ICE.

INS Detainers and Custody Transfers for Non-Interviewed IRC Releasees. Despite the fact that the majority (64%) of the foreign-born inmates were not interviewed at the time of release, we were still able to determine the deportability status of 727 inmates using INS detainers and custody transfers recorded in AJIS. This information was present in the jail records because these foreign-born inmates were determined to be deportable at some other point in their jail stay. For instance, it is standard practice for immigration agents (as they are available) to interview foreign-born inmates in the standing jail population. When a deportable alien is identified, immigration agents place a detainer on the inmate so that he/she may be taken into custody by INS upon his/her eventual release. INS detainers on deportable aliens may also have been placed as a result of queries to the LESC submitted as part of standard law enforcement practice.

According to the immigration data we obtained for those taken into INS custody, only a handful were later found to be native born U.S. citizens or non-deportable legal residents.<sup>9</sup> This indicates that INS detainers and custody transfers are a good indicator of deportability status.

Database Searches by LESC Staff. For the remaining 714 foreign-born inmates released from IRC, we sought information about deportability status directly from the LESC. For each individual whose status was unknown, an electronic query about immigration status was submitted by the Sheriff's Department to the LESC. In response, printed teletypes for each subject were received in a central location in IRC. The printouts were manually entered verbatim by IRC staff into a database and transferred to RAND staff for analysis. The LESC was not actively participating in the study's data collection effort. The responses were sent as part of LESC's standard procedures for responding to law enforcement queries.

For IRC releasees, LESC responses were used to determine the deportability status of 583 inmates. LESC was unable to provide information on the status of 131 inmates, including seven of those interviewed by immigration agents before being released from jail on bond or citation (as discussed above).

Since none of the 790 foreign-born court releasees were the subject of an INS detainer or taken into INS custody directly upon release from court, LESC queries were the only source of information available for determining deportability status. Using this method, we were able to classify 488 (62%) of the court releasees. Unfortunately, the LESC either could not determine the status of or had no records for 302 (38%) of the court releasees.

As shown in Table 1, using the three methods described above we were able to determine the deportability status of 94 percent of IRC releasees and 62 percent of the court releasees.

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<sup>9</sup> As discussed previously, the native born U.S. citizens were dropped from the study as ineligible.

Overall, of the 2,892 foreign-born inmates released during the study period, deportability status was determined for 85 percent.

**Table 1**  
**Method Used to Determine Deportability Status for 2002 IRC and Court Releasees**

|  | <b>IRC Releasees<br/>n = 2,102</b> | <b>Court Releasees<br/>n = 790</b> | <b>Total<br/>n = 2,892</b> |
|--|------------------------------------|------------------------------------|----------------------------|
| Immigration Screening Interview                | 661 (31%)                          | 0                                  | 661 (23%)                  |
| INS Detainer or Custody Transfer, No Interview | 727 (35%)                          | 0                                  | 727 (25%)                  |
| LESC Queries                                   | 583 (28%)                          | 488 (62%)                          | 1071 (37%)                 |
| Immigration Status Unknown                     | 131 (6%)                           | 302 (38%)                          | 433 (15%)                  |

Identification of Previously Deported Aliens

We attempted to obtain data on whether deportable aliens had been deported from the country at some point *before the beginning of the 2002 study period*. We refer to this group as previously deported aliens. Data on previously deported status were obtained from three sources: LESc teletypes, data from the Deportable Alien Control System (DACS), and Los Angeles County’s Consolidated Criminal History Reporting System (CCHRS). As described above, all LESc teletypes received by the Sheriff’s Department were collected during the study period and the text entered verbatim into a spreadsheet. In addition to the information provided about immigration status, staff entered any indication from LESc that the individual had been deported before the date of the Sheriff’s Department query.

A second source of data about previous deportation was available only for the 727 deportable aliens taken into INS custody upon release from jail custody. In response to our data request on the immigration outcomes for this group, the ICE office<sup>10</sup> serving the L.A. County area provided us with data on previous deportation, including those whose previous order of deportation was reinstated.

The third source of information came from CCHRS. As discussed in the previous chapter, between 1995 and 2000, the INS office serving L.A. County provided fingerprint-based identifiers of aliens deported during this period to the California Department of Justice.<sup>11</sup> These records were then added to the state criminal history system, which grew to include

<sup>10</sup> We refer to ICE here because we requested and received the data after the transition from INS to ICE.

<sup>11</sup> Though this process was established in 1995, it was not ready in time to be used for the 1995 study.

approximately 35,000 deported aliens. CCHRS records still maintain the previous deportation identifier. We used CCHRS records as a third way to determine whether aliens in the 2002 release cohort had been previously deported before entering the jail study.

Because of data limitations this study must be assumed to underestimate the number of previously deported aliens, and therefore to provide a lower bound estimate of the true number. Since LESC was not actively participating in our data collection effort (aside from its standard practice of responding to law enforcement queries), it is unknown whether previous deportation was consistently noted on all teletypes. Moreover, flags for previous deportation in the CCHRS records were discontinued two years before the start of the jail study. Thus, there may be aliens deported before 1995 or after 2000 that we were unable to identify using the CCHRS records.

### **Data Sources**

The majority of descriptive data for the study were abstracted from AJIS. These data included demographic variables, charging and conviction data, length of time in jail and reason for release, and custody transfers. As described above, AJIS was also the source of INS detainer and custody transfer information used to determine deportability status in 727 cases.

Criminal history and recidivism data, including arrests, charges, and convictions were obtained from the Los Angeles County Consolidated Criminal History Reporting System (CCHRS), which is a central source for criminal records for all L.A. County criminal justice agencies. CCHRS also provides access to statewide criminal records maintained by the State of California's Department of Justice and the FBI's national repository of criminal history information, the National Crime Information Center (NCIC).

CCHRS began operating in 1996 and thus was unavailable for use during the previous two jail studies. Prior to its advent, as many as nine separate criminal records database searches, requiring the use of different individual identification numbers, were necessary to obtain criminal history information. Moreover, the databases themselves did not necessarily contain all criminal activity in the county nor consistently link all records to the correct individual. Thus, criminal records searches were often regarded as incomplete prior to the introduction of CCHRS (Applegate and Chotiner, 1999). Consequently, recidivism data used in the previous two jail studies may not have been as comprehensive as the data available for the present study. This means that if all three cohorts engaged in repeat offending at the same rate, the more complete CCHRS data for the 2002 cohort would make the rate of recidivism appear higher for the 2002 group. This is an important caution for the interpretation of results.

Immigration Custody Outcomes. We submitted to the local ICE office a list of all 727 deportable aliens taken directly into immigration custody upon release from the jail. Agents abstracted data from DACS and provided us with data on the outcome of each immigration case,

when information was available. These data include voluntarily departures, deportation orders and expedited removals, and those allowed to legally remain in the country.

**Table 2**  
**Comparison of the Methodology of the 1990, 1995, and 2002 Studies**

| Elements                            | 1990 Study   | 1995 Study   | 2002 Study  |
|-------------------------------------|--|--|---|
| Release period                      | May 1, 1990—<br>May 31, 1990   | June 1, 1995—<br>June 30, 1995   | August 4, 2002—<br>September 2, 2002  |
| Inmate release categories           | <i>Post conviction:</i> State prison and other custody transfers, completed local sentence<br><i>Pre-trial:</i> released on citation/bond, case dismissed or acquitted | <i>Post conviction:</i> State prison and other custody transfers, completed local sentence, work release<br><i>Pre-trial:</i> released on citation/bond, case dismissed or acquitted | <i>Post conviction:</i> State prison and other custody transfers, completed local sentence, court releaseses<br><i>Pre-trial:</i> released on citation/bond, case dismissed or acquitted, court releaseses  |
| Identification of deportable aliens | INS screening interviews of male releasees who report being foreign-born, n = 3,327  | INS screening interviews of male releasees who report being foreign-born, n = 3,983  | 1) INS detainees and custody transfers based on screening interviews of male releasees who report being foreign-born, n = 661<br>2) For remaining foreign-born IRC releasees not interviewed, INS detainees and custody transfers, n = 727<br>3) For remaining IRC releasees not interviewed and for all court releasees, LESC staff database searches, n = 583 |
| Immigration status unknown          | 0  | 0  | 131 (6%) IRC releasees<br>302 (38%) court releasees<br>Total: 433 (15%)   |
| Recidivism follow-up period         | June 1, 1990—<br>May 31, 1991  | July 1, 1995—<br>June 30, 1996   | 365 days after release for each inmate within the dates August 5, 2002—<br>September 3, 2003  |
| Recidivism tracked                  | Of all 1,933 deportable aliens, 1,875 for whom criminal records could be found   | Random sample of 300 (20%) draw from all deportable aliens, except those released on bond/citation or transferred to state prison  | All 1,617 deportable releasees  |



### **3. RESULTS**

The goal of the present study was estimate the number of deportable aliens released from L.A. County Jail in 2002. In this chapter, we present the results of this study, which attempted to replicate earlier such analyses. We will present the comparison of the 1990, 1995, and 2002 male release cohorts in three sections. First, we provide a description of their characteristics. Next, we present a comparison of the immigration outcomes for those taken into INS custody. Finally, we present a comparison of the three release cohorts on rearrest of deportable aliens one year post-release.

In examining group changes over time, one typical strategy is to test whether there is a statistically significant difference between the groups. We conducted statistical tests on all data reported in this chapter and found a significant difference between 2002 and the other two time periods on each comparison. With such large sample sizes, however, even small differences result in significant findings. Therefore, a more informative criterion for evaluating these comparisons is assessing whether the differences are large enough to indicate a practical or meaningful difference between the previous time periods and 2002. In interpretation, we provide our assessment of whether the size of a difference appears meaningful; however, this judgment is best made by policymakers within a particular decisionmaking context.

#### **3.1. COMPARISON OF THE CHARACTERISTICS FOR 1990, 1995, AND 2002 RELEASE COHORTS**

As shown in Table 3, the total number of males released from L.A. County Jail was larger in the 1990 cohort than in the 1995 cohort (17,774 releasees compared with 14,446 releasees) and the 2002 cohort had the fewest releases (13,770 releasees). A somewhat larger percentage of male jail releasees in the 1995 cohort reported being foreign-born (28%) compared with the 1990 and 2002 cohorts (19% and 21%, respectively). Among all foreign-born releasees, the share of deportable aliens peaked in 1995 (61%), up from 58 percent in 1990. The share of deportable aliens in 2002 was estimated to be 56 percent of all foreign-born releases, however as this is a lower bound estimate of the true percentage. We cannot conclude that the true proportion is, in fact, lower than that in 1995. A graphical summary of the findings from all three release categories is provided in Appendix A.

**Table 3**  
**Comparison of Three Release Cohorts on Total Number of Releases and Foreign-Born Releasees**

|                      | 1990        | 1995        | 2002        |
|----------------------|-------------|-------------|-------------|
| Total Male Releasees | 17,774      | 14,446      | 13,770*     |
| Total Foreign-Born   | 3,327 (19%) | 3,983 (28%) | 2,892 (21%) |
| Deportable           | 1,933 (58%) | 2,416 (61%) | 1,617 (56%) |
| Non-Deportable       | 1,394 (42%) | 1,567 (39%) | 842 (29%)   |
| Unknown Status       | 0           | 0           | 433 (15%)   |

\* Includes 10,583 IRC releasees and 3,187 male court releasees.

As shown in Table 4, deportable aliens in 2002 make up 66 percent (1,617) of those for whom deportability status is known (2,459). If we consider only this group, 2002 marks the peak in the proportion of deportable aliens for the three study time periods. In the absence of other data from which to estimate, one strategy for approximating the overall number of deportable aliens is to assume that they are represented in the same proportion among those with unknown status as they are in the remainder of the group. If deportable aliens also represent 66 percent of the 433 for whom deportability status is unknown, deportable aliens would number 1,903 and represent 14 percent of all male releasees. This exceeds the 11 percent overall found in 1990 but not the 17 percent found in 1995.

If the 2002 study period represented a typical one-month release period, roughly 165,240 releasees passed through L.A. County Jail in 2002. Applying the estimated proportion of deportable aliens among the male release population would yield a total of 23,134 deportable aliens released in 2002.

In the remainder of the report, the 2002 data we present is based only on the 1,617 aliens for whom deportability status was known and includes no estimated data.

**Table 4**  
**Estimated Proportion of Deportable Aliens in the 2002 Release Cohort**

|                | Deportability Status<br>Known<br>n = 2,459 | Deportability Status<br>Estimated<br>n = 433 | Total<br>Foreign-Born<br>n = 2,892 |
|----------------|--|--|------------------------------------|
| Deportable     | 1,617 (66%)                                | 286 (66%)                                    | 1903 (66%)                         |
| Non-Deportable | 842 (34%)                                  | 147 (34%)                                    | 989 (34%)                          |

Note: Deportability status is estimated by assuming that deportable aliens are represented in the same proportion among the 433 foreign-born aliens whose status is unknown as among 2,459 were it is known.

Deportable aliens were somewhat older in 2002 relative to 1995. In 1995, the average age of deportable aliens was 29 years and in 2002 it was 31 years (see Table 5). The 1990 report does not provide information about age of deportable aliens.

The majority of deportable aliens in all three time periods were Mexican nationals. They make up 75 percent or more of deportable aliens in each case. The 1995 report only provides nationality for those deportable aliens taken into INS custody and Mexican nationals represented 85 percent. This is very similar to the distribution in 2002 of those taken into INS custody, with Mexicans representing 82 percent.

For all three time periods, nationals from Central and South American countries, particularly El Salvador, make up the majority of the remaining deportable group. In 1990, 165 releasees (9%) were from El Salvador, as were 96 (7%) in 1995, and 141 (9%) in the 2002 time period. In 2002, the “other” country category was larger (8%) than the other time periods (both with 1%).

Overall in 2002, the most frequent other countries of origin were the Philippines (15, 11% of other), Korea (12, 9% of other), Armenia (10, 7% of other), and Iran (8, 6% of other). There were 12 individuals for whom the country of origin was unknown, representing 9 percent of the “other” category.

In 1990, immigration agents specifically classified each alien as previously deported or not as part of the data collection. Of the 1,933 deportable aliens, 220 (11%) had been previously deported before entering the jail. Previous deportation was not provided in the 1995 study. For the 2002 cohort, 453 (28%) had been previously deported. As discussed in the previous chapter, because of data limitations this number may undercount the actual number of previously deported aliens.

**Table 5**  
**Comparison of Three Release Cohorts on Age, Nationality, and Previous Deportation**

|  | 1990<br>n = 1,933 | 1995<br>n = 2,416 | 2002<br>n = 1,617 |
|--|-------------------|-------------------|-------------------|
| Age  |                   |                   |                   |
| 20 & Under                                     |                   | 213 (9%)**        | 133 (8%)*         |
| 21-25  |                   | 780 (32%)         | 338 (21%)         |
| 26-30  | Not Available     | 614 (26%)         | 389 (24%)         |
| 31-35  |                   | 356 (15%)         | 304 (19%)         |
| 36-40  |                   | 238 (10%)         | 218 (13%)         |
| Over 40  |                   | 203 (8%)          | 235 (15%)         |
| Nationality Overall                            |                   |                   |                   |
| Mexico   | 1,577 (82%)       |                   | 1,210 (75%)       |
| Central/So. America                            | 329 (17%)         | Not Available     | 271 (17%)         |
| Other  | 27 (1%)           |                   | 136 (8%)          |
| Nationality of Those Taken<br>Into INS Custody |                   |                   |                   |
| Mexico   |                   | 1,221 (85%)       | 598 (82%)         |
| Central/So. America                            | Not Available     | 191 (13%)         | 88 (12%)          |
| Other  |                   | 18 (1%)           | 41 (6%)           |
| Total  |                   | 1,430***          | 727               |
| Previously Deported                            | 220 (11%)         | Not available     | 453 (28%)         |

Note: Percentages may not add to 100 due to rounding.

\* We used date of birth to calculate age on August 4, 2002.

\*\*Age was missing for 12 aliens so percentages were based on a total of 2,404. The 1995 report does not describe how age was calculated.

\*\*\* The graphical representation of nationality on page 10 of the 1995 report does not agree with the raw data provided in Appendix E. The numbers presented here are taken from the data in Appendix E.

Table 6 shows the most serious charge for deportable aliens by charge level and charge type. The majority (75%) of the 1990 releasees had at least one felony as their most serious current charge, with the remainder (25%) having only misdemeanors. For the 1995 cohort, 58 percent of deportable aliens were charged with at least one felony and 40 percent faced only misdemeanor charges. For the 2002 cohort, the most serious charge type was nearly equally split between felonies (47%) and misdemeanors (49%).

The previous two studies do not provide a description of the methods used to determine the most serious charge for each deportable alien. For example, an individual may be arrested on multiple charges for a single incident (such as robbery, assault, trespassing, possession of a controlled substance, and resisting arrest). In these cases, a determination must be made about which of the potentially large number of arrest charges is the most serious. The 1990 report presents charge type in five categories: person, property, vice, drugs, and other. The standard convention is generally to regard person offenses as the most serious of all crimes so it is reasonable to assume that this strategy was used in the 1990 report. It is unclear how the other

offenses may have been ranked relative to each other. Thus, it is not possible to precisely replicate the strategy used in 1990 or to understand how the 2002 cohort compares on charge type. Whatever strategy was used to determine the most serious charge, drug crimes were found to be the most frequent of these in 1990, accounting for 35 percent of the release cohort. The second most frequent category was person offenses (27%), followed by property crimes (22%), and other (14%). For only two percent of deportable aliens were vice charges the most serious.

The 1995 report takes a different approach to collapsing most serious crimes into charge categories, but again provides no information on how the most serious charge was determined for each individual. Unlike the 1990 report, the most serious charges are collapsed by the most frequent of each specific type rather than by categories (such as person and property). For example, the most frequent charge type category (accounting for 36 percent of aliens) was “other,” containing all charge types with fewer than 50 aliens each. The second most common charge type was “drugs,” accounting for 27 percent of all aliens. This is followed by driving under the influence (16%) and by burglary (5%). Spousal assault was the only other charge that accounted for more than 100 deportable aliens (102 or 4%).

For the 2002 cohort, we established a hierarchy of seriousness that ranked person charges as most serious, followed by property, then by drug, and lastly “other” charge types for each person. “Other” charges includes vice, vehicle and weapons offenses, parole and probation violations, and public order offenses. For the 2002 release cohort, the most common serious charge was “other” (37%), followed by person (29%) and drugs and property (17%). The majority of offenses in the “other” category were driving-related offenses: 36 percent were driving under the influence and 20 percent were driving with a suspended license.

Table 6 also shows for all deportable aliens the amount of time spent in L.A. County Jail before release. The 1990 report provides length of time served in categories whereas the 1995 report gives time served as an average. Thus, it is impossible to directly compare the findings from these two time periods with one another.

For 1990, the majority of the deportable aliens (54%) served 30 days or less, compared with 55 percent in 2002. There were equal proportions of aliens (70%) in both 1990 and 2002 with jail stays of 60 days or less. The remainder of the distribution for the two years is very similar.

For 1995, the average length was 46 days in jail, compared with 57 days in jail in 2002. Conversely, those deportable aliens transferred to state prison spent an average of 104 days in jail in 1995, compared with 69 days in 2002.

