

U.S. House of Representatives Committee on the Judiciary  
Subcommittee on Immigration, Citizenship, Refugees, Border Security,  
and International Law

Hearing on Comprehensive Immigration Reform: Government  
Perspectives on Immigration Statistics

June 6, 2007

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## Introduction

Chairwoman Lofgren and Members of the committee, I am Ruth Wasem, a Specialist in Immigration Policy in the Congressional Research Service. Thank you for inviting me here this afternoon to discuss "Government Perspectives on Immigration Statistics" as part of your series of hearings on comprehensive immigration reform.

This testimony opens with trends on foreign-born residents of the United States based upon estimates drawn from U.S. Bureau of the Census data. It then focuses on two of the major components of immigration – family-sponsored and employment-based legal permanent residents (LPRs) – their admission trends over time, and current wait times for visas. These sections draw on administrative data from the Department of Homeland Security's (DHS) Office of Immigration Statistics and the Department of State's Bureau of Consular Affairs. The testimony also presents estimates of the number of aliens who are residing without authorization, calculated from U.S. census data using indirect estimation techniques. The presentation closes with snapshots of immigration enforcement data from DHS.

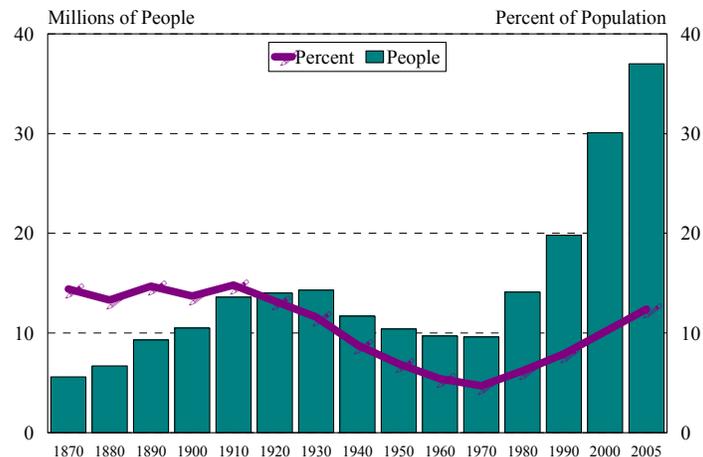
### Foreign Born Residents of the United States

The number of foreign-born people residing in the United States is at the highest level in our history and has reached a proportion of the U.S. population (12.4%) not seen since the early 20<sup>th</sup> century. As **Figure 1** illustrates, an estimated 36 million foreign-born people resided in the United States in 2005 according to the U.S. Bureau of Census' and the Bureau of Labor Statistics' March Current Population Survey (CPS). Please note that the decade intervals depicted in **Figure 1** are equally spaced between 1870 and 2000, but not in 2005.

The CPS is one of the most comprehensive sources of demographic data on the foreign born.<sup>1</sup> Because the CPS is a sample of the U.S. population, the results it yields are estimates that rely on careful calibrations of population weights.<sup>2</sup> The annual

March Supplement of the CPS gathers additional data about income, education, household characteristics, and geographic mobility. Additionally, while the data distinguish between the

Figure 1. Foreign-Born Residents of the United States, 1870-2005



Source: CRS presentation of data from *The Foreign-Born Population: 1994*, by K. A. Hansen & A. Bachu, U.S. Bureau of Census (1995); *The Population of the United States*, by Donald J. Bogue (1985); and the March Supplement of the CPS.

<sup>1</sup> The U.S. Census Bureau's American Community Survey is emerging as an alternative data source, but does not offer the historical data on which to estimate trends over time that the CPS offers.

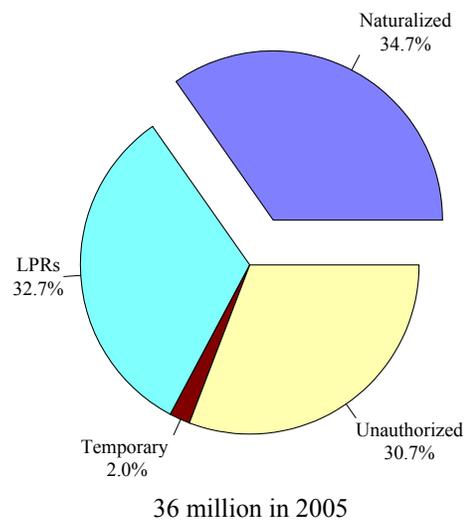
<sup>2</sup> The CPS began collecting immigration data on the foreign born in 1994, and the first years were plagued by problems of weighting, particularly with the Asian population in the sample, and by over-reporting of naturalization by the foreign born. Most of these problems appear to have been resolved by 1996.

foreign born who have naturalized and those who have not, they do not distinguish between types of noncitizens (e.g., permanent, temporary, illegal).

In addition to those foreign nationals who permanently reside legally in the United States, millions each year come temporarily on nonimmigrant visas, and some of these nonimmigrants (e.g., foreign students and intra-company business transfers) may reside legally in the United States for a number of years. It is also estimated that each year hundreds of thousands of foreign nationals overstay their nonimmigrant visas.<sup>3</sup>

Of the foreign-born residents in the United States, approximately one-third are naturalized citizens, one-third are legal permanent residents, and one-third are unauthorized (illegal) residents and legal temporary residents.<sup>4</sup> **Figure 2** depicts the latest estimates (2005) of the immigration status of foreign-born residents calculated from the CPS by demographer Jeffrey Passel of the Pew Hispanic Center. Passel has noted an increased proportion of foreign-born residents reporting that they have become naturalized citizens over the past decade.<sup>5</sup>

Figure 2. Estimated Immigration Status of Foreign-Born Residents, 2005



Source: CRS presentation of data from Pew Hispanic Research Center, *Growing Share of Immigrants Choosing Naturalization*, by Jeffrey Passel (2007).

## Legal Immigration Trends, 1900-2005

Immigration was at its highest levels at the beginning of the 20<sup>th</sup> century. It dropped as a result of the numerical limits and national origins quotas imposed by the Immigration Acts in 1921 and 1924, and fell further during the Great Depression and World War II. The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 3** illustrates. The Immigration Amendments of 1965 replaced the national origins quota system with per-country ceilings, and the statutory provisions regulating permanent immigration to the United States were last revised significantly by the Immigration Act of 1990.<sup>6</sup>

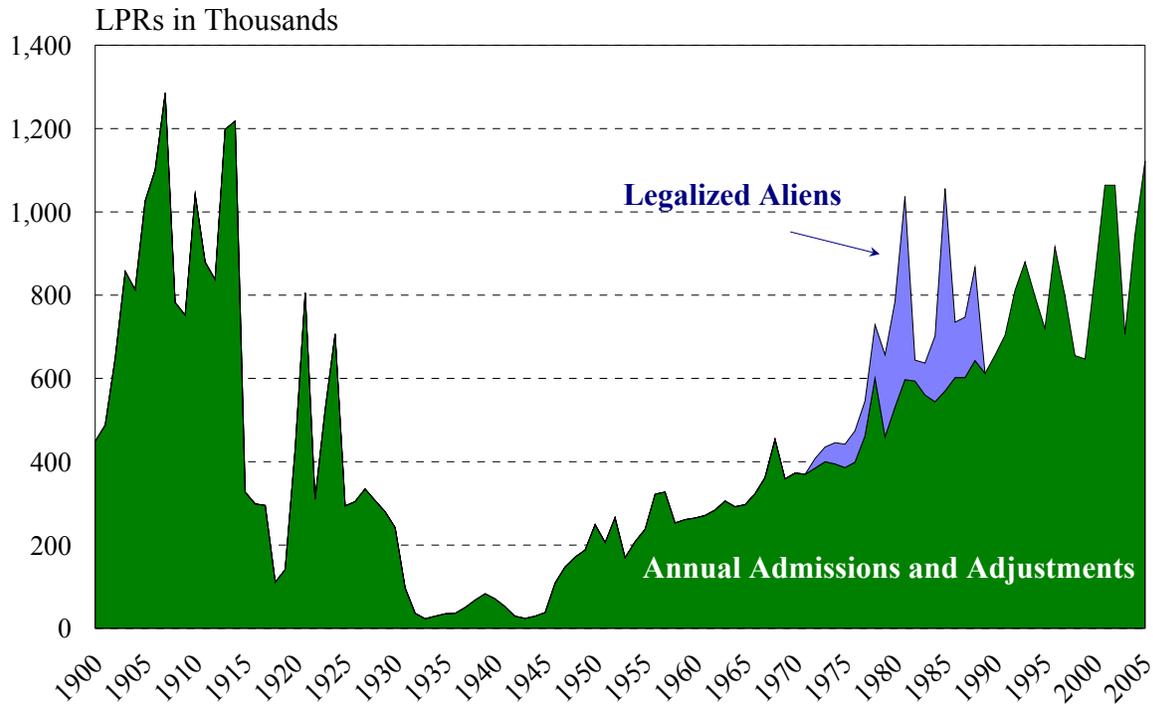
<sup>3</sup> See CRS Report RS22446, *Nonimmigrant Overstays: Brief Synthesis of the Issue*, by Ruth Ellen Wasem.

<sup>4</sup> CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.

<sup>5</sup> Pew Hispanic Center, *Growing Share of Immigrants Choosing Naturalization*, by Jeffrey Passel, Mar. 2007.

<sup>6</sup> Congress has significantly amended the Immigration and Nationality Act (INA) numerous times since 1952. Other major laws amending the INA are the Refugee Act of 1980, the Immigration Reform and Control Act (continued...)

Figure 3. Annual LPR Admissions and Status Adjustments, 1900-2005



**Source:** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival.

The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 3** illustrates. However, the annual admissions have not reached the peaks of the early 20<sup>th</sup> century. The DHS Office of Immigration Statistics (OIS) data present those admitted as LPRs or those adjusting to LPR status. The growth in immigration after 1980 is partly attributable to the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, that was augmented considerably by legalized aliens.<sup>7</sup> The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980.

<sup>6</sup> (...continued)

of 1986, and Illegal Immigration Reform and Immigrant Responsibility Act of 1996. 8 U.S.C. §1101 et seq.

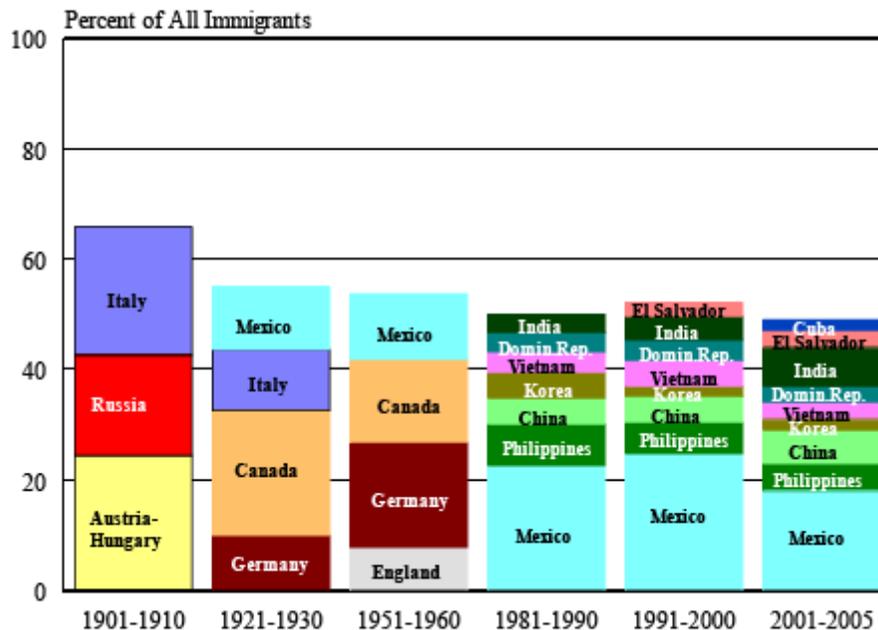
<sup>7</sup> The Immigration Reform and Control Act of 1986 legalized several million aliens residing in the United States without authorization.

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs before they arrive in the United States. In the past decade, the number of LPRs arriving from abroad has remained somewhat steady, hovering between a high of 421,405 in FY1996 and a low of 358,411 in FY2003. Adjustments to LPR status in the United States has fluctuated over the same period, from a low of 244,793 in FY1999 to a high of 738,302 in FY2005.

In FY2005, 65.8% of all LPRs were adjusting status within the United States. Most (89%) of the employment-based immigrants adjusted to LPR status within the United States. Many (61%) of the immediate relatives of U.S. citizens also did so. Only 33% of the other family-preference immigrants adjusted to LPR status within the United States.

In any given period of United States history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 4** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades and illustrates that immigration at the close of the 20<sup>th</sup> century is not as dominated by a few countries as it was earlier in the century. These data suggest that the per-country ceilings established in 1965 had some effect. As **Figure 4** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20<sup>th</sup> century, immigrants from seven to eight countries comprised about half of all LPRs and this pattern has continued into the 21<sup>st</sup> century.

Figure 4. Top Sending Countries  
(Comprising More Than Half of All LPRs): Selected Periods



**Source:** CRS analysis of Table 2, Statistical Yearbook of Immigration, U.S. Department of Homeland Security, Office of Immigration Statistics, FY2004 (June 2005).

Although Europe was home to the countries sending the most immigrants during the early 20<sup>th</sup> century, Mexico has been a top sending country for most of the 20<sup>th</sup> century. Other top sending countries from the Western Hemisphere are the Dominican Republic and most recently — El

Salvador and Cuba. In addition, Asian countries — notably the Philippines, India, China, Korea, and Vietnam — have emerged as top sending countries today.

## Current Law

### Worldwide Levels

The Immigration and Nationality Act (INA) establishes a statutory worldwide level of 675,000 annually for legal permanent residents (LPRs), but this level is flexible and certain categories of LPRs are excluded from, or permitted to exceed, the limits. **Figure 5** offers the main components of this worldwide level of admissions. The permanent worldwide immigrant level consists of the following components:

- 480,000 family-sponsored immigrants;
- 140,000 employment-based preference immigrants; and
- 55,000 diversity immigrants.

For a breakdown and definitions of the family-sponsored and employment-based preference categories, see **Appendix A**, Legal Immigration Preference System.

Immediate relatives of U.S. citizens (currently defined as the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens) are not numerically limited, but their admission numbers are subtracted from the 480,000 ceiling for family-sponsored immigrants to determine the ceiling for family-sponsored preference immigrants. The INA also provides a floor of 226,000 visas for family-sponsored preferences. Unused LPR visas through the family-sponsored and employment-based preference system roll down the preference categories in a given year and, if any remain unused, roll over to the other set of preference categories the next year.<sup>8</sup>

Figure 5. Calculating the Annual Level of Permanent Immigration

Family-sponsored immigrants		480,000						
<i>minus</i>	<table border="0"> <tr> <td>citizens' immediate relatives</td> <td>unlimited</td> </tr> <tr> <td>up to 254,000 (i.e., 480,000 minus 226,000)</td> <td></td> </tr> <tr> <td>certain parolees</td> <td></td> </tr> </table>	citizens' immediate relatives	unlimited	up to 254,000 (i.e., 480,000 minus 226,000)		certain parolees		
citizens' immediate relatives	unlimited							
up to 254,000 (i.e., 480,000 minus 226,000)								
certain parolees								
<i>equals</i>	family preference immigrants	226,000 (minimum)						
Employment-based immigrants		140,000						
Diversity		55,000						
<b>Worldwide level</b>		<b>675,000</b>						
<i>plus</i>	<table border="0"> <tr> <td>citizens' immediate relatives</td> <td>unlimited</td> </tr> <tr> <td>above 254,000</td> <td></td> </tr> <tr> <td>refugees, asylees &amp; others</td> <td></td> </tr> </table>	citizens' immediate relatives	unlimited	above 254,000		refugees, asylees & others		
citizens' immediate relatives	unlimited							
above 254,000								
refugees, asylees & others								
<i>equals</i>		<b>Total Annual Immigration</b>						

Source: CRS synthesis of Immigration and Nationality Act §201.

### Country Limits

Of the total number of LPR visas available worldwide in any fiscal year for family-sponsored preference immigrants and employment-based preference immigrants, not more than 7% can be allocated to a single foreign state and not more than 2% can be allocated to a dependent foreign state.<sup>9</sup>

<sup>8</sup> INA §201.

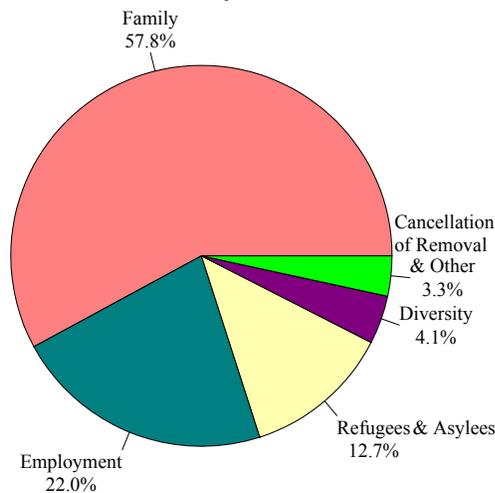
<sup>9</sup> INA § 202(a)(2).

Two important exceptions to the per-country ceilings have been enacted in the past decade. Foremost is an exception for certain family-sponsored immigrants. More specifically, the INA states that 75% of the visas allocated to spouses and children of LPRs (2<sup>nd</sup>A family preference) are not subject to the per-country ceiling.<sup>10</sup> Prior to FY2001, employment-based preference immigrants were also held to per-country ceilings. The “American Competitiveness in the Twenty-First Century Act of 2000” (P.L. 106-313) enabled the per-country ceilings for employment-based immigrants to be surpassed for individual countries that are oversubscribed so long as visas are available within the worldwide limit for employment-based preferences.

## Allocation of Immigrant Visas

During FY2005, a total of 1,122,373 aliens became LPRs in the United States. The largest number of immigrants are admitted because of a family relationship with a U.S. citizen or resident immigrant, as **Figure 6** illustrates. Of the total LPRs in FY2005, 57.8% entered on the basis of family ties. Immediate relatives of U.S. citizens made up the single largest group of immigrants,

Figure 6. LPRs in 2005 by Class of Admission



1.12 million

Source: CRS presentation of FY2005 data from the DHS Office of Immigration Statistics.

as **Figure 7** indicates. LPRs entering through the family-based preference system — the spouses and children of immigrants, the adult children of U.S. citizens, and the siblings of adult U.S. citizens — were the second largest group. Additional major immigrant groups in FY2005 were employment-based preference immigrants (including spouses and children) at 22.0%, and refugees and asylees adjusting to immigrant status at 12.7%.<sup>11</sup>

**Family-Based.** As previously stated, immediate relatives of U.S. citizens are not

numerically limited, but their admission numbers are subtracted from the 480,000 ceiling for family-based preference system to determine the ceiling for family-sponsored preference immigrants (i.e., those LPRs entering through one of the numerically-limited family categories).<sup>12</sup> The family preference categories are summarized as follows.<sup>13</sup>

- The first preference category is unmarried sons and daughters of citizens, which is limited to 23,400 plus visas rolling over from fourth preference.

<sup>10</sup> § 202(a)(4) of the INA; 8 U.S.C. § 1151.

<sup>11</sup> The largest group in the “other category” are aliens who adjusted to LPR status through cancellation of removal and through §202 and §203 of the Nicaraguan and Central American Relief Act of 1997.

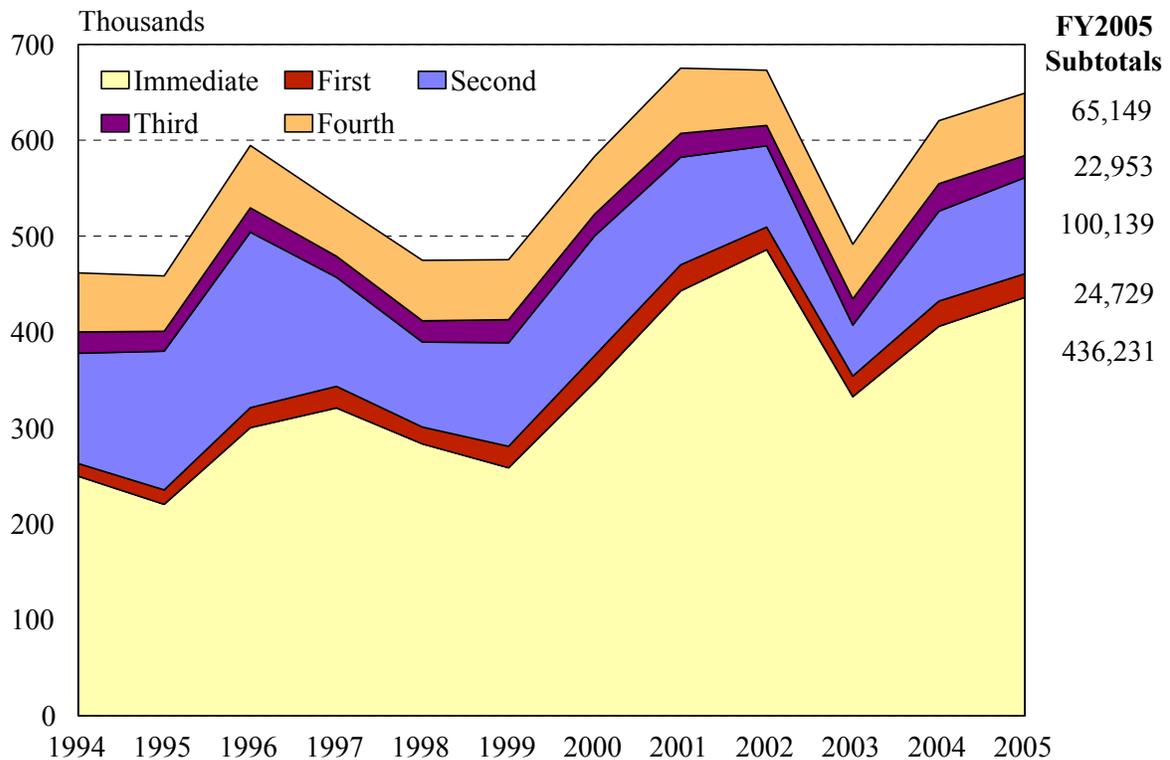
<sup>12</sup> INA §201(b), (c).

<sup>13</sup> For a breakdown and definitions of the family-sponsored preference categories, see **Appendix A**, Legal Immigration Preference System.

- The spouses and minor children of LPRs are admitted under the second family-sponsored preference category (subcategory A) and the unmarried adult children of LPRs are admitted under the second family-sponsored preference category (subcategory B). There is an annual limit on the second preference category of 114,200.
- The third preference category of the family-sponsored system is married sons and daughters of citizens, which is limited to 23,400 plus visas rolling over from first or second preferences.
- The fourth family-sponsored preference category is the siblings of citizens age 21 and over, which is limited to 65,000 plus visas rolling over from the other family-sponsored preference categories.<sup>14</sup>

As evident in **Figure 7**, increases in the number of immediate relatives have driven the overall growth in family-based immigration. FY2003 appears to be an aberrant year for LPR data, largely because of significant petition processing delays as the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security was being established.

Figure 7. Trends in Family-Based Admissions, FY1994-FY2005



Source: CRS analysis of data from the DHS Office of Immigration Statistics and the former INS.

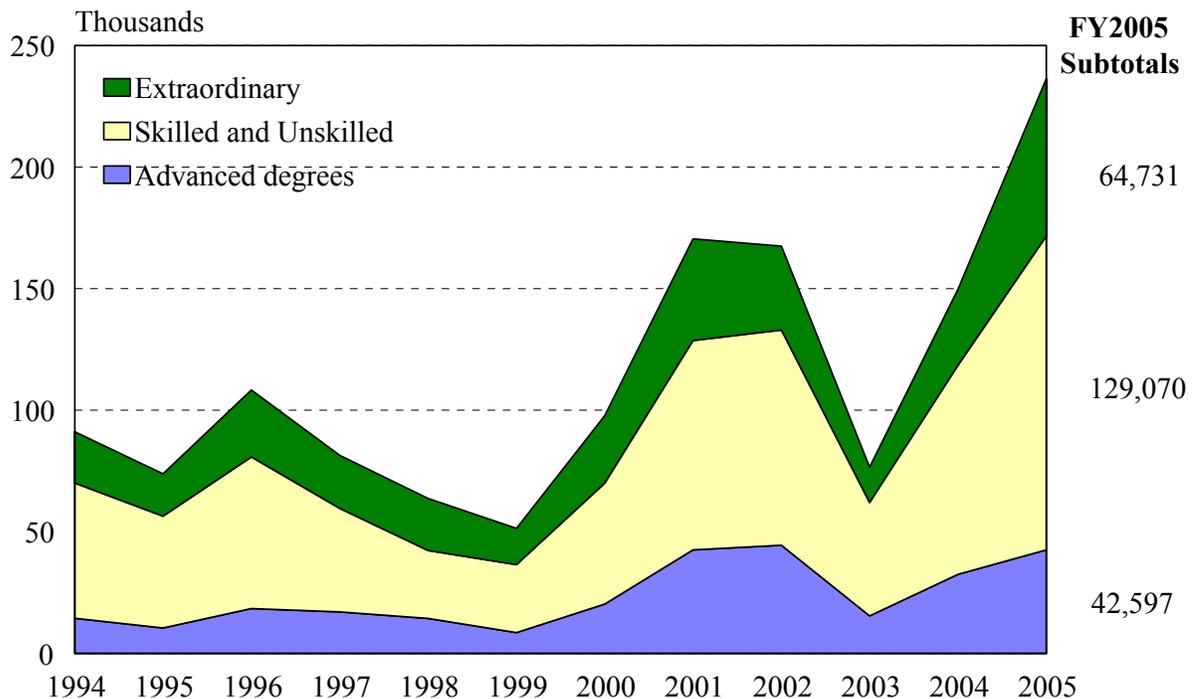
**Employment-based.** Annual admissions of employment-based preference immigrants currently are limited to 140,000 plus certain unused family-based preference numbers from the prior

<sup>14</sup> INA §203(a).

year. Visas for employment-based immigrants are allocated according to the following statutory criteria.

- Up to 28.6% to “priority workers” (persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers) is first preference.
- Up to 28.6% to professionals holding advanced degrees or certain persons of exceptional ability in the sciences, arts, or business is second preference.
- Up to 28.6% to skilled shortage workers with two years training or experience, certain professionals, and unskilled shortage workers (limited to 10,000) is third preference.
- Up to 7.1% to certain special immigrants (including religious ministers and certain overseas U.S. government employees) is fourth preference.
- Up to 7.1% to employment creation investors is fifth preference.

Figure 8. Trends in Employment-Based Admissions, FY1994-FY2005



**Source:** CRS analysis of data from the DHS Office of Immigration Statistics and the former INS.

**Note:** The 25,911 Chinese who adjusted under the Chinese Student Protection Act from 1994 to 1996 are not depicted even though they were counted under the "Skilled and Unskilled" category. In FY2005, there were 10,134 fourth pref and 346 fifth preference employment-based LPRs.

All categories include derivative immediate relatives of the qualifying LPRs, who are counted against the numerical limit on that category.<sup>15</sup> Employment-based immigrants applying through the second and third preferences must obtain labor certification.<sup>16</sup>

Over the past ten years, the numbers of aliens entering as shortage (skilled and unskilled) workers as well as workers with advanced degrees, have increased. As with the family-based LPRs, however, employment-based LPRs fell sharply in FY2003 as petitioners encountered significant processing delays. The number of fourth and fifth preference employment-based LPRs (10,134 and 346 respectively in FY2005) are too small to depict in **Figure 8**.

## Visa Processing Dates

According to the INA, family-sponsored and employment-based preference visas are issued to eligible immigrants in the order in which a petition has been filed, often known as the visa priority date. Spouses and children of prospective LPRs are entitled to the same status, and the same order of consideration as the person qualifying as principal LPR, if accompanying or following to join (referred to as derivative status). When visa demand exceeds the per-country limit, visas are prorated according to the preference system allocations (detailed in **Appendix A**) for the oversubscribed foreign state or dependent area. These provisions apply at present to the following countries oversubscribed in the family-sponsored categories: China, Mexico, the Philippines, and India. When the demand worldwide exceeds the total annual allocations, worldwide priority dates are also implemented.

**Table 1. Priority Dates for Family Preference Visas**

Category	Worldwide	China	India	Mexico	Philippines
Unmarried sons and daughters of citizens	Jun. 1, 2001	Jun. 1, 2001	Jun. 1, 2001	Jan. 1, 1991	Apr. 22, 1992
Spouses and children of LPRs	Apr. 22, 2002	Apr. 22, 2002	Apr. 22, 2002	May 1, 2000	Apr. 22, 2002
Unmarried sons and daughters of LPRs	Dec. 1, 1997	Dec. 1, 1997	Dec. 1, 1997	Mar. 8, 1992	Oct. 1, 1996
Married sons and daughters of citizens	May 5, 1999	May 5, 1999	May 5, 1999	Feb. 8, 1988	Jan. 1, 1985
Siblings of citizens age 21 and over	Jun. 8, 1996	Jan. 8, 1996	Jan. 8, 1996	Jul. 15, 1994	Mar. 1, 1985

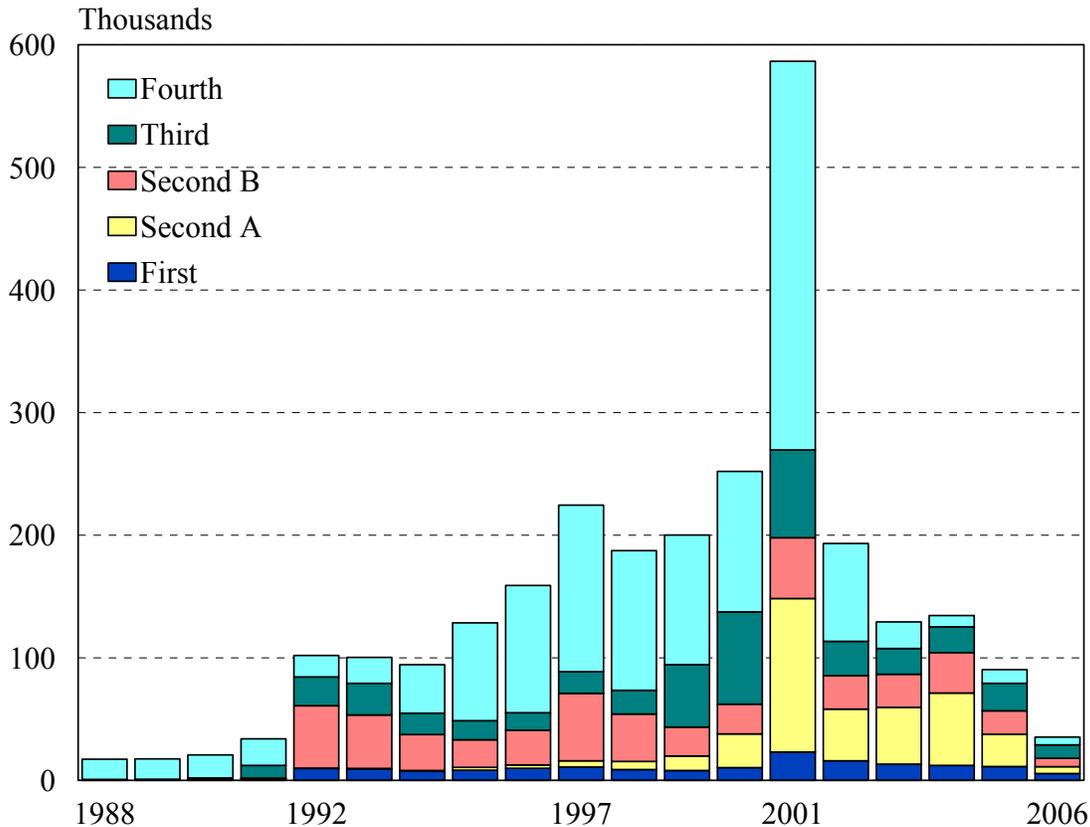
**Source:** U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin for June 2007*.

**Family Preferences.** As **Table 1** evidences, relatives of U.S. citizens and LPRs are waiting in backlogs for a visa to become available, with the brothers and sisters of U.S. citizens now waiting about 11 years. “Priority date” means that unmarried adult sons and daughters of U.S. citizens who filed petitions on December 1, 1997 are now being processed for visas. Married adult sons and daughters of U.S. citizens who filed petitions eight years ago (May 5, 1999) are now being processed for visas. Prospective family-sponsored immigrants from the Philippines have the most substantial

<sup>15</sup> INA §203(b).

<sup>16</sup> Certain second preference immigrants who are deemed to be "in the national interest" are exempt from labor certification.

Figure 9. Visa Backlogs by Family-Based Categories, FY1988-FY2006



Source: unpublished data from U.S. Department of State Bureau of Consular Affairs.

waiting times before a visa is scheduled to become available to them; consular officers are now considering the petitions of the brothers and sisters of U.S. citizens from the Philippines who filed more than 22 years ago.

**Figure 9** offers another perspective on the waiting times for visa availability, illustrating that the backlogs appear to have diminished in recent years. Indeed, the Department of State (DOS) visa data suggest that family preference backlogs are at the lowest point since the passage of the Immigration Act of 1990. It is not clear whether USCIS has statistics on pending petitions stateside that are not included in the DOS visa data, which is an important caveat. Given that over 60% of LPR petitions are adjusted within the United States, any incompleteness of the data may affect **Figure 9** and interpretations potentially drawn.

**Employment Preferences.** Because of P.L. 106-313's easing of the employment-based per-country limits, few countries and categories are currently oversubscribed in the employment-based preferences. As **Table 2** presents, however, some employment-based visa categories are once again unavailable. The *Visa Bulletin for September 2005* offered this explanation: "The backlog reduction efforts of both Citizenship and Immigration Services, and the Department of Labor continue to result in very heavy demand for Employment-based numbers. It is anticipated that the amount of such cases will be sufficient to use all available numbers in many categories ... demand in the Employment categories is expected to be far in excess of the annual limits, and once established,

cut-off date movements are likely to be slow.”<sup>17</sup> The visa waiting times eased somewhat over the summer of 2006. “Visa retrogression” (a phrase used to describe when visa processing dates move backward rather than go forward) has occurred several times for third preference visas (professional, skilled, and unskilled). Prospective immigrants from China, India, Mexico, and the Philippines are particularly affected. The June 2007 priority dates are presented in **Table 2**.

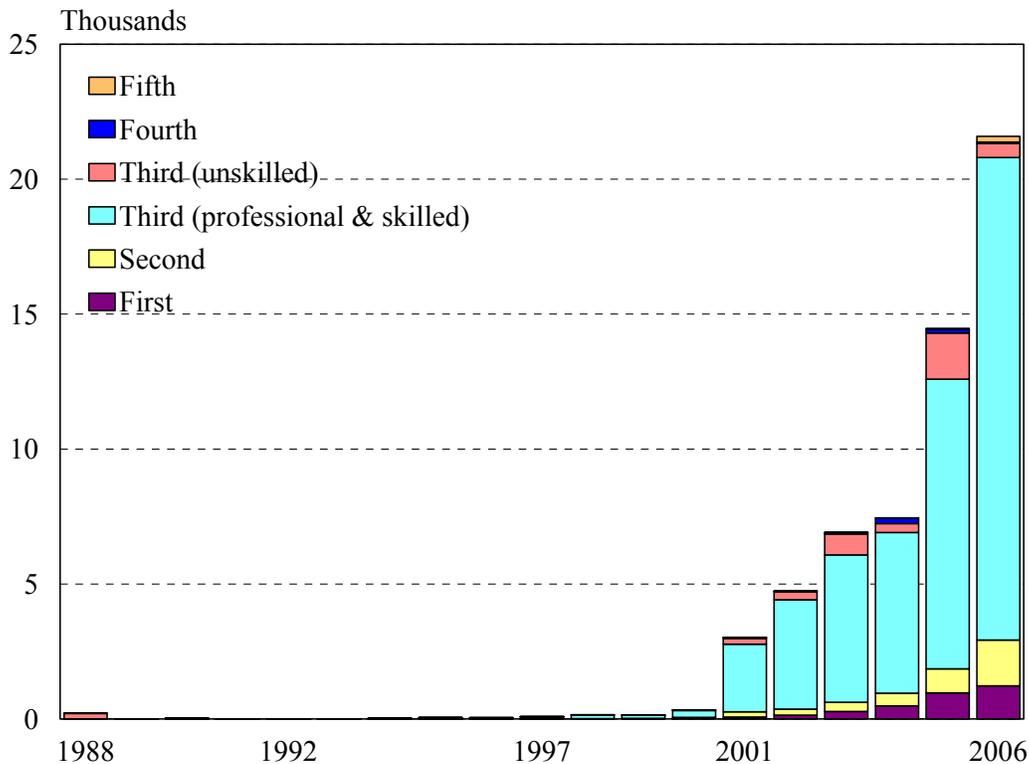
**Table 2. Priority Dates for Employment Preference Visas**

Category	Worldwide	China	India	Mexico	Philippines
Priority workers	current	current	current	current	current
Advanced degrees/ exceptional ability	current	Jan. 1, 2006	Apr. 1, 2004	current	current
Skilled and professional	Jun. 1, 2005	Jun. 1, 2003	Jun. 1, 2003	Jun. 1, 2003	Jun. 1, 2005
Unskilled	Oct. 1, 2001				
Special immigrants	current	current	current	current	current
Investors	current	current	current	current	current

**Source:** U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin for June 2007*.

In contrast to the family-based preferences, the pending petitions for employment-based visas

Figure 10. Visa Backlogs for Employment-Based Categories, FY1988-FY2006



**Source:** unpublished data from U.S. Department of State Bureau of Consular Affairs.

<sup>17</sup> The U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin*, is available at [[http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html)].

appear to be growing. While this trend is especially observable for third preference unskilled, skilled and professional workers, it is also apparent that demand is increasing for persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers (all first preference), and professionals holding advanced degrees or certain persons of exceptional ability in the sciences, arts, or business (second preference). As with family-based petitions, it is not clear whether USCIS has statistics on pending petitions stateside that are not included in the DOS visa data. As previously noted, over 60% of LPR petitions are adjusted within the United States, and as a result, incompleteness of the data may affect **Figure 10** and any interpretations potentially drawn.

## Simple Models of Legal Permanent Immigration

### Twentieth Century

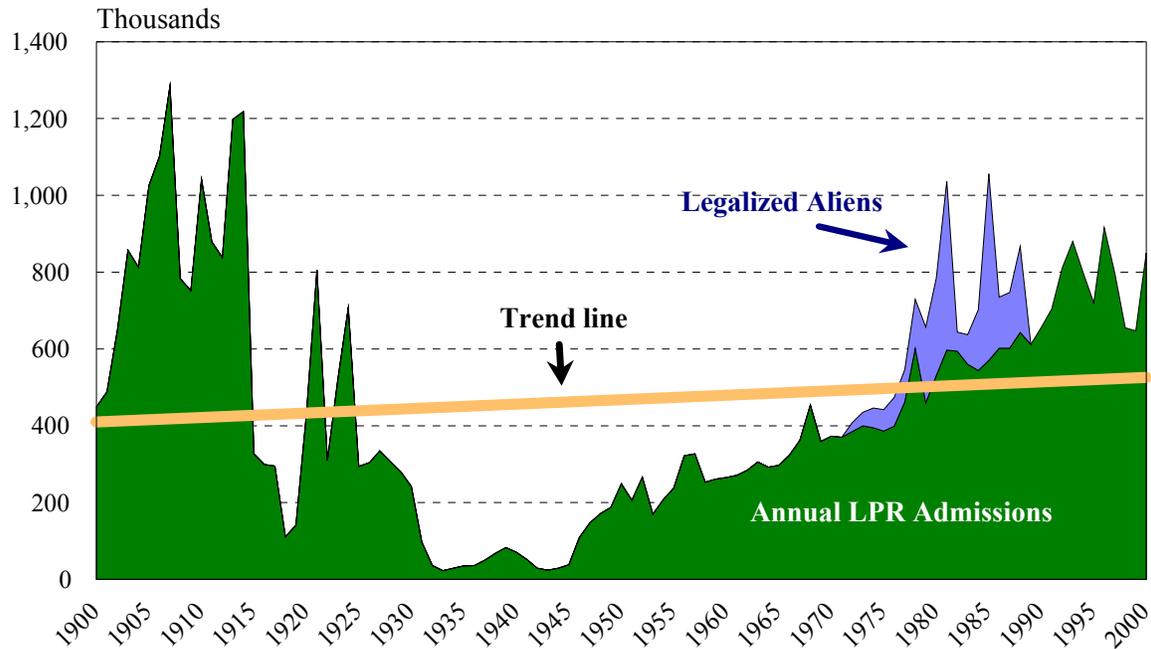
As mentioned earlier, immigration laws in the 1920s established numerical limits, preference categories, and quotas based upon national origin. In 1952, Congress consolidated the statutory authority for immigration and citizenship in the Immigration and Nationality Act (INA). The growth in legal immigration after the 1965 amendments to the INA is partly attributable to the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens. The admissions in the 1990s were augmented considerably by aliens legalized through the Immigration Reform and Control Act of 1986.<sup>18</sup> The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration. In addition, the number of refugees admitted increased from 718,000 in the 1966-1980 period to 1.6 million during the 1981-1995 period, after the enactment of the Refugee Act of 1980.

Immigration to the United States, nonetheless, is not totally determined by shifts in flow that occur as a result of lawmakers revising the allocations. Immigration to the United States plummeted in the middle of the 20<sup>th</sup> Century largely as a result of factors brought on by the Great Depression and World War II. There are a variety of “push-pull” factors that drive immigration. Push factors from the immigrant-sending countries include such circumstances as civil wars and political unrest, economic deprivation and limited job opportunities, and catastrophic natural disasters. Pull factors in the United States include such features as strong employment conditions, reunion with family, and quality of life considerations. A corollary factor is the extent that aliens may be able to migrate to other “desirable” countries that offer circumstances and opportunities comparable to the United States.

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<sup>18</sup> The Immigration Reform and Control Act (IRCA) of 1986 legalized several million aliens residing in the United States without authorization. IRCA’s major legalization program provided legal status for otherwise eligible aliens who had resided continuously in the United States in an unlawful status since before January 1, 1982. They were required to apply during a 12-month period beginning May 5, 1987. IRCA also provided legal status for otherwise eligible aliens who had worked at least 90 days in seasonal agriculture in the United States during the year ending May 1, 1986. They were required to apply during an 18-month period beginning June 1, 1987 and ending November 30, 1988.

Figure 11. Immigration Trends over the Twentieth Century



**Source :** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival.

The simplest method of modeling legal immigration trends is a linear model based upon actual LPR admissions.<sup>19</sup> The trend line in **Figure 11** represents the "best fit" over the century. It illustrates a very gradual growth in legal permanent immigration to the United States.<sup>20</sup>

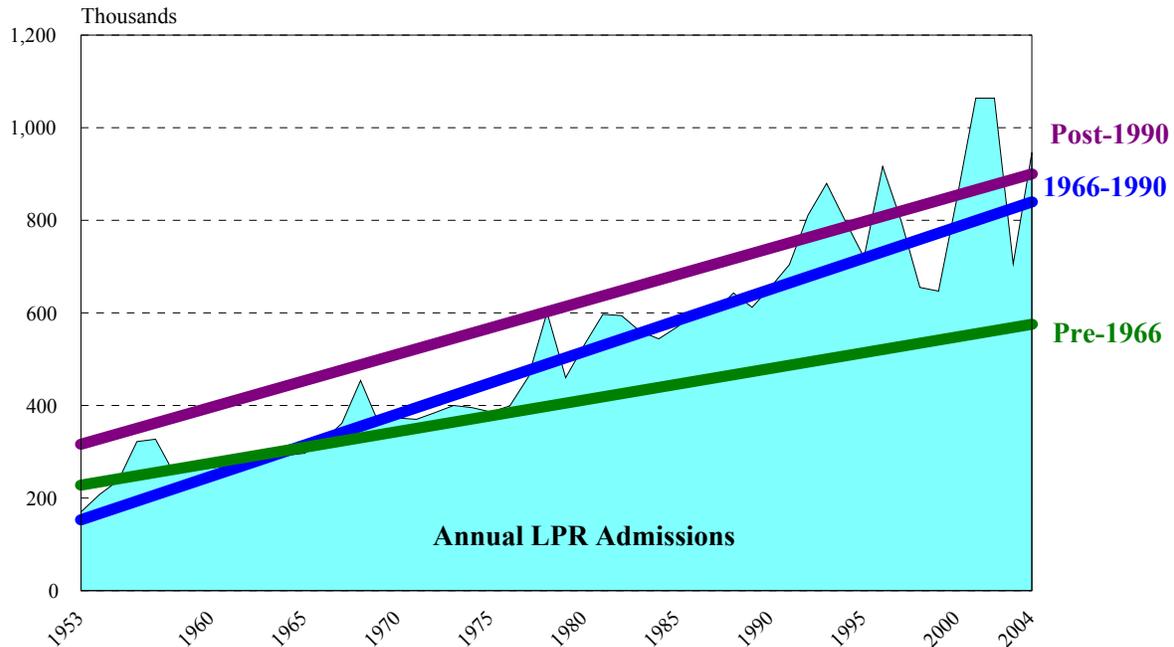
### Post-1952 Models Based on Three Scenarios

**Figure 12** presents three scenarios that model immigration levels over periods anchored by major legislative revisions to immigration law. The first scenario models the period from passage of the Immigration and Naturalization Act of 1952 through the enactment of the Immigration Amendments of 1965. It is represented by the "Pre-1966" trend line and estimates legal immigration according to actual admissions from 1953 through 1965. The second scenario estimates legal immigration according to actual admissions from 1966 through 1990, when Congress enacted the Immigration Act of 1990. The third scenario, represented by the "Post-1990" trend line, estimates legal immigration according to actual admissions from 1991 through 2004.

<sup>19</sup> The DHS Office of Immigration Statistics (OIS) data comprise those admitted as LPRs or those adjusting to LPR status.

<sup>20</sup> The trend line models at start point of approximately 400,000 in 1900 and an end point of approximately 500,000 in 2000.

Figure 12. Three Scenarios of Legal Permanent Immigration, 1953-2004



**Source :** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are not depicted.

As **Figure 12** illustrates, three different trends result from the three scenarios.

- "Pre-1966" trend line projects a substantially lower rate of growth and lower levels of immigration than what actually occurred from 1953 to 2004.
- "1966-1990" trend line most closely approximates the actual admissions over the entire 1950-2004 period.
- "Post-1990" trend line yields the highest level of immigration, though not the highest rate of growth.

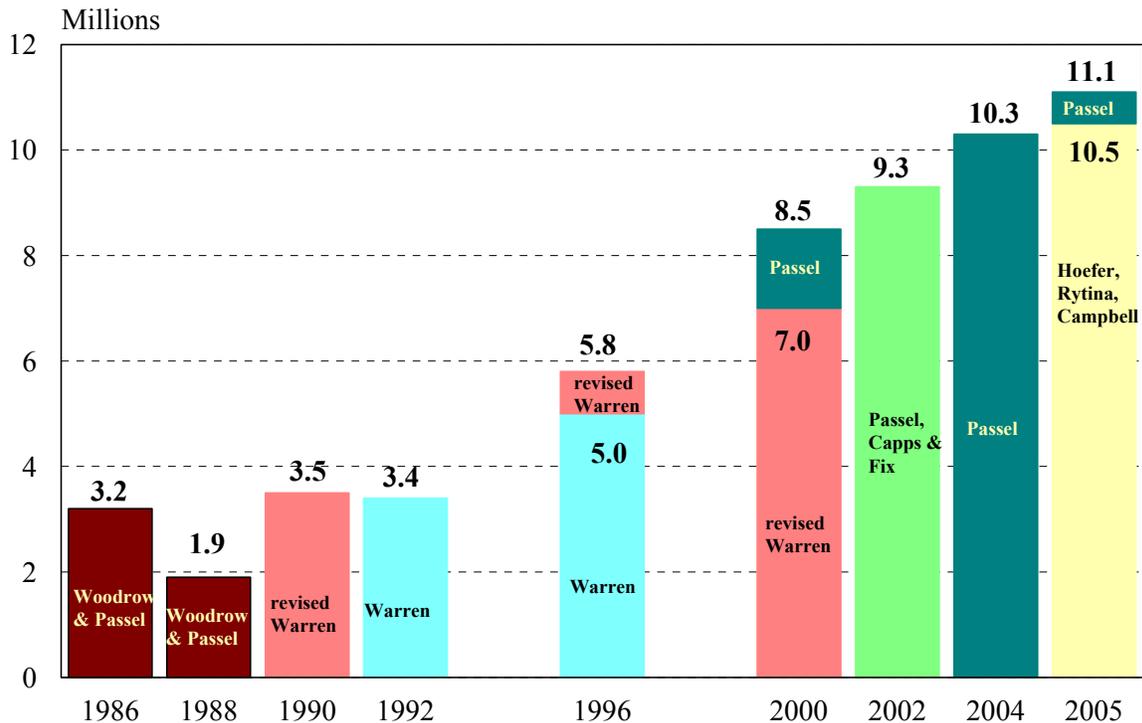
Perhaps most interesting is that the "1966-1990" trend line is the steepest of the 3 scenarios. The acceleration of this trend line may be due in part to the large numbers of refugees and other humanitarian entrants that arrived and became LPRs during this period. It also incorporates the largest span of years (24 years).

## Unauthorized Migration

The three main components of the unauthorized resident alien population are (1) aliens who overstay their nonimmigrant visas, (2) aliens who enter the country surreptitiously without inspection, and (3) aliens who are admitted on the basis of fraudulent documents. In all three instances, the aliens are in violation of the Immigration and Nationality Act (INA) and subject to removal.

This CRS testimony presents data estimating the number of unauthorized aliens who have been living in the United States since 1986. There have been a variety of estimates of the unauthorized resident alien population over this period, sometimes with substantially different results. This report is limited to data analyses of the Current Population Survey (CPS) conducted by the U.S. Census Bureau and the Bureau of Labor Statistics so that there is a basic standard of comparison over time.<sup>21</sup>

Figure 13. Estimated Number of Unauthorized Resident Aliens, 1986-2005



Source: CRS presentation of analysis of Current Population Survey data conducted by Karen Woodrow and Jeffrey Passel (1986 and 1990), Robert Warren (1996, 2000, and 2003), Jeffrey Passel, Randy Capps and Michael Fix (2002), Passel (2000, 2005 and 2006), and Micheal Hoefer, Nancy Rytina and Christopher Campbell (2006).

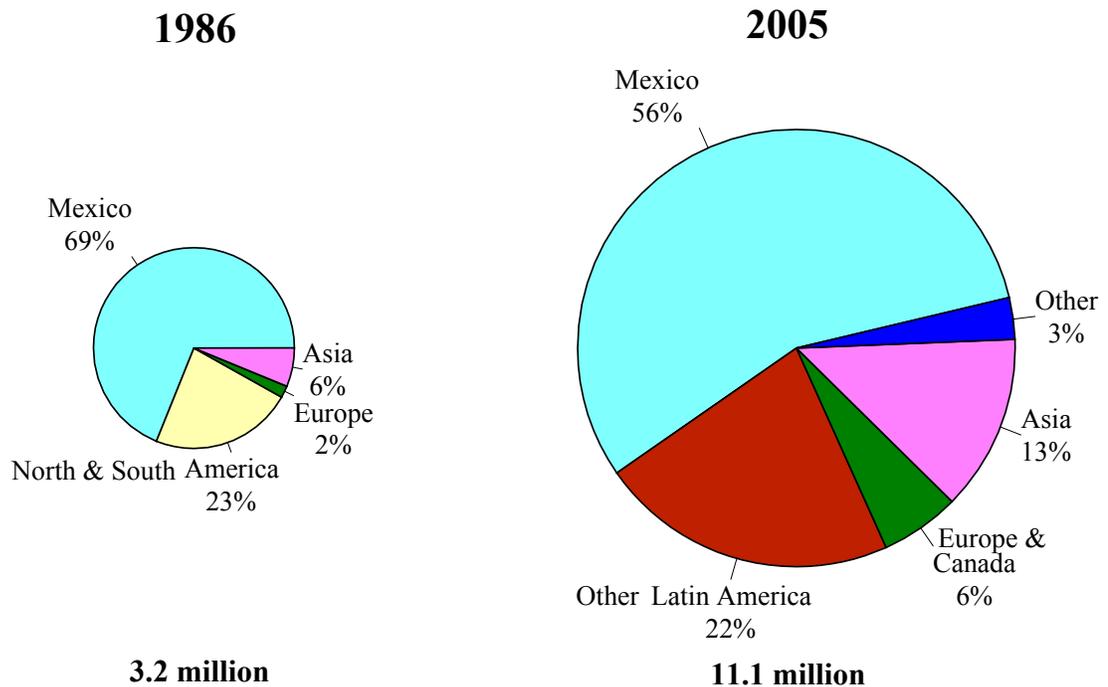
## Estimates Since 1986

For a basis of comparison, **Figure 13** presents the estimate of 3.2 million unauthorized resident aliens in 1986 calculated by demographers Karen Woodrow and Jeffrey Passel, who worked for the

<sup>21</sup> In addition to using the CPS data, the demographers who conducted these analyses all used some variant of a residual methodology to estimate the population (i.e., the estimated population remaining after citizens and authorized aliens are accounted for). Demographers at the U.S. Census Bureau also have used a similar methodology to estimate the residual foreign born population in the 2000 decennial census, and they reported the following. “According to our calculations, the estimated residual foreign-born population counted in the 2000 census was 8,705,419. Assuming a 15-percent undercount rate yields a population of 10,241,669 in 2000.” They point out that the category of residual foreign born includes “quasi legal aliens” (i.e., aliens without legal status who have petitions pending or court cases underway that potentially would give them LPR status) as well as unauthorized aliens and thus should not be considered an official estimate of unauthorized resident aliens. U.S. Census Bureau, Population Division Working Paper 61, *Evaluating Components of International Migration: The Residual Foreign Born*, by Joseph M. Costanzo, Cynthia Davis, Caribert Irazi, Daniel Goodkind, and Roberto Ramirez. June 2002.

U.S. Census Bureau at that time. As expected after the passage of IRCA, the estimate for 1988 dropped to 1.9 million.<sup>22</sup> According to demographer Robert Warren of the former Immigration and Naturalization Service (INS), the estimated unauthorized resident alien population grew to 3.4 million in 1992 and to 5.0 million in 1996.<sup>23</sup> By the close of the decade, the estimated number of unauthorized alien residents had more than doubled. Passel, now at the Pew Hispanic Center, estimated the unauthorized population in 2000 at 8.5 million, but this latter estimate included aliens who had petitions pending or relief from deportation.<sup>24</sup> Please note that the intervals depicted in **Figure 13** are not equally spaced according to years.

Figure 14. Unauthorized Resident Alien Population by Place of Origin, 1986 and 2005



**Source:** CRS presentation of analysis of Current Population Survey data conducted by Karen Woodrow and Jeffrey Passel (1990), and Jeffrey Passel (2006).

<sup>22</sup> Karen Woodrow and Jeffrey Passel, "Post-IRCA Undocumented Immigration to the United States: An Analysis Based on the June 1988 CPS," in *Undocumented Migration to the United States*, by Frank D. Bean, Barry Edmonston and Jeffrey Passel (RAND Corporation, 1990).

<sup>23</sup> *Annual Estimates of the Unauthorized Immigrant Population Residing in the United States and Components of Change: 1987 to 1997*, by Robert Warren, Office of Policy and Planning, U.S. Immigration and Naturalization Service, Sept. 2000.

<sup>24</sup> U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration and Claims, *Hearing on the U.S. Population and Immigration*, Aug. 2, 2001.

Subsequently, Warren estimated that there were 7.0 million unauthorized aliens residing in the United States in 2000. As depicted in **Figure 13**, he also revised his earlier analyses using the latest CPS and estimated that there were 3.5 million unauthorized aliens living in the United States in 1990 and 5.8 million in 1996. Warren excluded “quasi-legal” aliens (e.g., those who had petitions pending or relief from deportation) from his estimates.<sup>25</sup> By 2002, the estimated number of unauthorized resident aliens had risen to 9.3 million.<sup>26</sup> During the first decade after IRCA, researchers projected that the net growth in unauthorized aliens had averaged about 500,000 annually; more recent analyses estimated the average growth at 700,000 to 800,000 annually. If the later trend held, about 12 million unauthorized aliens may have been residing in the United States by the close of 2006.<sup>27</sup>

## Unauthorized Alien Residents in 2005

The most commonly-cited published estimate based upon the March 2006 CPS is that 11.1 million unauthorized aliens were residing in the United States. According to this analysis by Passel, Mexicans made up over half of undocumented immigrants — 56% of the total, or about 6.2 million. He estimated that 2.5 million (22%) were from other Latin American countries. About 13% were from Asia, 6% from Europe and Canada, and 3% from the rest of the world.<sup>28</sup>

As **Figure 14** illustrates, the 2005 distribution by region of origin was similar to Woodrow and Passel’s analysis of the 1986 data, despite the growth in overall numbers from 3.2 million in 1986 to 11.1 million in 2005. In 1986, 69% of the unauthorized aliens residing in the United States were estimated to be from Mexico compared to 56% in 2005. Asia’s share of the unauthorized alien residents appeared to have grown over this period (from 6% to 13%), as has the portion from the “other” parts of the world. Note that Canada is grouped with North and South America (excluding Mexico) in 1986 and with Europe in 2005.<sup>29</sup>

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<sup>25</sup> U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States, 1990 to 2000*, Jan. 31, 2003.

<sup>26</sup> The Urban Institute, *Undocumented Immigrants: Facts and Figures*, by Jeffrey Passel, Randy Capps, and Michael Fix, Jan. 12, 2004.

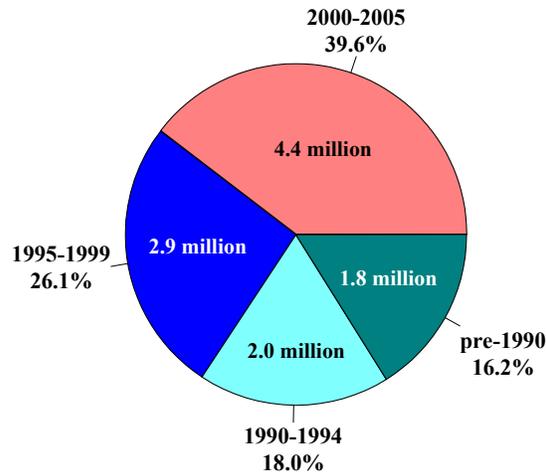
<sup>27</sup> Pew Hispanic Center, *Estimates of the Size and Characteristics of the Undocumented Population*, by Jeffrey Passel, March 21, 2005.

<sup>28</sup> Pew Hispanic Center, *Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey*, by Jeffrey Passel, March 7, 2006.

<sup>29</sup> *Ibid.*

Passel estimated the number of persons living in families in which the head of the household or the spouse is an unauthorized alien was 14.6 million as of March 2005. Passel also reported that there were in 2005 an estimated 1.8 million children who were unauthorized and an estimated 3.1 million children who were U.S. citizens by birth living in families in which the head of the family or a spouse was unauthorized. He projected that unauthorized aliens accounted for about 4.9% of the civilian labor force in March 2005, or about 7.2 million workers out of a labor force of 148 million.<sup>30</sup>

**Figure 15. Unauthorized Aliens by Estimated Period of Arrival**



Source: CRS presentation of analysis of Current Population Survey data conducted by Jeffrey Passel (2006).

According to Passel, the largest share of the unauthorized population – 4.4 million aliens – had been in the country five years or less. As **Figure 15** depicts, about two-thirds of the unauthorized were estimated to have entered the United States during the decade 1995-2005.<sup>31</sup>

## Office of Immigration Statistics

The Department of Homeland Security's Office of Immigration Statistics (OIS) recently published their estimates of the unauthorized resident alien population and yielded results consistent with Passel's discussed above. OIS reported an estimated 10.5 million unauthorized alien residents as of January 2005, up from 8.5 million in January 2000. DHS estimated that the unauthorized immigrant population in the United States increased by 24%, with an annual average increase of 408,000 unauthorized aliens over the past five years.<sup>32</sup>

According to OIS, California had more unauthorized residents than any other state – an estimated 2.8 million unauthorized aliens in 2005. Texas followed with nearly 1.4 million, and Florida had 850,000. Among the 10 leading states of residence of the unauthorized population in 2005, OIS reported that those with the largest average annual increases since 2000 were Texas (54,000), California (52,000), and Georgia (50,000). The states with the greatest percentage

<sup>30</sup> For a discussion of how many unauthorized aliens are currently in the U.S. workforce, see CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno, pp. 7-8.

<sup>31</sup> Pew Hispanic Center, *Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey*, by Jeffrey Passel, March 7, 2006.

<sup>32</sup> Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2005*, by Michael Hofer, Nancy Rytina, and Christopher Campbell, 2006.

increases in unauthorized immigrants from 2000 to 2005 were Georgia (114%), Arizona (45%), Nevada (41%), and North Carolina (38%).<sup>33</sup>

## Immigration Enforcement Statistics

While the focus of this testimony is on immigration to the United States and resulting foreign-born residents of the United States, the preceding discussion of unauthorized migration raises the integral topic of immigration enforcement. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 (P.L. 104-208) is the law that continues to shape much of the current immigration enforcement activities. CRS Report RL33351, *Immigration Enforcement Within the United States*, provides in-depth analysis of the enforcement policies and trends in immigration enforcement activities. The testimony closes with statistics on three key components of immigration enforcement: exclusion, apprehensions and investigations; and, removals.

### Exclusion

All aliens must undergo reviews performed by Department of State Consular Affairs officers abroad and Customs and Border Protection (CBP) officers upon entry to the United States. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in the INA.<sup>34</sup> These criteria are

- health-related grounds;
- criminal history;
- security and terrorist concerns;
- public charge (e.g., indigence);
- seeking to work without proper labor certification;
- illegal entrants and immigration law violations;
- ineligible for citizenship; and,
- aliens previously removed.<sup>35</sup>

Some provisions may be waived or are not applicable in the case of nonimmigrants, refugees (e.g., public charge), and other aliens. All family-based immigrants and employment-based immigrants who are sponsored by a relative must have binding affidavits of support signed by U.S. sponsors in order to show that they will not become public charges.

**Figure 16** illustrates that labor market protections for U.S. workers were the largest single basis for denying LPR visas in FY2005, followed by the likelihood of becoming a public charge.<sup>36</sup> While the grounds of inadmissibility are an important basis for denying foreign nationals admission to the

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<sup>33</sup> *Op. sit.* For alternative analyses, see Pew Hispanic Center, *Estimates of the Unauthorized Migrant Population for States based on the March 2005 CPS*, by Jeffrey Passel, April 26, 2006.

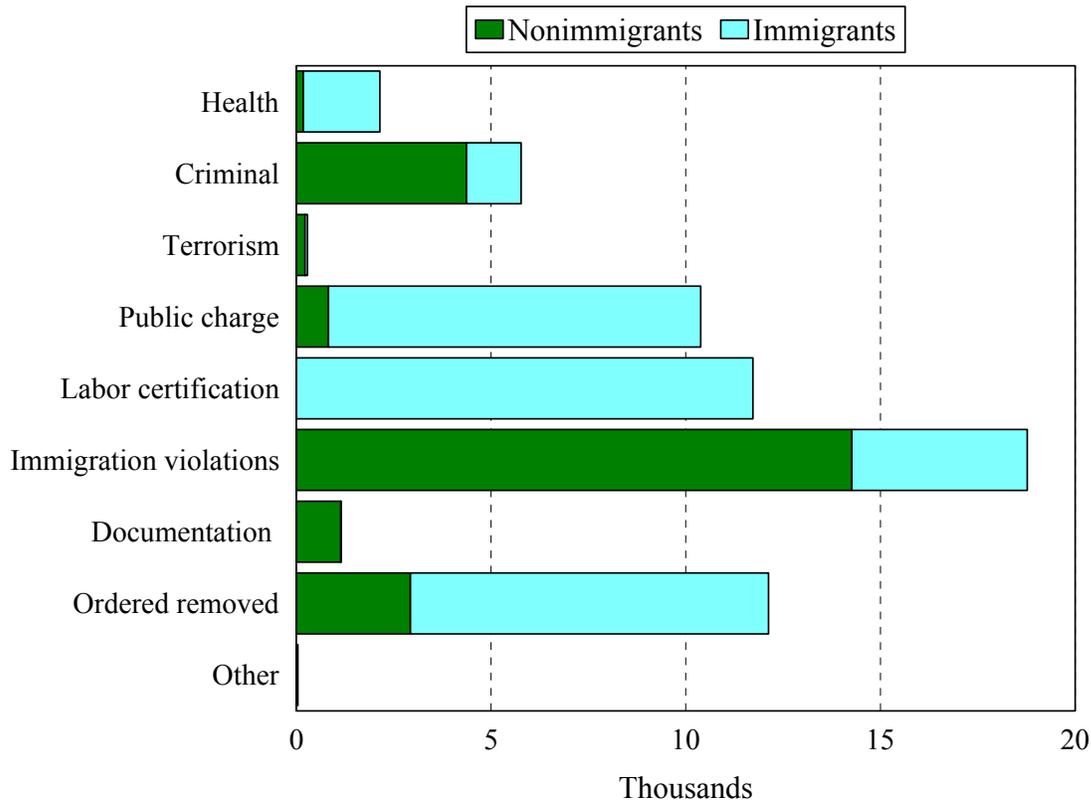
<sup>34</sup> §212(a) of the INA.

<sup>35</sup> For a fuller analysis, see CRS Report RL32480, *Immigration Consequences of Criminal Activity*, by Michael John Garcia; and CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

<sup>36</sup> For more on these topics, see CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem; and CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

United States, it should be noted that more immigrant petitions who are rejected by DOS — 270,615 in FY2005 — were rejected because their visa application did not comply with provisions in the INA (most of these being §221(g) noncompliance) included in the last category listed in **Appendix B, Table 1**.

Figure 16. Visas Denied by Inadmissibility Grounds: FY2005



**Source:** CRS analysis of U.S. Department of State Bureau of Consular Affairs FY2005 data.

**Note:** 1,956,137 aliens were denied nonimmigrant visas in FY2005 due to 214(b) presumption.

Refusals of *nonimmigrant* petitions presented in **Figure 16** have a somewhat different pattern as previous immigration law violations has been the leading category. Violation of criminal law emerged as a more common ground for refusal among nonimmigrant petitioners than it was for immigrant petitioners. Prior orders of removal from the United States was also among the leading grounds for refusals. The overwhelming basis for denying nonimmigrant visas, however, was that the alien was not qualified for the visa, largely due to the §214(b) presumption.

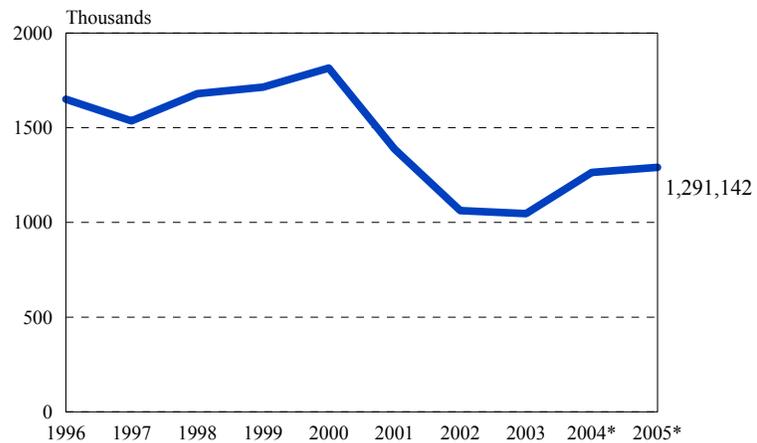
Comparable data from DHS on aliens deemed ineligible for immigrant status or inadmissible as a nonimmigrant based upon §212(a) are not available. As a result, the DOS data presented above understate the number and distribution of aliens denied admission to the United States.

## Apprehensions and Investigations

Stateside, the Department of Homeland Security is the lead department for immigration enforcement, largely carried out by CBP and Immigration and Customs Enforcement (ICE). The responsibilities cover investigating violations of the INA's civil provisions (e.g., violate the conditions of their admittance), as well as U.S. citizens or aliens who violate the criminal provisions (e.g., marriage fraud or alien smuggling). Their duties include securing the border between ports of entry, conducting inspections at ports of entry, removing aliens who should not be in the United States, investigating alien smuggling and trafficking, combating document and benefit fraud, and enforcing the prohibitions against employers hiring aliens without work authorization.

**Figure 17** offers a sketch of alien apprehensions over the past decade. This figure combines data from the CBP's border patrol and ICE (excluding ICE's criminal arrests), and thus includes apprehensions along the border and in the interior of the country. Although apprehensions are inching back up from FY2002-FY2003, they have not hit the levels of the late 1990s. As with data on immigration levels, it is not easy to discern whether these trends over time reflect, for example, changes in flows of migrants, in the commitment of enforcement resources, or in other push-pull factors in the sending countries and the U.S. economy.

Figure 17. Alien Apprehension by ICE and Border Patrol Officers, FY1994-FY2005



\* Excludes criminal arrests by Immigration and Customs Enforcement.

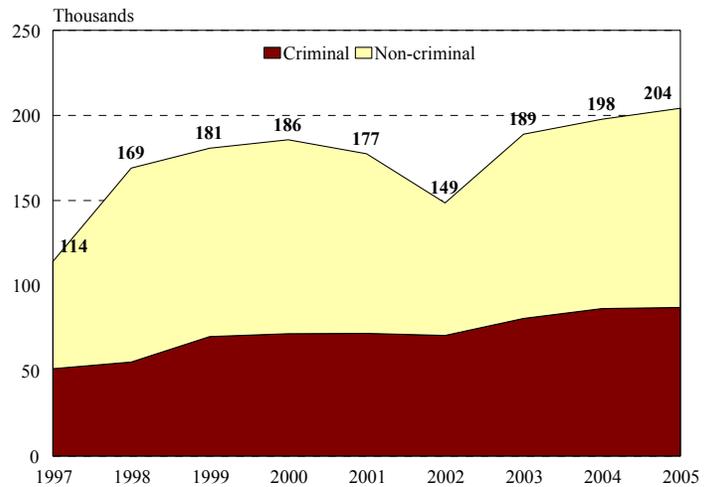
Source: CRS presentation of data from Table 34 in the DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2005*.

## Removals

An alien is "removable" if the alien has not been admitted to the United States and is inadmissible under the INA §212, or the alien has been admitted to the United States and is deportable under the INA §237. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) combined "exclusion" and "deportation" proceedings into a single removal proceeding as well as added provisions for expedited removal of aliens arriving without proper documents. The INA §237 specifies six broad classes of deportable aliens including aliens who: are inadmissible at time of entry or violate their immigration status; commit certain criminal offenses (e.g., crimes of moral turpitude, aggravated felonies, alien smuggling, high speed flight); fail to register (if required under law) or commit document fraud; are security risks (such as aliens who violate any law relating to espionage, engage in criminal activity which endangers public safety, partake in terrorist activities, or assisted in Nazi persecution or genocide); become a public charge within five years of entry; or vote unlawfully.

As **Figure 18** depicts, alien removals have steadily risen over the past decade and have surpassed 200,000 a year. This upward trend has occurred for both criminal and non-criminal removals.<sup>37</sup> The enactment of expedited removal as part of IIRIRA in 1996 is reflected in the non-criminal trends.<sup>38</sup>

Figure 18. Alien Removals, FY1997-FY2005



**Source:** CRS analysis of workload data from DHS Office of Immigration Statistics.

This concludes my formal testimony. I would be happy to take your questions.

<sup>37</sup> For a more complete discussion of removal, see CRS Report RL33351, *Immigration Enforcement Within the United States*, coordinated by Alison Siskin with Andorra Bruno, Blas Nunez-Neto, Lisa M. Seghetti, and Ruth Ellen Wasem, pp. 9-20.

<sup>38</sup> For a detailed discussion of expedited removal, see CRS Report RL33109, *Immigration Policy on Expedited Removal of Aliens*, by Alison Siskin and Ruth Ellen Wasem.

## Appendix A. Legal Immigration Preference System

Category		Numerical Limit
<b>Total Family-Sponsored Immigrants</b>		<b>480,000</b>
<i>Immediate relatives</i>	Aliens who are the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens	Unlimited
<b>Family-sponsored Preference Immigrants</b>		<b>Worldwide Level 226,000</b>
<i>1<sup>st</sup> preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	(A) Spouses and children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>4<sup>th</sup> preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> preference
<b>Employment-Based Preference Immigrants</b>		<b>Worldwide Level 140,000</b>
<i>1<sup>st</sup> preference</i>	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers	28.6% of worldwide limit plus unused 4 <sup>th</sup> and 5 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	28.6% of worldwide limit plus unused 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference — skilled</i>	Skilled shortage workers with at least two years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>3<sup>rd</sup> preference — “other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 <sup>rd</sup> preference)
<i>4<sup>th</sup> preference</i>	“Special immigrants,” including ministers of religion, religious workers other than ministers, certain employees of the U.S. government abroad, and others	7.1% of worldwide limit; religious workers limited to 5,000
<i>5<sup>th</sup> preference</i>	Employment creation investors who invest at least \$1 million (amount may vary in rural areas or areas of high unemployment) which will create at least 10 new jobs	7.1% of worldwide limit; 3,000 <i>minimum</i> reserved for investors in rural or high unemployment areas

**Source:** CRS summary of §§ 203(a), 203(b), and 204 of INA; 8 U.S.C. § 1153; excerpted from CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*.

## Appendix B. Statistics on Grounds of Inadmissibility

### Table 1. Immigrants Refused Visa by Grounds of Inadmissibility

Grounds for exclusion	Potential immigrants refused by State Department					
	FY2000		FY2002		FY2005	
Health	1,528	2.3%	1,176	2.9%	1,968	5.1%
Criminal	736	1.1%	885	2.2%	1,401	3.6%
Terrorism and security	32	0.1%	27	0.1%	63	0.2%
Public charge	46,450	69.1%	17,848	44.0%	9,559	24.9%
Labor certification	8,194	12.2%	10,046	27.7%	11,721	30.5%
Immigration violations	3,414	5.1%	6,698	16.5%	4,504	11.7%
Ineligible for citizenship	4	—	4	—	2	—
Previously removed or illegal presence	6,900	10.3%	3,909	9.6%	9,195	23.9%
Miscellaneous	7	—	13	—	21	0.1%
<b>Total §212(a) inadmissible</b>	<b>67,269</b>	<b>—</b>	<b>40,606</b>	<b>—</b>	<b>38,434</b>	<b>—</b>
Ineligible for visa applied for due to other reasons	205,742	—	194,255	—	270,615	—

Source: CRS analysis of DOS Bureau of Consular Affairs data.

### Table 2. Nonimmigrants Refused Visa by Grounds of Inadmissibility

Grounds for exclusion	Potential nonimmigrants refused by State Department					
	FY2000		FY2002		FY2005	
Health	177	0.7%	390	1.2%	238	0.9%
Criminal	4,370	18.2%	6,554	20.6%	7,454	29.6%
Terrorism and security	224	1.0%	133	0.4%	333	1.3%
Public charge	825	3.4%	2,069	6.5%	1,341	5.3%
Immigration violations	14,263	60.0%	17,070	53.7%	1	—
Documentation problems	1,143	4.8%	1,123	3.5%	8,822	35.0%
Previously removed or illegal presence	2,930	12.2%	4,428	13.9%	6,977	27.7%
Miscellaneous	9	—	15	0.1%	4	—
<b>Total §212(a) inadmissible</b>	<b>23,953</b>	<b>100%</b>	<b>31,793</b>	<b>100%</b>	<b>25,212</b>	<b>100%</b>
Ineligible for visa applied for due to other reasons	2,428,248	—	2,560,526	—	1,941,374	—

Source: CRS analysis of DOS Bureau of Consular Affairs data.