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Criminal Aliens Released From INS Custody

In connection with a congressional subpoena for data showing rates of recidivism among criminal aliens, the Immigration and Naturalization Service (INS) gathered and analyzed the immigration and criminal records of two groups of aliens. The first group comprises aliens with prior criminal records released from INS detention between October 1, 1994 and May 31, 1999; the second group represents all aliens admitted to the United States through primary inspection at airports during Fiscal Year 1998. While the results of this study show that recidivism among aliens is no higher than among the general population, the results nevertheless raise concerns and underscore the need for ongoing efforts to identify, detain and remove criminal aliens from the United States, and to improve INS' ability to prevent their return.

What is INS Doing to Protect Communities from Criminal Aliens?

Protecting the public from criminal aliens has been and continues to be a top INS law enforcement priority. Over the past several years, INS has dramatically increased the number of criminal aliens removed from the United States. Between FY 1994 and FY 1999, INS doubled the number of criminal alien removals -- from 30,158 in FY 1994 to 63,012 in FY 1999. That figure represents more than 170 criminal removals every day during that period.

INS' success in removing criminal aliens is directly tied to its ability to detain them. The INS has worked with lawmakers to secure funding to expand its detention and removal efforts. To facilitate the removal of aliens, INS has expanded its detention space from a daily usage of about 5,500 beds in FY 1994 to 18,200 in FY 1999. Annual detention resources have grown from \$226 million to \$807 million over the same period. This has allowed INS to detain a total of more than 300,000 criminal aliens from October 1, 1994 to May 31, 1999 and to remove approximately 245,000 criminal aliens during the same time period.

Why Are Criminal Aliens Released?

The release of aliens with criminal records is done for a variety of reasons, under procedures established by law on the authority of several different entities. Some aliens are released from INS custody simply because they prevailed in their deportation cases and there is no longer any legal authority to detain them. Other aliens may have been released while their deportation proceedings are still pending. This may be done by INS District Directors, by federal judges, by immigration judges, or by the Board of Immigration Appeals after bond hearings. In addition, some aliens who have final deportation orders may be released after having been detained because they come from countries such as Cuba, Vietnam, Laos, and Cambodia, that presently will not take them back. Under all of these scenarios, the individuals have served and completed their criminal sentences in the U.S. Prior to making a discretionary release decision, all available information is reviewed in a deliberative process to determine if the alien poses a threat to public safety or is a flight risk if released from custody under supervision as with a bond determination in a criminal case.

The INS will continue to review and analyze the results of this study to evaluate its custody determination processes and identify possible improvements to the system. INS is also ensuring that all available information on the criminal aliens who were released, and later committed the most serious crimes, has been entered into all INS lookout databases and is shared with other law enforcement agencies. In those cases where a criminal alien has been charged with a serious violent crime subsequent to release but the disposition of the case is unknown, INS will seek to obtain information, update its records, and take any further appropriate action in coordination with local law enforcement agencies.

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Aggravated felons and other criminals who reenter the United States unlawfully are subject to severe criminal penalties, and the Department is extremely serious about enforcing those criminal statutes. In 1999, for example, the United States Attorneys brought nearly seven times the number of prosecutions for illegal entry after deportation, as compared to 1992.

The INS remains fully committed to protecting the public from criminal aliens and will continue to focus its efforts on the detention and removal of dangerous criminal aliens from our communities.