**Table 6**  
**Comparison of Three Release Cohorts on Most Serious Charges and**  
**Number of Days in Jail**

|                                    | 1990<br>n = 1,933 | 1995<br>n = 2,416 | 2002<br>n = 1,617   |
|------------------------------------|-------------------|-------------------|---------------------|
| <b>Current charge level</b>        |                   |                   |                     |
| Felony                             | 1,448 (75%)       | 1,394 (58%)       | 758 (47%)           |
| Misdemeanor                        | 485 (25%)         | 972 (40%)         | 791 (49%)           |
| Other*                             | -                 | 50 (2%)           | 68 (4%)             |
| <b>Most Serious Current Charge</b> |                   |                   |                     |
| Drugs                              | 680 (35%)         | 659 (27%)*        | 281 (17%)           |
| Person                             | 528 (27%)         |                   | 466 (29%)           |
| Property                           | 417 (22%)         | Not available     | 268 (17%)           |
| Vice                               | 32 (2%)           |                   | In "other" category |
| Other**                            | 276 (14%)         |                   | 602 (37%)           |
| <b>Length of Time in Jail</b>      |                   |                   |                     |
| Average number of Days             |                   |                   |                     |
| All Deportable                     | Not available     | 46 days           | 57 days             |
| Transfers to Prison/Other Custody  | Not available     | 104 days          | 69 days             |
| Served 30 days or less             | 1,036 (54%)       |                   | 885 (55%)           |
| Between 31 – 60 days               | 302 (16%)         |                   | 246 (15%)           |
| Between 61 – 90 days               | 252 (13%)         | Not available     | 140 (9%)            |
| Between 91 – 180 days              | 269 (14%)         |                   | 248 (15%)           |
| Between 181 – 365 days             | 57 (3%)           |                   | 78 (5%)             |
| Served Over 365 days               | 6 (<1%)           |                   | 20 (1%)             |

\* Other charge level includes infractions, parole and probation violations, and inmates enroute to other facilities.

\*\* For 1990, the most common "other" charge was driving under the influence (82% of other). In 2002, the most common charges in the other category were drunk driving (36%), followed by driving with suspended license (20%), and warrants (9%).

\*\*\* The 1995 report does not provide charges by any of the remaining categories or the raw data from which categories can be generated.

As shown in Table 7, in 1990 and 1995 the majority of released inmates were convicted offenders, with 83 and 79 percent, respectively. In 2002, the proportion of convicted offenders is highest (84%) but only slightly above that of 1990. The composition of convicted offenders however has nearly completely reversed. In the previous two time periods, the substantial majority of convicted deportable aliens were being released as a result of completion of a sentence, whereas in 2002 the majority were being transferred to state prison or other law enforcement/legal custody. Among non-convicted deportable aliens, the majority in all three time periods were those released on bond or citation, with the largest proportion in 1995 (74%) followed by 1990 (69%) and 2002 (63%).

**Table 7**  
**Comparison of Release Cohorts on Categories of Release**

| Type of Release                        | 1990<br>n = 1,933  | 1995<br>n = 2,416  | 2002<br>n = 1,617 |
|--|--------------------|--------------------|-------------------|
| <u>Total Convicted</u>                 | 1,602 (83% of all) | 1,907 (79% of all) | 1364 (84% of all) |
| Complete local sentence                | 1,204 (75%)        | 1,160 (61%)        | 445 (33%)         |
| Transfer to state prison/other custody | 398 (25%)          | 535 (28%)          | 919 (67%)         |
| Work release                           | Not Applicable     | 212 (11%)          | Not Applicable    |
| <u>Total Pre-Trial/Not Convicted</u>   | 331 (17% of all)   | 509 (21% of all)   | 253 (16% of all)  |
| Bond or citation                       | 230 (69%)          | 377 (74%)          | 159 (63%)         |
| Dismissed or acquitted                 | 101 (31%)          | 132 (26%)          | 94 (37%)          |

**3.2. COMPARISON OF IMMIGRATION OUTCOMES FOR 1990, 1995, AND 2002 RELEASE COHORTS**

In each study year, immigration agents took eligible deportable aliens into custody directly upon their release from jail. For all three time periods, two categories of deportable aliens were not taken immediately into custody by INS. These were:

- 1) those bound for state prison. These inmates were transferred to state custody to serve their sentence and are subject to apprehension by immigration upon their eventual release from prison.
- 2) those released on bond or citation. These were not taken into custody by INS due to local agreements that pending local criminal cases be resolved first.

Thus, only those deportable aliens who had completed a jail sentence, whose local cases were dismissed or resulted in an acquittal, or (only for 1995) who were released on work release, were “eligible” to be taken into custody by INS. For the 1990 and 1995 cohorts, all eligible deportable aliens were taken into custody. This represented 68 percent of all deportable aliens in 1990 and 62 percent in 1995.

In 2002, INS did not take into custody all eligible deportable aliens, apparently due to the unavailability of agents to identify and place legal detainers on deportable aliens prior to their release from court or IRC. Of the 1,266 eligible deportable aliens in 2002, 727 (57%) were to be taken into INS custody. See Table 8 for a comparison of the three time periods.

**Table 8**

**Comparison of Three Release Cohorts on Deportable Aliens Taken Into INS Custody**

|  | 1990<br>n = 1,933        | 1995<br>n = 2,416        | 2002<br>n = 1,617     |
|--|--------------------------|--------------------------|-----------------------|
| Eligible to be taken into INS Custody* | 1,305 (68%)              | 1,504 (62%)              | 1,266 (78%)           |
| Taken Into INS Custody at Release      | 1,305 (100% of eligible) | 1,504 (100% of eligible) | 727 (57% of eligible) |

\* This includes those released after completion of local jail sentence, those for whom charges were dismissed, and those acquitted. For 1995, it also includes work release.

While the 1990 and 1995 reports do not discuss this issue directly, it appears that their findings represent only court orders of deportation and agreements to voluntarily depart. They do not provide data on what share of these aliens actually left the country as a result. The 1995 follow-up period for collecting immigration outcome data was 16 months compared to 12 months for 1990 and 2002.

As shown in Table 9, of the 1,305 deportable aliens taken into INS custody in 1990, 974 (75%) either agreed to voluntarily depart the country or were ordered formally deported by a judge. This compares to 82 percent in 1995 and 75 percent in 2002. (During 2002, this number also included expedited removals.) The report on the 1990 cohort provides few details on other outcomes of the immigration process. Of those removed, the 1990 report indicates that 68 percent agreed to voluntarily depart the country compared to 50 percent in 1995 and 16 percent in 2002. This decline is consistent with a change in immigration policy that denies aliens involved in criminal activity the option of voluntary departure.

Conversely, 2002 saw the highest proportion of formal deportations (and expedited removals) with 84 percent, followed by 1995 with 50 percent and 1990 with 32 percent. A somewhat larger share of deportable aliens in 2002 (4%) than 1995 (1%) were granted relief or were otherwise allowed to remain in the country. The 1990 report does not discuss case outcomes for 25 percent of the deportable aliens, including any who may have been granted relief.

At the close of the immigration follow-up period, 17 percent of the cases were still pending in 1995 and 10 percent in 2002. For the present study, we were unable to obtain immigration outcome data on 11 percent of the aliens taken into INS custody.<sup>12</sup>

<sup>12</sup> As of July 2005, for these 81 individuals, none of the individual identifiers obtained from AJIS or CCHRS matched those of any individuals contained in DACS.

**Table 9**  
**Comparison of Three Release Cohorts on Immigration Outcomes for**  
**Deportable Aliens taken into INS Custody**

|   | 1990<br>n = 1,305 | 1995<br>n = 1,504  | 2002<br>n = 727  |
|---|-------------------|--------------------|------------------|
| Total Voluntary Departure, Deportation or Removal | 974 (75% of all)  | 1,238 (82% of all) | 543 (75% of all) |
| Voluntary Departures                              | 663 (68%)         | 621 (50%)          | 87 (16%)         |
| Ordered Deported or Administrative Removal        | 311 (32%)         | 617 (50%)          | 456 (84%)        |
| Granted relief, case closed                       | Not Available     | 12 (1%)            | 32 (4%)          |
| Still pending*                                    | Not Available     | 254 (17%)**        | 71 (10%)         |
| Information Missing                               | Not Available     | 0                  | 81 (11%)         |

Note: \* The immigration follow-up period was 12 months in 1990 and 2002 and 16 months in 1995.

\*\* There is a discrepancy in the 1995 report on this number. This table displays the number taken from the raw data displayed on page 16 indicating 254 pending cases.

### **3.3 COMPARISON OF THREE RELEASE COHORTS ON REARREST OF DEPORTABLE ALIENS WITHIN ONE YEAR**

Table 10 compares the three cohorts on rearrest within one year of their jail (or court) release. For the 2002 cohort, we obtained one-year follow-up data for the entire cohort of 1,617 deportable releasees. For the 1990 cohort, the published report contained data on 1,875 of the 1,933 deportable releasees (data were missing on 58 individuals). Rather than the entire release cohort of 1,504 deportable aliens, the 1995 study collected follow-up data on a random sample of 20 percent of the cohort (300 releasees). It is not possible to directly compare the recidivism of deportable aliens from the 1990 and 1995 cohorts to each other because they report on different categories of aliens. Thus, we discuss the comparison of 2002 to each time period individually. See Appendix A for a graphical depiction of rearrests in the study period.

The method of examining recidivism used in 1990 suffers from some considerable limitations. All deportable aliens were included in the follow-up sample, including the 25 percent of deportable aliens who were transferred to state prison and other custody. This means that at least some of these individuals (if not most) were still in custody at the end of the one-year follow-up period and thus had no opportunity to engage in repeat offending in the community. Thus, the 41 percent rearrest rate for all deportable aliens is an underestimate of the rearrest rate of deportable aliens who were released into the community. Recognizing this limitation, we replicated the 1990 method with the 2002 data and found a (much lower) 28 percent rearrest rate. This may be, however, entirely due to the much larger portion of the 2002 cohort released to prison or other custody (67%).

The average number of rearrests for 1990 was calculated only among those rearrested. In 1990, deportable aliens were rearrested an average of 1.97 times during the one year follow-up period, compared to a nearly identical average of 1.9 in 2002.

The 1995 study reports recidivism only on a random sample of those taken into INS custody. The report provides no details on how this random sample was drawn but states they were drawn from among all 1,504 releasees. This method presents a similar problem as the 1990 study because the sample may include individuals held in immigration custody throughout the entire follow-up period. Moreover, the report provides no data on actual departures/removals, only orders of deportations and agreements to voluntarily depart.<sup>13</sup> Thus, it is unclear how to interpret the 1995 finding that 45 percent of those released to INS custody were rearrested. It is not possible to assess what share of these individuals had actually been removed and returned across the U.S. border and what share never really departed. The 2002 replication of this methodology suffers from these same limitations. Thus, while the rearrest rate was dramatically lower than 1995, at 19 percent, this does not allow us to conclude that fewer deported/removed aliens are making their way back across the U.S. border. As with the 1990 study, the average number of rearrests was identical in 2002 (1.8) and 1995 (1.8).

**Table 10**  
**Comparison of Three Release Cohorts on Rearrest Within One Year of Jail Release**

|  | 1990   | 1995  | 2002                            |
|--|--|---|---------------------------------|
| Sample of deportable aliens followed                   | All deportable aliens for whom records were available (n=1,875 of 1,933) | 20% sample of the 1,504 deportable aliens released to INS custody (n=300) | All deportable aliens (n=1,617) |
| Rearrest for all deportable aliens                     | 772 (41%)  | Not available   | 452 (28%)                       |
| Average number of arrests                              | 1.97   |   | 1.9                             |
| Rearrest for deportable aliens released to INS custody | Not available  | 136 of 300 (45%)  | 139 of 727 (19%)                |
| Average number of arrests                              |  | 1.8   | 1.8                             |

<sup>13</sup> For the 2002 study, we obtained data on whether a removal or departure was verified by INS/ICE and whether aliens were released from custody prior to the resolution of their immigration case. Those data are not reported here for the 2002 cohort because the purpose of this report is strictly to replicate the findings of the 1990 and 1995 studies.

#### 4. SUMMARY AND CONCLUSIONS

Based on the 85 percent of foreign-born male releasees for whom we could determine deportability status, the present study found 66 percent of this group to be deportable aliens, compared with 61 percent in 1995 and 58 percent in 1990. For male releasees overall, however, the share of deportable aliens decreased in 2002 by three percentage points relative to 1995.<sup>14</sup> In interpreting these findings, perhaps the most pressing question for interested policymakers is whether the problem of criminally involved deportable aliens is growing better or worse for L.A. County Jail. This question is generally motivated by concerns about growth in the size of the illegal alien population. It is indeed possible that these results could have been obtained as a result of more illegal aliens in the L.A. County area. According to the U.S. Census Bureau, the size of the pool of illegal aliens nationally was growing by an estimated 350,000 per year between 1990 and 1999, and by 2000 it estimated the growth rate to be at around 500,000 per year (U.S. Census Bureau, 2003). However, changes in federal legislation during the period between the 1995 and 2002 studies expanded the list of reasons that legal aliens can be removed from the country. Thus, we cannot rule out the possibility that the increase in deportable aliens among the 2002 foreign-born releasees was entirely due to these changes in legislation.

While these changes increase the number of deportable aliens, the post-September 11, 2001, environment could be expected to decrease the utility of relying on self-report to identify them. As with the previous time periods, this study relied on self-report to identify foreign-born inmates. Since the study period launched within 11 months of the September 2001 terrorist attacks, both legal and illegal aliens may have been more hesitant (relative to the earlier time periods) to disclose their foreign birth out of heightened awareness or concern about detention and deportation. This would result in a more extensive undercounting of deportable aliens in 2002 than in the previous two time periods. With the available data, we can offer no insights on how much these factors may have impacted the 2002 cohort.

L.A. County criminal justice officials recognize the limitations of reliance on self-reported place of birth and formed a partnership with INS to devise more effective and consistent methods for deportable alien identification. As discussed previously, the HI-CAAP partnership is specifically focused on previously deported criminal aliens, but its efforts promise to increase identification of deportable aliens generally. The partnership was formalized with a 2000 grant

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<sup>14</sup> While women are much fewer in number than males (women made up 13% of IRC and 19% of court releasees during the 2002 study period), their inclusion may have produced a different picture over the three time periods.

from the Office of Community Oriented Policing (which included funding for the present study). While it is also possible that the efforts of the HI-CAAP partnership played some role in the greater percentage of deportable aliens identified in the 2002 cohort, with the available data we were unable to directly address this question. For more detailed information, see our full report on the HI-CAAP partnership, including its goals and implementation progress (Raymond et al., 2004).

A second key issue for policymakers is whether the recidivism of deportable aliens has increased or decreased since 1995. Using the same methodology as the previous studies, the findings of this study indicate a substantially lower rearrest rate in the 2002 cohort relative to both previous studies. *There are major limitations in the interpretation of these results, however.*

The 1990 study's use of all deportable aliens in its recidivism study underestimates the percentage of repeat rearrests because it includes those who were likely incarcerated during the entire follow-up period. Repeating this same strategy with the 2002 cohort is even more problematic because of a sizeable increase in the share of deportable aliens transferred to prison or other custody upon release from jail. The 2002 rate was more than double that of 1990. Since the 1990 report provides no information about rearrests in different release categories, a comparison of the 41 percent rearrest rate in 1990 to the 28 percent found in 2002 is essentially meaningless. This comparison would only be meaningful if we could compare rearrest percentages for non-incarcerated deportable aliens in both time periods.

The 1995 study examined the recidivism only of those taken into INS custody upon release from L.A. County Jail. It suffers from some of the same interpretation problems as the 1990 study because it does not report recidivism for only those free from custody (either before or after disposition of their immigration case). Even though the majority (82%) of deportable aliens taken into INS custody were ordered deported or agreed to voluntarily depart during the sixteen-month immigration follow-up period, the 1995 report lacks sufficient detail to fully understand what the results represent. Specifically, the report does not give data on what share of aliens was released from INS custody before disposition of their case and on what share was actually removed from the country in accordance with their disposition.<sup>15</sup>

According to INS audits conducted by the U.S. Department of Justice Inspector General in 1996 and 2003, in about half of the cases it sampled, aliens were released from INS custody pending immigration case resolution. Upon final resolution, only 11 percent of aliens were found

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<sup>15</sup> The report does indicate that by the end of the sixteen-month immigration follow-up period, only four percent of aliens were still released pending investigation. Among the 82 percent for whom a disposition is reported, it does not indicate what share was released from custody before dispositions were reached or what share was actually removed from the country following disposition.

to have been removed in the 1996 study and only 13 percent in the 2003 study. For those technically defined as criminal aliens, there was a higher rate of removal found in 2003 (35%) but this rate still did not approach the majority of nondetained criminal aliens. INS was far more efficient at removal of deportable aliens in custody during these two time periods, with 94 percent in the 1996 review and 92 percent in the 2003 study (U.S. DOJ, 1996, 2003).

The findings from these Inspector General audit reports suggest that at least in the case of those released from INS (or, after March 1, 2003, ICE) custody pending the resolution of their case, it is *most likely that they were not removed from the country*. Moreover, the 1995 immigration outcomes were examined for four months *longer* than the period over which recidivism is tracked. No information is provided as to what share of cases were resolved early in the immigration follow-up period relative to the end. This has several implications. For aliens whose cases were resolved and deportation/removal executed during these extra four months, rearrests cannot represent recidivism-after-reentry since rearrest data were no longer being collected. This further strengthens the counter-argument that the 1995 recidivism data likely represent reoffending by deportable aliens who never really left the country. That is, they should not be interpreted to largely represent reoffending after deportation/removal and illegal reentry across the U.S. border.

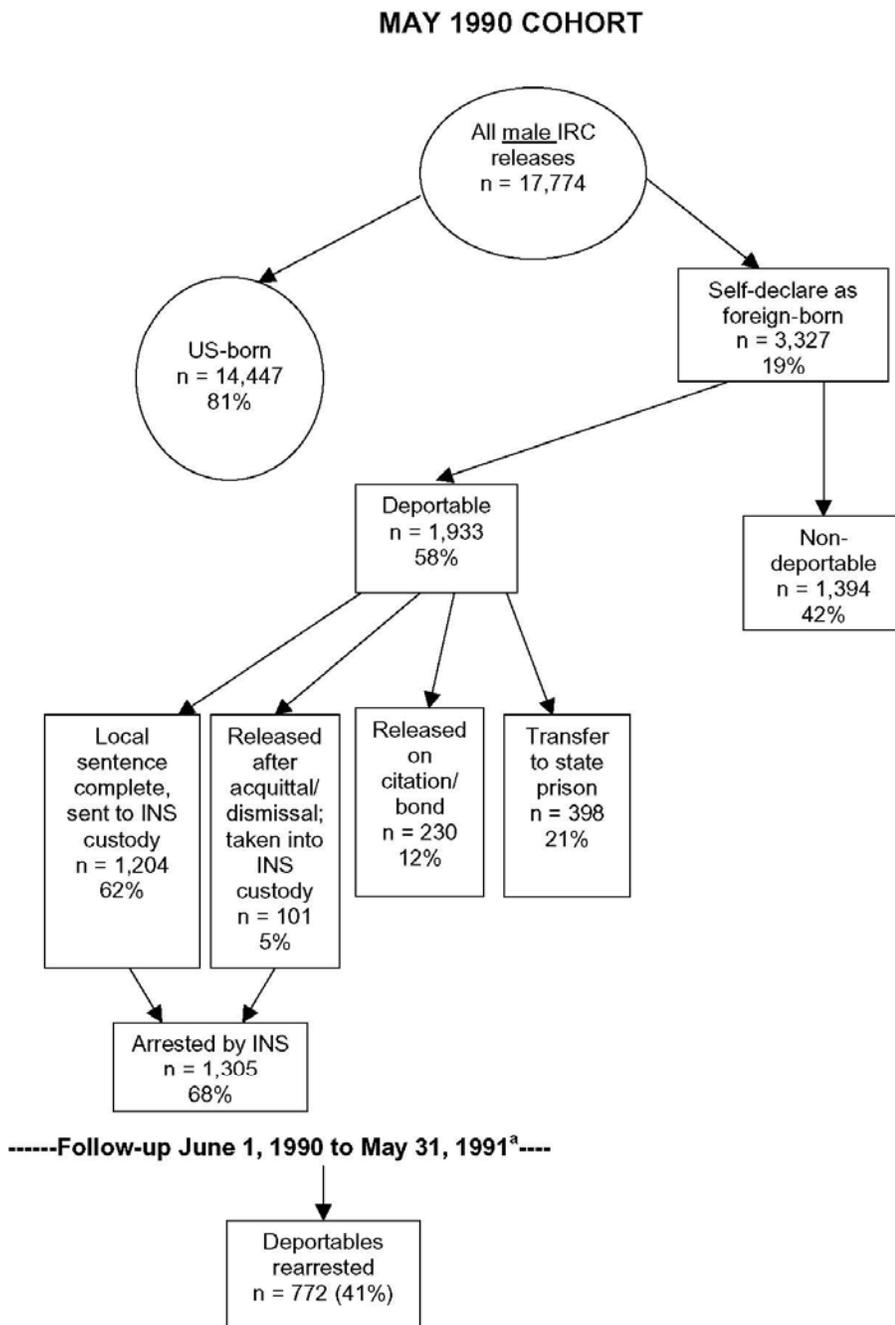
In replicating this same approach, the present study found a substantially lower rearrest rate (45% in 1995 versus 19% in 2002). Like the comparison with the 1990 study, interpretation of this difference is not clear. We are not able to compare recidivism between those who were free from immigration custody during the two study periods, either as a result of release pending a disposition or after deportation/removal from the country. The substantially lower rearrest rate in 2002 may be due to a larger percent of the group held in custody throughout the entire follow-up period. Thus, these findings cannot be used to draw any conclusions about the effectiveness of post-September 11 efforts to strengthen U.S. border protections against illegal entry or the more local efforts of HI-CAAP partnership.

Unfortunately, the overall conclusions of this report may be disappointing to policymakers looking to understand patterns over time in the representation and recidivism of deportable aliens released from L.A. County Jail. The lack of detailed data reporting and methodological limitations of the two previous reports make comparisons with 2002 data largely uninformative.

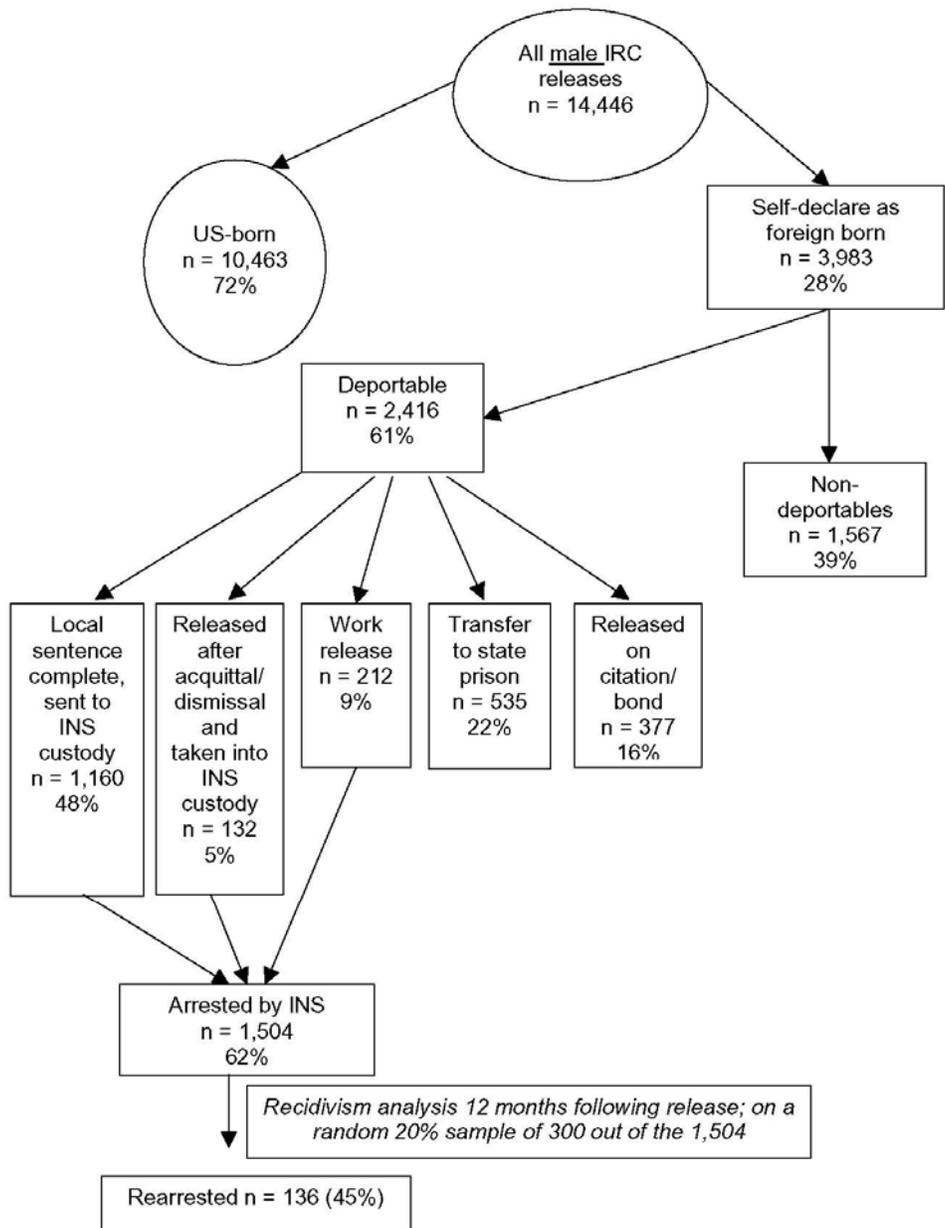
If we look only at the 2002 data, it appears that deportable aliens still have a significant presence among male releasees overall and likely make up the majority of foreign-born releasees. Even though most deportable aliens (57%) were released from L.A. County Jail directly into the custody of INS, state prison, or another law enforcement agency, just over one in four (28%) were rearrested for a new crime within one year of their jail release. Of the 452

rearrested at least once, 221 (49%) were arrested two or more times and 48 (11%) were arrested four or more times during the one-year follow-up period. Each new arrest presented an opportunity to identify and remove these criminally involved deportable aliens from the community. These apparent missed opportunities justify the public safety motivation of the HI-CAAP partnership efforts to improve local-federal cooperation and coordination in addressing criminally involved deportable aliens in L.A. County.

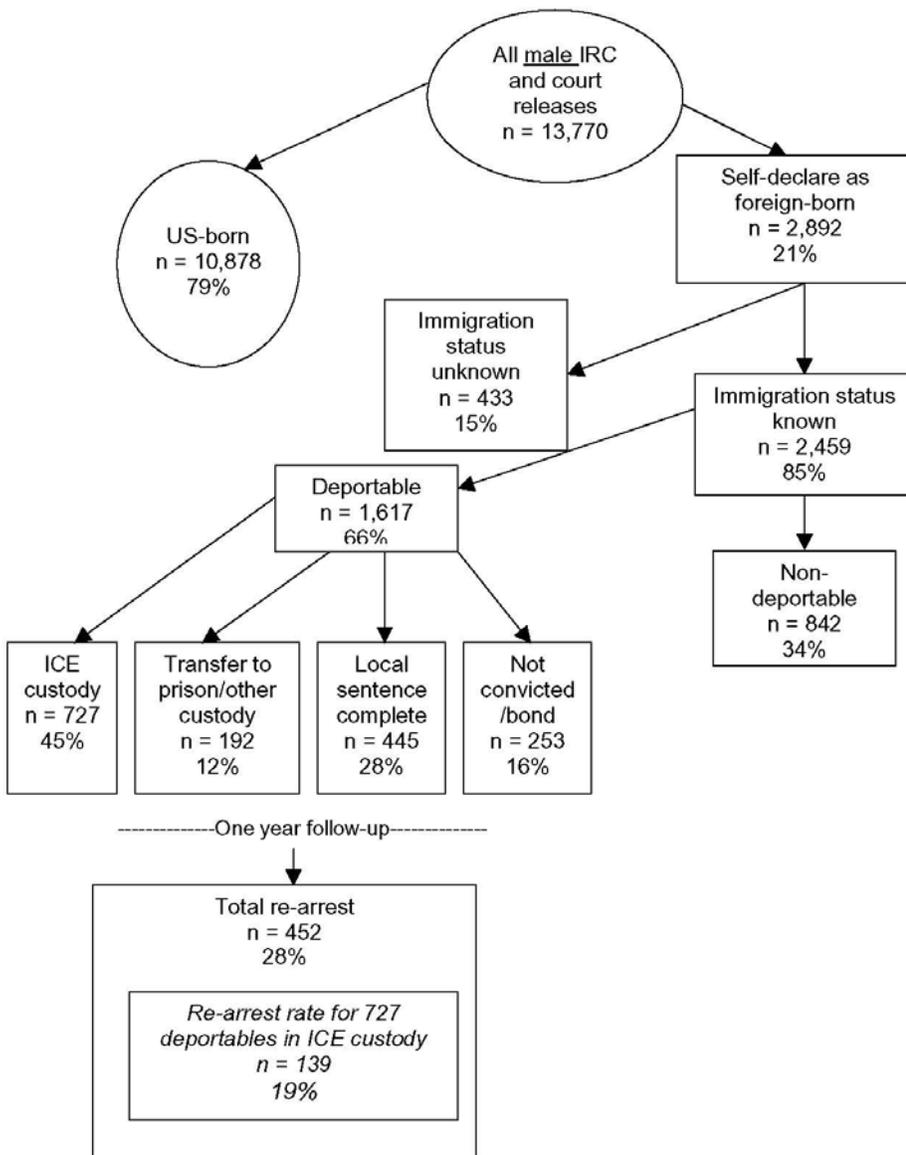
**A. GRAPHICAL DEPICTION OF ALL THREE RELEASE COHORTS**



### JUNE 1995 COHORT



### 2002 RELEASE COHORT





## REFERENCES

- Applegate, K. and K. L. Chotiner (1999). *Building LA's Consolidated Criminal History Reporting System (CCHRS)*. Education Session Article. National Center for State Courts. Accessed at: [http://www.ncsconline.org/D\\_Tech/ctc/showarticle.asp?id=30](http://www.ncsconline.org/D_Tech/ctc/showarticle.asp?id=30), August 29, 2005.
- Countywide Criminal Justice Coordination Committee, Ad Hoc Committee on Criminal Aliens (1990). *Criminal Aliens in the Los Angeles County Jail Population, Final Report*. Los Angeles, CA: Countywide Criminal Justice Coordination Committee.
- Countywide Criminal Justice Coordination Committee, Ad Hoc Committee on Criminal Aliens (1992). *Impact of Repeat Arrests of Deportable Criminal Aliens in the Los Angeles County, Final Report*. Los Angeles, CA: Countywide Criminal Justice Coordination Committee.
- Countywide Criminal Justice Coordination Committee and Los Angeles County Subcommittee on Criminal Aliens (1997). *The Impact of Deportable Aliens on the Los Angeles County Jail System: Final Report*. Los Angeles, CA: Countywide Criminal Justice Coordination Committee.
- Countywide Criminal Justice Coordination Committee (2002). *High Intensity Criminal Alien Apprehension Prosecution Program Fact Sheet*. Los Angeles, CA: Countywide Criminal Justice Coordination Committee.
- Government Accountability Office (2005, March 29). *Information on Criminal Aliens Incarcerated in Federal and State Prisons and Local Jails: Briefing for Congressional Requesters*. GAO-05-337R. Washington, DC: Government Accountability Office.
- Immigration and Naturalization Service (1999, September 20). *Pilot of Expedited Removal Procedures At Three Institutional Removal Program Sites*. News Release. Accessed at [http://www.rapidimmigration.com/www/news/news\\_251.html](http://www.rapidimmigration.com/www/news/news_251.html), August 29, 2005.
- Raymond, B., L. J. Hickman, E. Williams, and K. J. Riley (2004). *Identifying Deportable Aliens in the Los Angeles County Jail: Implementing the HI-CAAP Federal-Local Partnership*. WP-193-LAC. Santa Monica, CA: RAND Corporation.
- U.S. Census Bureau (2003, January 31). *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*. Washington, DC: U.S. Census Bureau.
- U.S. Department of Justice, Office of the Inspector General (1996, March). *Immigration and Naturalization Service Deportation of Aliens After Final Orders Have Been Issued*. Report Number I-96-03, Washington, D.C.: Department of Justice.
- U.S. Department of Justice, Office of the Inspector General (2002). *Audit Report: Immigration and Naturalization Service Institutional Removal Program*, Report 02-41, Washington, DC: Office of the Inspector General.

U.S. Department of Justice, Office of the Inspector General, Evaluation and Inspections Division (2003, February). *The Immigration and Naturalization Service's Removal of Aliens Issued Final Orders*. Report Number I-2003-004, Washington, D.C.: Department of Justice.