The Deportation Story: Deporter-in-Chief, Releaser-in-Chief, or Reformer-in-Chief?

April 29, 2014
Migration Policy Institute

WELCOME
Report Overview

• Three Drivers of Deportation Policy
  – Immigration legislation
  – Immigration enforcement appropriations
  – Executive branch implementation

• Key Enforcement Trends
  – Increasing share of deportations are formal removals
  – Increasing share of removals are non-judicial
  – Increasing share of border crossers face criminal charges

• Enforcement Priorities and Prosecutorial Discretion

• Policy Levers to Influence the Deportation System
IIRIRA and Pipelines for Removal

• Illegal Immigration Reform and Immigrant Responsibility Act of 1996
  – Removals vs. returns
  – Judicial vs. nonjudicial removals
    • Expedited removal
    • Reinstatement of removal
    • Stipulated removal*

* Stipulated removal is a specific type of expedited removal where the petitioner and respondent agree to the removal process.
Congressional Appropriations

• Why appropriations matter
  – Funding for enforcement inflows
    • Front-line enforcement agents
    • Enforcement infrastructure and technology
  – Funding for enforcement processing
    • Immigration judges (EOIR)
    • Immigrant detention system
Congressional Appropriations

- Immigration Enforcement Appropriations and Removals
Enforcement Trends

• Border and Interior Apprehensions
Enforcement Trends

• Apprehensions, Removals, and Returns
Enforcement Trends

• 1st Key Trend: Formal removals are an increasing share of total deportations
Enforcement Trends

• 2nd Key Trend: Nonjudicial removals are an increasing share of all removals
Enforcement Trends

- Formal Removals by Types of Removal
Enforcement Trends

- 3rd Key Trend: An increasing share of border crossers face criminal charges
Key Enforcement Trends

- Federal Immigration Cases in Border Districts vs. All Other Cases, All Districts

[Graph showing the trend of Federal Immigration Cases in Border Districts vs. All Other Cases, All Districts from 1997 to 2013.]
Enforcement Priorities and Prosecutorial Discretion

- Obama Administration: Actions to focus on high-priority cases
  - Criminal aliens
  - Recent illegal entrants
  - People who obstruct immigration controls
- Very different enforcement systems at border and within interior
Enforcement Priorities and Prosecutorial Discretion

- Border Enforcement: Near Zero-Tolerance
- Southwest Border Enforcement Consequences

![Graph showing enforcement outcomes from 2005 to 2012, with categories for Voluntary Return, Criminal charges, Formal removal, Remote repatriation, and Southwest border apprehensions.]
Enforcement Priorities and Prosecutorial Discretion

- Interior Enforcement: Substantial Exercise of Discretion
  - Secure Communities Program Outcomes

![Graph showing enforcement priorities and prosecutorial discretion](image-url)
Enforcement Priorities and Prosecutorial Discretion

- Effects on Deportations

- Criminals and non-criminal removals, 1993-2012
Enforcement Priorities and Prosecutorial Discretion

• Effects on Deportations
  • ICE removals by type of crime, 2003-2013
The Deportation Dilemma

• Even highly focused enforcement has a substantial impact on immigrant communities
  – Particularly when it occurs on such a large scale
  – And when unauthorized immigrants have deep roots in U.S.

• Fundamental tension between more humane enforcement and stricter immigration control
Policy Levers to Influence the Deportation System

• Proposed Reforms to U.S. Immigration Law
• Proposed Changes to Enforcement Appropriations
• Potential Executive-Branch Actions
  – Proposals to refine DHS enforcement priorities
  – Proposals to strengthen the use of prosecutorial discretion
  – Proposals to modify the enforcement process
  – Proposals to expand DACA-style relief
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Report available at:
www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement