

Illegal Immigration



Maricopa County Attorney's Office

September 2008

CONTENTS

Executive Summary 3

Background -- Illegal Immigration Facts..... 3

Illegal Immigration and the Maricopa County Attorney’s Office 4

Illegal Immigration Statistics..... 5

 Arizona..... 5

 Maricopa County 5

 Data..... 6

Illegal Immigration’s Impact on Maricopa County Crime 7

Illegal Immigration, Crimes and Specialized Prosecution..... 8

Noteworthy Prosecutions 8

Legislative and MCAO Policy Changes 10

 Illegal Immigration Legislation 10

 2005..... 10

 2006..... 10

 2007..... 10

 2008..... 10

 MCAO Policy Changes 10

Outreach..... 11

 Law Enforcement..... 11

 Public Service Campaigns 11

 Illegal Immigration Journal 11

 Legal Arizona Workers Act (LAWA) 11

 Speaker’s Bureau 11

 Community Events 12

Conclusions and Further Research..... 12

Executive Summary

There has been recent discussion as to whether crime rates for illegal immigrants are similar to rates for persons lawfully in this country. The following report analyzes defendants sentenced for felonies in Maricopa Superior Court in an effort to shed light on that issue. The report finds illegal immigrants are over-represented for both violent and property crimes when compared to their estimated presence in the general population.

The key conclusion of this paper is that Arizona's population is comprised of approximately 9% illegal immigrants, yet 21.8% of felonies sentenced in Maricopa County Superior Court are committed by illegal immigrants.

Background -- Illegal Immigration Facts

- In June 2008, the Arizona prison system reported a population of **5,173 Mexican Nationals**. (*Arizona Department of Corrections, Reports and Statistics, 2008*)¹
- In 2004, the Federation for American Immigration Reform (FAIR) estimated the annual cost of incarcerating illegal immigrants in Arizona prisons and jails equal to **\$80 million**². Today a conservative estimate is that it costs \$61.74³ a day to house an inmate in an Arizona prison. Using this daily per prisoner estimate, in June 2008 the daily housing costs for Mexican Nationals for the month totaled \$319,381. Assuming that 5,173 prisoners is a relatively constant year-around number, the cost of incarcerating Mexican Nationals in Arizona has increased to approximately **\$114 million annually**.
- Law enforcement and criminal prosecutions linked to illegal immigration costs the Arizona border counties of Cochise County, Pima County, Santa Cruz, and Yuma County millions of dollars annually. A recent study from the University of Arizona⁴ estimates that in these four border counties in Arizona costs were **\$26.6 million in 2006**. These costs represent monies spent from the counties general funds to provide law enforcement and criminal justice services (sheriff, detention, prosecutor, indigent defense, justice court, superior court, probation, etc.).

¹ A recent AZ Dept. of Corrections presentation reported the vast majority of Mexican Nationals (98%) are illegal immigrants.

² "The Costs of Illegal Immigration to Arizonans" calculates a per prisoner cost of \$18,000 per year minus reimbursements from the federal SCAAP program. This doesn't include the monetary costs of the crimes that led to the incarceration.

³ According to AZ Dept. of Corrections, Research and Statistics.

⁴ "Undocumented Immigrants in U.S.-Mexico Border Counties", 2007, University of Arizona.

- In 2005, the Government Accounting Office (GAO) conducted sample studies using a pool of more than 55,000 illegal immigrants⁵:
- The group was arrested⁶ a total of 459,614 times, averaging 8 arrests per illegal immigrant. ($459,614 / 55,000 = 8$)
 - They were arrested for a total of 700,000 offenses⁷, averaging 13 offenses per illegal immigrant. ($700,000 / 55,000 = 12.72$)
 - 12% of these offenses were violent offenses like robbery, assault and sex-related crimes.
 - 15% were property related offenses like burglary, larceny-theft, motor vehicle theft and property damage.
 - 45% were drug or immigration offenses; and the remaining 28% were for other offenses (traffic, DUI, fraud, weapons violations, obstruction of justice, etc.)
 - 80% of all arrests occurred in three states: California, Texas and **Arizona**.

Illegal Immigration and the Maricopa County Attorney's Office

In 2005, the Maricopa County Attorney's Office (MCAO) began examining illegal immigration issues when it hosted the *Southwest Conference on Illegal Immigration, Border Security and Crime*. In addition, that year the Office supported state legislation to make human smuggling a crime. In 2006, the Office led the effort to pass Proposition 100, which prohibits bail for illegal immigrants accused of serious crimes. In 2007, the Court of Appeals upheld MCAO's interpretation of the human smuggling law which allows for the prosecution of illegal immigrants who use the services of coyotes (people who transport humans across borders for profit). Currently, in 2008, the Office has been enforcing the Legal Arizona Workers Act (LAWA), which prohibits employees from using false documents to obtain employment and penalizes employers who intentional or knowingly hire unauthorized aliens.

MCAO has convicted 125 persons of crimes related to smuggling, managing drop houses, and kidnapping in connection with smuggling. MCAO has also convicted over 750

⁵ "Information on Certain Illegal Aliens Arrested in the United States, Briefing for Congressional Requesters," April 2005.

⁶ An arrest does not necessarily result in a prosecution or conviction.

⁷ One arrest may include multiple offenses. This is why there are 1.5 times more offenses than arrests.

persons of conspiring with smugglers to transport or smuggle themselves in violation of United States immigration laws.

Illegal Immigration Statistics

Arizona

There have been several serious efforts to estimate the number of illegal immigrants in Arizona. Most recently the U.S. Department of Homeland Security reported the state's illegal immigrant population to be 530,000. This is a 62% increase from 330,000 they reported in 2000.⁸ In 2007, the Center for Immigration Studies reported Arizona's illegal immigrant population to be 9% (579,000 people). A 2007 study from the Udall Center for Studies in Public Policy reports the non-citizen immigrant population in Arizona to be 619,800 people. Lastly, Harvard economist George Borjas reported in his January 2008 report, "Labor Market Consequences of Unauthorized Aliens in Arizona" that there are 450,000 undocumented immigrants residing in Arizona. **A reasonable average of these studies is that approximately 9% of Arizona's population is comprised of illegal immigrants.**

Maricopa County

In 2007 MCAO began systematically tracking defendant illegal immigration status. With respect to each defendant who is prosecuted for a felony an additional characteristic was created that staff is required to enter in office computer data. MCAO staff enters for each defendant whether the defendant is an illegal immigrant, not an illegal immigrant or unknown. An analysis has found that in 2007 18.7% of defendants sentenced in Maricopa County Superior Court were illegal immigrants.

This 18.7 % figure is a conservative estimate as approximately 23% of defendants sentenced had a citizenship status of "unknown". This is due to the fact that MCAO requires official documentation to prove citizenship and often such documentation is initially unavailable. Given the large percentage of unknown defendants, a random sample of this group was selected. Analysis found 13.1% of the unknown group to be illegal immigrants, verified via the Criminal History Worksheet. When the random sample of unknown defendants was included with the known group the **total percentage of illegal immigrant defendants sentenced for felonies in Maricopa County Superior Court is 21.8%.**

⁸ "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2007." Reported by the U.S. Department of Homeland Security, Office of Immigration Statistics, September 2008. http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2007.pdf . Legal permanent residents are subtracted from estimates of the total foreign born population.

Data

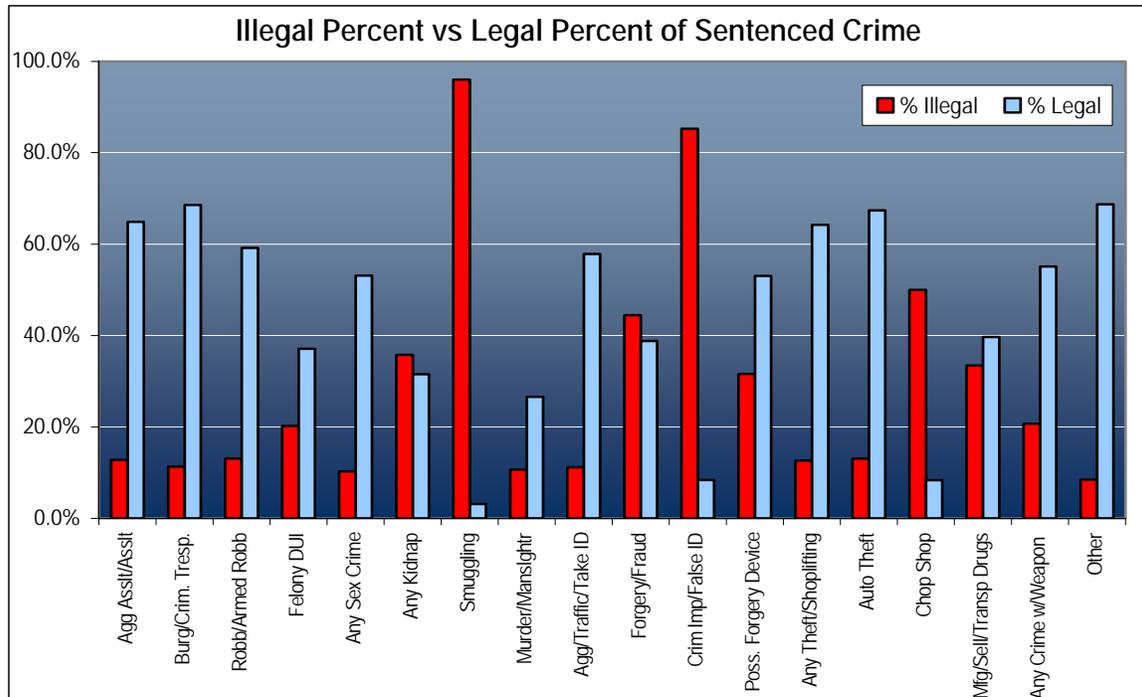
- The following chart compares the highest criminal charge that illegal immigrant defendants were sentenced for in 2007 with defendant whose status was legal. The chart does not adjust for the percentage of defendants whose status was unknown.⁹

Sentenced in Maricopa County Superior Court - By Highest Ranking Charge With DOC Stats																
Highest Ranking Crime	Sentenced Stats				DOC Stats						Jail Stats					
	Total Sentenced	Illegal	Legal	% Illegal	Total DOC	Illegal	Legal	Illegal %	Illegal Avg. Months	Legal Avg. Months	Total Jail	Illegal	Legal	Illegal %	Illegal Avg. Months	Legal Avg. Months
Agg Asslt/Asslt	1,708	218	1108	12.8%	635	82	371	12.9%	56	49	497	63	334	12.7%	5	4
Burg/Crim. Tresp.	1,764	200	1210	11.3%	736	47	536	6.4%	40	39	381	66	247	17.3%	3	3
Robb/Armed Robb	635	83	376	13.1%	456	67	257	14.7%	86	86	107	11	77	10.3%	7	6
Felony DUI	1,934	392	717	20.3%	1453	326	497	22.4%	9	18	382	58	165	15.2%	0	1
Any Sex Crime	467	48	248	10.3%	209	20	108	9.6%	121	102	92	11	55	12.0%	6	7
Any Kidnap	95	34	30	35.8%	53	22	15	41.5%	91	79	18	4	10	22.2%	9	7
Smuggling	353	339	11	96.0%	17	17	0	100.0%	12	0	111	103	5	92.8%	2	2
Murder/Manslghtr	188	20	50	10.6%	181	20	47	11.0%	137	136	5	0	3	0.0%	0	12
Agg/Traffic/Take ID	197	22	114	11.2%	105	2	69	1.9%	21	74	47	10	25	21.3%	4	4
Forgery/Fraud	1,272	565	494	44.4%	476	116	255	24.4%	26	41	189	73	88	38.6%	2	3
Crim Imp/False ID	774	660	65	85.3%	25	12	8	48.0%	11	14	105	75	21	71.4%	1	1
Poss. Forgery Device	462	146	245	31.6%	27	5	19	18.5%	13	11	73	17	47	23.3%	2	2
Any Theft/Shoplifting	1,613	204	1036	12.6%	292	20	198	6.8%	50	33	532	93	335	17.5%	2	3
Auto Theft	1,214	159	818	13.1%	728	72	512	9.9%	51	50	211	42	130	19.9%	3	5
Chop Shop	12	6	1	50.0%	6	4	1	66.7%	53	60	3	1	0	33.3%	2	0
Mfg/Sell/Transp Drugs	1,287	431	511	33.5%	679	189	284	27.8%	48	65	422	187	148	44.3%	6	5
Any Crime w/Weapon	2,021	418	1113	20.7%	1119	174	619	15.5%	67	67	458	90	277	19.7%	5	5
Other	9,283	786	6,378	8.5%	1,132	2	1,052	0.2%	28	30	954	78	734	8.2%	3	3
Total	25,279	4,731	14,525	18.7%	8,329	1,196	4,848	14.4%	51	53	4,587	982	2,701	21.4%	62	73

Source: MCAO. Chart excludes the unknown category in its calculations.

- As noted in the following graph, illegal immigrants commit a higher number of certain crimes than persons who are known to be lawfully in this country. These crimes include kidnapping, forgery, human smuggling and the manufacturing, selling and transporting of drugs.

⁹ The “highest criminal charge” tracks the case and the defendant by the most serious charge; lesser charges against the same defendant in the same case are not included.



- A 2007 analysis of ARS §13-1304A1 (Kidnap/Ransom) as the highest ranking charge found there were 133 kidnapping cases for ransom filed with the crime alleged dangerous. **74%** of these cases were identified as illegal immigrant cases. Of those cases that have reached final disposition, **69% of cases received DOC with the average DOC sentence to be 7.7 years.**

Illegal Immigration's Impact on Maricopa County Crime

- Using the violent crime¹⁰ numbers of illegal immigrants sentenced in Maricopa Superior Court as reported in the previous MCAO data, **16.5% of violent crimes can be linked to illegal immigrants.** In 2007, 18,010 violent crimes were reported to Maricopa County law enforcement.¹¹ Applying the illegal immigrant violent crime percentage to the total violent crime reported in **Maricopa County found 2,973 of reported violent crime to be committed by illegal immigrants.** According to varying cost-of-crime models¹², violent crimes average approximately **\$20,000** per offense. This will be the assumed cost of a single violent offense. If illegal immigrants accounted for 2,973 of the reported violent crime in Maricopa County the financial hardship imposed on Maricopa County citizens totaled approximately **\$59 million dollars in 2007.**

¹⁰ Agg. Assault, Sex Crime, Kidnapping, Murder/Manslaughter, and Crime with a Weapon.

¹¹ Data reported from Maricopa County's nine largest law enforcement agencies.

¹² "Varieties of Criminal Behavior", Jan Chaiken & Marcia Chaiken, Rand Corporation: "The Costs of Crime and Justice", Mark Cohen, Vanderbilt University: "Imprisonment-Crime Link", James Q. Wilson, Pepperdine University: The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation, Kathryn McCollister, PhD

- Using the property crime¹³ numbers of illegal immigrants sentenced in Maricopa Superior Court as reported in the previous MCAO data, **18.5% of property crimes can be linked to illegal immigrants.** In 2007, 165,743 property crimes were reported to Maricopa County law enforcement.¹⁴ Applying the illegal immigrant property crime percentage to the total property crime reported in **Maricopa County found 6,684 of reported property crime to be committed by illegal immigrants.** According to the Department of Public Safety's Crime in Arizona 2007, the average dollar value of stolen property for the State totaled \$3,636 per property offense. If illegal immigrants accounted for 6,684 of the reported property crime in Maricopa County the financial hardship imposed on Maricopa County citizens in property alone totaled approximately **\$24 million dollars in 2007.**

Illegal Immigration, Crimes and Specialized Prosecution

The Special Crimes Bureau of MCAO is comprised of an experienced group of deputy county attorneys (DCA) committed to prosecuting criminals committing felony offenses. In particular, the Special Crimes Bureau focuses on criminal activity that violates immigration law. This includes criminals who conspire to commit human smuggling by hiring a coyote for transportation across the border. This unique prosecution requires the bureau's attorneys to work closely with the United States Customs and Immigration Services, the investigative arm of the Department of Homeland Security as well as valley law enforcement. These relationships have helped the bureau improve the investigative, hearing and trial preparation processes needed to streamline illegal immigration prosecution. As of July 2008, the County Attorney's Office successfully prosecuted 750 defendants under the human smuggling statute as conspirators and 125 defendants charged with transporting and handling, including drop houses, kidnapping and extortion for ransom.

Noteworthy Prosecutions

- In October 2007, Valley police launched an investigation based on an anonymous call involving a human smuggling drop house in Phoenix. Police determined that four coyotes were holding 16 illegal aliens captive and threatened to do them physical harm if increased smuggling fees were not paid. The illegal captives now identified as victims indicated to police that they had been smuggled from Mexico and had been held captive in the residence for several days. While at the residence, the victims stated that they had been guarded and threatened by the defendants who carried handguns. The victims also stated that they been collectively extorted by the Defendants. **Defendant Jose Cota-Campos was sentenced to the stipulated term of 7 years in the Arizona Department of Corrections.**

¹³ Burglary/Criminal Trespass, Robbery, Take ID, Forgery/Fraud, Theft/Shoplifting, Auto Theft, and Chop Shop.

¹⁴ Data reported from Maricopa County's nine largest law enforcement agencies.

- In July 2007, Valley police investigated a drop house for human smuggling. Four defendants were holding 16 illegal immigrants captive and threatened to do them physical harm if an increased smuggling fee was not paid. The victims indicated that they had been smuggled from Mexico and Nicaragua and had been held captive at the residence for two to six days. While at the residence, the victims stated that they had been guarded, threatened and extorted by the defendants who had AK-47 style assault rifles. **Defendants Carlos Felix-Aguilar, Marialuisa Pacheco-Fraile, Arnoldo Luna, Jorge Montalvo-Toledo were all sentenced to 7-year sentences in the Arizona Department of Corrections.**
- In September 2007, Valley police followed a Lojack signal in a vehicle theft investigation to a garage in West Phoenix. The police then identified the residence as a drop house containing 33 illegal immigrants. **Defendant Angel Tabarea-Castillo, identified as the person in charge of the drop house, was sentenced to 7 years in the Arizona Department of Corrections.**
- A drop house containing about 20 illegal immigrants was identified. Here the illegal immigrants were robbed of their clothes, wallets, and money at gunpoint. The coyotes also substantially raised the amount of the smuggling fees that each smuglee was expected to pay. The coyotes forced the victims to provide telephone contact information for family, who were then extorted for money for the safe release of their victim relatives. Five of the illegal immigrants were bound and placed into a closet. Eventually one of the illegal immigrants was able to free himself and he attacked one of the coyotes. **Defendant Arturo Nevares-Ugarte was sentenced to a 31-year sentence in the Arizona Department of Corrections.**
- Since 2005, there have been more than **1,200 illegal immigrants identified at drop houses across the Valley**. Drop houses can occur in any neighborhood; however, the majority of drop houses go undetected until a released immigrant or neighbor makes a report. The Office has recently charged 125 defendants in connection with transporting, handling, and, in a growing number of cases, kidnapping and extortion (which often takes place in the drop house setting) of illegal immigrants. One hundred of these defendants have been prosecuted and convicted as “smugglers” under the human smuggling statute. The others have been prosecuted and convicted under kidnapping, extortion and other drop house related charges. The county attorney’s office has a 99% conviction rate in these cases.

Legislative and MCAO Policy Changes

Illegal Immigration Legislation

2005

MCAO supported **Senate Bill 1372** that made human smuggling a crime, a first step towards battling illegal immigration. The law allowed local authorities to prosecute those who smuggle people across the Arizona border. Human smuggling is a Class 4 felony, punishable with up to three years in prison.

2006

Proposition 100, MCAO helped draft and supported an amendment to the Arizona Constitution to prohibit bail for any person who is charged with a serious felony offense and who is unlawfully in the U.S. As a result illegal immigrants who are charged with serious felonies are no longer being released. Legislation was enacted to specify that class 1, 2, 3 and 4 felony offenses would constitute the "serious felony" offenses for which a person who has entered or remained in the United States illegally should be denied bail.

2007

In 2007 MCAO supported and the Arizona Legislature enacted the Legal Arizona Workers Act (LAWA), the first such measure in the nation. The law, which went into effect in January 2008, allows a court to suspend or revoke the business license of employers found to have knowingly hired illegal workers. The bill also strengthened the State's ID theft laws against persons who use false documents to obtain employment.

2008

MCAO supported amendments to LAWA, which clarified several provisions in LAWA. It also enacted a new criminal offense to punish an employer who knowingly accepts false identification from an applicant for employment.

The Arizona Court of Appeals recently upheld the prosecution of illegal immigrants for conspiring to transport themselves in violation of Arizona's human-smuggling statute. On July 31, 2008, the Court of Appeals also ruled that Arizona courts have jurisdiction to prosecute persons under the human smuggling statute when the solicitation took place in Mexico. The Office successfully argued that because solicitation is a continuing offense and the illegal immigrant defendant was transported into Maricopa County, the Maricopa County Attorney was authorized to prosecute under the state's human-smuggling law.

MCAO Policy Changes

In 2008, the MCAO implemented new policy requiring DCA's in sentencing proceedings to bring to the court's attention the fact that a defendant was unlawfully in the United States. This ensures that the court will consider the aggravating factor under A.R.S. §13-702 of the defendant's being in violation of federal law. It also avoids putting a defendant into publicly-funded probation program in violation of state law.

In addition the DCA informs the Maricopa County Sheriff's Office (MCSO) that the defendant is in violation of immigration laws to ensure that immigration proceedings can commence. If the defendant is not in custody, the DCA asks MCSO to take the defendant into custody.

Outreach

Law Enforcement

DCA's in the Special Crimes Bureau have repeatedly presented and trained law enforcement officers on technical requirements relating to human smuggling, conspiracy, Proposition 100 and the LAWA. MCSO, other law enforcement agencies, the DEA and ICE are several of the agencies who have participated in these training sessions.

Public Service Campaigns

In 2007, the MCAO published the *Road Map to Crime Prevention* booklet and created a website based on the information. http://www.crimefreeaz.com/drop_houses/ includes important drop house and illegal immigration information, cases and statistics. In 2008, MCAO's *Road Map to Crime Prevention Booklet* was the recipient of a NACo Achievement Award.

Illegal Immigration Journal

Illegal Immigration Journal <http://www.illegalimmigrationjournal.com> is an electronic journal that was launched in 2007, by the Maricopa County Attorney's Office. It is a comprehensive online resource where public, law enforcement and political leaders can find updated news and information on illegal immigration.

Legal Arizona Workers Act (LAWA)

This website <http://www.maricopacountyattorney.org/lawa/index.html> was launched in 2008, with the express purpose of providing the public information on the LAWA, including how to file a complaint. The site also provides resources to businesses that will assist them in complying with the law. This Office along with the MCSO accepts all information that is provided to it regarding violations of the law and has declined to implement barriers that make it hard for the public to report information about violations. Complaints do not have to be made in person and may be submitted via email or phone. While it is preferable to have contact information for the person making the complaint it is not mandatory.

MCAO has jointly sponsored with the Arizona Chamber of Commerce and Industry a series of seminars for the business community on LAWA compliance.

Speaker's Bureau

MCAO sponsors a Speakers' Bureau. This is a free public service that provides MCAO experts who present basic, useful information on a variety of topics in an effort to keep citizens of Maricopa County aware of public policy, social issues, crime trends and the

criminal justice system. Our experts speak to elementary schools, high schools, colleges, civic organizations and other business and professional associations throughout Maricopa County.

The Speakers' Bureau has provided illegal immigration and Legal Arizona Worker's Act (LAWA) presentations to a number of organizations, including area law enforcement associations, homeowner's associations and local civic organizations.

Community Events

In November 2005, the MCAO hosted the "Southwest Conference on Illegal Immigration, Border Security and Crime." The Conference attracted more than 250 attendees from across the country. The objective was to teach community leaders and citizens about the impact of illegal immigration on the Southwest and to empower communities to deal with these issues. Lawmakers, law enforcement, political and community leaders and members of the community gathered to seek solutions to the economic, social and public safety concerns of illegal immigration. Speakers included Andrew Thomas; Congressman Tom Tancredo; Congressman JD Hayworth; Congressman Jeff Flake; Tamar Jacoby from the Manhattan Institute and John Leo from U.S. News and World Report. Issues of discussion included employer sanctions, federal immigration solutions, amnesty and public safety concerns.

Conclusions and Further Research

This analysis found illegal immigrants disproportionately represented in violent and property crimes as compared to the general population. Arizona's population is comprised of approximately 9% illegal immigrants, yet 21.8% of felonies sentenced in Maricopa County Superior Court are committed by illegal immigrants.

Study limitations include defendants identified as unknown within the Maricopa County Attorney's Office; further work is needed to reduce the unknown category.

Further study is also merited of the demographics of the illegal immigrant population in Arizona and the United States. The considerably higher criminal convictions for illegal immigrants than the rest of the population found by this study may be due to skewed demographics. That is, young males account for the bulk of crime in America. If the illegal immigrant population is over-represented by young males, the higher rate of criminality might be explained.

Alternatively, the self-selecting nature of risk-taking among many illegal immigrants may overweight risk-taking in the criminal behavior field. That is, illegal immigrants are required to violate United States laws to come to this county. They also sometimes have to take dangerous journeys. These facts may select a high number of risk-taking persons who may also be willing to engage in other risky criminal behavior.

Continued study and data sharing are required to further illuminate the impact of illegal immigration on the criminal justice system.