



# Non-U.S. Citizens in the Federal Criminal Justice System, 1998–2018

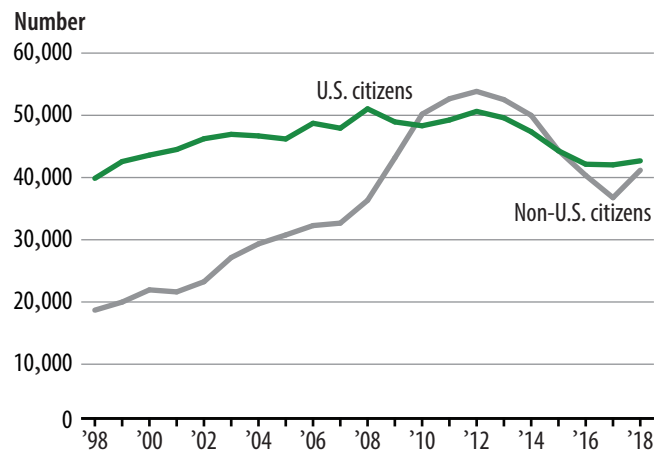
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A total of 41,176 non-United States citizens were criminally prosecuted in U.S. district courts in 2018, up from 18,685 in 1998 (figure 1). This marked a 120% increase in prosecutions of non-U.S. citizens during that period, while prosecutions of U.S. citizens increased 7%. (See appendix table 1.) Immigration offenses accounted for much of the growth in federal criminal cases against non-U.S. citizens, rising from 9,875 criminal immigration cases in 1998 to 32,888 in 2018 (not shown in tables).

In federal district courts, the number of non-U.S. citizens charged doubled from 1998 (18,685) to 2009 (43,157). The number of non-U.S. citizens prosecuted peaked in 2015 at 53,843. From fiscal year (FY) 2012 to FY 2018, the number of non-U.S. citizens declined 9% on average each year, while the number increased by 12% from 2017 to 2018.

Data in this report are from the Federal Justice Statistics Program (FJSP) of the Bureau of Justice Statistics (BJS), which collects information on suspects and defendants processed in the federal

**FIGURE 1**  
Persons prosecuted in U.S. district courts, by citizenship status, fiscal years 1998–2018



Note: See appendix table 1 for counts.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal years 1998–2018.

## HIGHLIGHTS

- Of the 84,838 persons criminally charged in U.S. district courts in 2018, 49% were non-U.S. citizens.
- The number of non-U.S. citizens charged in U.S. district courts with immigration offenses increased from 9,875 in 1998 to 32,888 in 2018.
- About 86% of undocumented non-U.S. citizens charged in U.S. district courts were charged with immigration offenses in 2018.
- In 2018, 76% of persons charged in federal district court with a drug offense were U.S. citizens and 24% were non-U.S. citizens.
- In 2018, non-U.S. citizens sentenced for drug trafficking were most often sentenced for trafficking methamphetamine (27%) and cocaine powder (26%).
- At year-end 2018, the Federal Bureau of Prisons held 30,848 persons who were non-U.S. citizens, which was 19% of the total 161,885 persons in custody.

criminal justice system and on the characteristics of their criminal cases. Data were collected from the Administrative Office of the U.S. Courts' Probation

and Pretrial Services Office, the U.S. Sentencing Commission (USSC), and the Federal Bureau of Prisons (BOP).

## Data sources and definition of citizenship

In this report, **citizenship status** distinguishes between *U.S. citizens*, *documented non-U.S. citizens*, and *undocumented non-U.S. citizens*.

**Documented non-U.S. citizens** enter the U.S. after an application and entry process, such as obtaining a visa or passport, and do not violate the terms of their admission. Data from the U.S. Census Bureau's Current Population Survey and 2014–2018 American Community Survey show that the number of non-U.S. citizens in the country increased by approximately 42%, from about 16.5 million in 1998 to about 23.5 million in 2018. The U.S. citizen population grew 18%, from 252.2 million in 1998 to 299.6 million in 2018. Naturalized citizens made up 8% of the U.S. citizen population in 2018.<sup>1</sup>

**Undocumented non-U.S. citizens** have either entered the U.S. without going through the application or entry process or legally entered the U.S. and subsequently violated a condition of their visa or passport (such as remaining in the U.S. beyond the authorized period or committing a criminal offense). Based on legal-resident population data and U.S. Census Bureau foreign-born population data, the U.S. Department of Homeland Security (DHS) estimates how many undocumented non-U.S. citizens are living in the U.S. each year. In January 2018, an estimated 11.4 million undocumented non-U.S. citizens lived in the U.S.<sup>2</sup>

<sup>1</sup>Both the 1998 and 2018 estimates are from the Current Population Survey. For 1998 counts, see U.S. Census Bureau. (1998). *Table 1.1. Population by sex, age, nativity, and U.S. citizenship status: 1998* [Data file]. <https://www.census.gov/data/tables/1998/demo/foreign-born/cps-1998.html>. For 2018 counts, see U.S. Census Bureau. (2019). *Table 1.1. Population by sex, age, nativity, and U.S. citizenship status: 2018* [Data file]. <https://www.census.gov/data/tables/2018/demo/foreign-born/cps-2018.html>

<sup>2</sup>See Baker, B. (2021). *Estimates of the unauthorized immigrant population residing in the United States: January 2015–January 2018*. U.S. Department of Homeland Security. [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Pop\\_Estimate/UnauthImmigrant/unauthorized\\_immigrant\\_population\\_estimates\\_2015\\_-\\_2018.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Pop_Estimate/UnauthImmigrant/unauthorized_immigrant_population_estimates_2015_-_2018.pdf)

Tables based on **U.S. Probation and Pretrial Services Office** data and **U.S. Sentencing Commission (USSC)** data use U.S. citizen/non-U.S. citizen or U.S. citizen/ documented non-U.S. citizen/undocumented non-U.S. citizen to describe citizenship status. The U.S. Probation and Pretrial Services Office collects data on citizenship status at two stages: the pretrial interview by a federal pretrial officer and the presentence report by a federal probation officer. Citizenship status is mostly self-reported by the defendant. Data may not be recorded if a defendant or the defendant's attorney refuses the pretrial interview. Data are recorded using information from the charging document or record of arrests and convictions, when available. The U.S. Probation and Pretrial Services Office records citizenship status as U.S. citizen, documented non-U.S. citizen, or undocumented non-U.S. citizen at the pretrial services interview. Between 0.3% and 4.6% of cases prosecuted annually from 1998 to 2018 were missing information about citizenship status.

The USSC and the **Federal Bureau of Prisons (BOP)** use information from the presentence report. Preparing the presentence report typically takes longer than the pretrial interview. This allows for potential verification of self-reported data. Citizenship status is recorded in USSC data as U.S. citizen, resident or documented non-U.S. citizen, undocumented non-U.S. citizen, non-U.S. citizen or status unknown, or extradited. Extradited persons (0.6% of all sentenced defendants in 2018) and non-U.S. citizen or citizenship status unknown (0.7% of all sentenced defendants in 2018) were categorized as undocumented non-U.S. citizens in this report. Data received from the BOP include country of citizenship, which was recoded as U.S. citizen or non-U.S. citizen.

## Prosecution

### 98% of undocumented non-U.S. citizens prosecuted in U.S. district courts in 2018 were Hispanic

The majority of non-U.S. citizens prosecuted in U.S. district courts in FY 2018 were Hispanic (98% of undocumented non-U.S. citizens and 74% of documented non-U.S. citizens) (table 1). Twenty-six percent of U.S. citizens prosecuted in U.S. district courts were Hispanic. The median age was 35 for U.S. citizens, 36 for documented non-U.S. citizens, and 33 for undocumented non-U.S. citizens.

Half of all persons prosecuted in U.S. district courts had one or more prior federal or state convictions (table 2). By citizenship status, 77% of documented non-U.S. citizens, 59% of undocumented non-U.S. citizens, and 40% of U.S. citizens who were criminally prosecuted in U.S. district courts had no prior convictions. Among persons who were criminally prosecuted in U.S. district courts in FY 2018, 20% had five or more prior convictions. That proportion was higher for U.S. citizens (30%) than for undocumented (10%) or documented (4%) non-U.S. citizens.

**TABLE 1**

### Persons prosecuted in U.S. district courts, by demographic characteristics and citizenship status, fiscal year 2018

Demographic characteristic	Total		U.S. citizen		Non-U.S. citizen			
					Documented non-U.S. citizen		Undocumented non-U.S. citizen	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>	84,838	100%	42,686	100%	3,237	100%	37,939	100%
<b>Sex</b>								
Male	73,750	87.3%	34,746	81.4%	2,626	81.2%	35,831	94.5%
Female	10,756	12.7	7,920	18.6	608	18.8	2,095	5.5
<b>Race*</b>								
White	64,462	77.7%	24,803	59.2%	2,468	78.8%	36,858	98.2%
Black	16,006	19.3	14,863	35.5	456	14.6	607	1.6
Asian/Native Hawaiian/ Other Pacific Islander	965	1.2	663	1.6	204	6.5	74	0.2
American Indian/ Alaska Native	1,579	1.9	1,573	3.8	2	<0.1	4	<0.1
<b>Ethnicity</b>								
Hispanic	50,476	61.0%	10,911	26.4%	2,359	73.8%	36,981	97.9%
Non-Hispanic	32,232	39.0	30,429	73.6	839	26.2	811	2.1
<b>Median age</b>	34 years		35 years		36 years		33 years	

Note: Details may not sum to totals due to missing data or rounding. Percentages are based on nonmissing records. Less than 3% of cases were missing data on sex (332, 0.4%), race (1,826, 2.2%), ethnicity (2,130, 2.5%), age (308, 0.4%), or citizenship status (976, 1.2%).

\*Excludes persons of two or more races or for whom race is missing.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal year 2018.

**TABLE 2**

### Persons prosecuted in U.S. district courts, by prior federal or state convictions and citizenship status, fiscal year 2018

Prior convictions	Total		U.S. citizen		Non-U.S. citizen			
					Documented non-U.S. citizen		Undocumented non-U.S. citizen	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>	84,838	100%	42,686	100%	3,237	100%	37,939	100%
0	42,491	50.2	17,243	40.4	2,498	77.2	22,232	58.6
1	9,627	11.4	4,479	10.5	343	10.6	4,730	12.5
2-4	15,458	18.3	8,120	19.0	264	8.2	7,014	18.5
5 or more	16,996	20.1	12,844	30.1	132	4.1	3,963	10.4

Note: Details may not sum to totals due to missing data or rounding. Percentages are based on nonmissing records. Less than 2% of cases were missing data on prior state or federal convictions (266, 0.3%) or citizenship status (976, 1.2%).

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal year 2018.

## Terms and definitions

**Cases prosecuted in U.S. district courts**—Includes defendants who were supervised by U.S. Probation and Pretrial Services until the case was concluded in U.S. district courts. Pretrial supervision of defendants in the Probation and Pretrial Services Automated Case Tracking System ends when either the case is disposed or the defendant is sentenced, typically whichever occurs later.

**Cases sentenced in U.S. district courts**—Includes defendants whose cases are subject to U.S. Sentencing Commission (USSC) guidelines. The USSC receives information from federal district courts on cases in which the defendant has been sentenced for a felony or a Class A misdemeanor. USSC sentencing guidelines do not apply to petty misdemeanors.<sup>3</sup>

**Persons in the custody of the Federal Bureau of Prisons (BOP)**—After a person is sentenced to prison, the BOP assumes custody. The BOP counts persons admitted during the fiscal year and persons in custody at fiscal year-end and exiting from custody during the fiscal year. This report uses admissions and fiscal year-end counts.

### Offense definitions

**Violent offenses**—Includes murder, negligent manslaughter, nonnegligent manslaughter, aggravated assault, simple assault, sexual abuse, robbery, kidnapping, and threats against the President.

**Property offenses**—Includes fraud and other types of property offenses.

**Fraud-related property**—Includes embezzlement, fraud, forgery, and counterfeiting.

**Other property**—Includes burglary, larceny, motor-vehicle theft, arson, transportation of stolen property, and other property offenses, such as destruction of property and trespassing.

**Drug offenses**—Includes the manufacture, import, export, distribution, and dispensing of a controlled or counterfeit substance; and the possession of a controlled or counterfeit substance with intent to manufacture or distribute.

**Public-order offenses**—Includes regulatory and other types of public-order offenses.

**Regulatory public order**—Includes violation of agriculture, antitrust, labor, food and drug, motor carrier, and other federal regulations.

**Other public order**—Includes nonregulatory violations concerning tax law, bribery, perjury, national defense, escape, racketeering and extortion, gambling, liquor, mailing or transporting obscene materials, traffic, migratory birds, conspiracy, aiding and abetting, and other offenses.

**Weapons offenses**—Includes violations of any provisions of 18 U.S.C. §§ 922-923 concerning the manufacture, import, possession, receipt, and license of firearms and ammunition.

**Immigration offenses**—Includes offenses involving illegal entry into the U.S., illegal reentry after being deported, willfully failing to leave when so ordered, and bringing in or harboring any persons not admitted by an immigration officer.

<sup>3</sup>For a description of the cases submitted to the USSC, see Schmitt, G. R., & Syckes, C. (2018). *Overview of federal criminal cases — fiscal year 2017*. U.S. Sentencing Commission. <https://www.ussc.gov/research/data-reports/overview-federal-criminal-cases-fiscal-year-2017>

## Immigration offenses in the federal criminal justice system

Federal courts have jurisdiction over criminal immigration offenses in accordance with the criminal provisions in the Immigration and Nationality Act (INA; 8 U.S.C. § 1101). Criminal immigration offenses that are subject to federal arrest and prosecution include illegal entry into the U.S., illegal reentry after being removed, failing to leave the U.S. when ordered, remaining beyond the days allowed on a conditional permit, bringing in or harboring undocumented non-U.S. citizens, marriage fraud, and employer worksite violations.

Congress enacted several laws from 1998 to 2018 that affected enforcement of immigration laws and the processing of non-U.S. citizens in federal court:

- the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (Patriot) Act of 2001 (P.L. 107-56)
- the Homeland Security Act of 2002 (P.L. 107-296)
- the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173)
- the REAL ID Act of 2005 (P.L. 109-13).

Non-U.S. citizens and immigration were also affected by the 2012 executive action known as Deferred Action for Childhood Arrivals and the Attorney General's April 11, 2017 memorandum titled "Renewed Commitment to Criminal Immigration Enforcement."

In addition to prosecutions, the INA allows for administrative proceedings for persons in or attempting to enter the U.S. without authorization and persons committing immigration and other crimes while

unlawfully in the U.S. In administrative proceedings, an immigration judge rules on whether to remove or deport the person.<sup>4</sup> The most common outcome is removal and return to country of origin. In fiscal year (FY) 2018, the U.S. Department of Homeland Security reported 446,370 civil administrative cases that resulted in removal and return.<sup>5</sup>

Administrative proceedings outnumber criminal prosecutions for an immigration violation. In FY 2018, federal district courts disposed of 108,033 misdemeanor and felony immigration cases.<sup>6</sup> Of these, 80,117 (74%) were disposed of by U.S. magistrates.<sup>7</sup>

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<sup>4</sup>See Office of the Chief Immigration Judge. (2016). *Immigration court practice manual*. <https://www.justice.gov/eoir/page/file/1084851/download>. Decisions are carried out by federal law enforcement, such as the U.S. Border Patrol, and include voluntary returns, expedited removals, and the Alien Transfer Exit Program.

<sup>5</sup>See Office of Immigration Statistics. (2020). *Table 39. Aliens removed or returned: Fiscal years 1892 to 2018*. <https://www.dhs.gov/immigration-statistics/yearbook/2018/table39>

<sup>6</sup>Felony cases are from Administrative Office of the U.S. Courts. (n.d.). *Table D-3. U.S. district courts—criminal defendants commenced (excluding transfers), by offense and district, during the 12-month period ending September 30, 2018*. Retrieved February 23, 2021, from <https://www.uscourts.gov/statistics-reports/judicial-business-2018-tables>

<sup>7</sup>Misdemeanor cases are from Administrative Office of the U.S. Courts. (n.d.). *Table M-2. U.S. district courts—petty offense defendants disposed of by U.S. magistrate judges, by nature of offense, during the 12-month period ending September 30, 2018*. Retrieved February 23, 2021, from <https://www.uscourts.gov/statistics-reports/judicial-business-2018-tables>



**86% of undocumented non-U.S. citizens prosecuted in U.S. district courts in 2018 were charged with an immigration offense**

U.S. citizens were defendants in half (50%) of all cases prosecuted in U.S. district courts in 2018 (table 3). Drug offenses were the most serious offenses charged for 38% of U.S. citizens and 50% of documented non-U.S. citizens. Immigration offenses were the most serious offenses charged for 86% of undocumented non-U.S. citizens. The number of cases prosecuted in U.S. district courts decreased 4% from 2008 to 2018.

Immigration cases were up 37% and weapons cases were up 4% during this period (table 4). During that time, prosecutions of U.S. citizens decreased 16%. Property (down 33%) and drug (down 23%) offenses experienced the largest decreases. From 2008 to 2018, the number of undocumented non-U.S. citizens prosecuted in U.S. district courts increased 24%, while the number of documented non-U.S. citizens prosecuted fell 43%. During that period, immigration (up 41%) and public-order (up 19%) cases against undocumented non-U.S. citizens experienced the largest increases.

**TABLE 3**  
**Persons prosecuted in U.S. district courts, by offense type and citizenship status, fiscal year 2018**

Most serious offense charged	Total		U.S. citizen		Non-U.S. citizen			
					Documented non-U.S. citizen		Undocumented non-U.S. citizen	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>	84,838	100%	42,686	100%	3,237	100%	37,939	100%
<b>Violent</b>	2,919	3.5%	2,694	6.3%	48	1.5%	128	0.3%
<b>Property</b>	9,591	11.3%	7,383	17.4%	771	23.9%	1,221	3.2%
Fraud-related	7,826	9.3	5,822	13.7	691	21.4	1,174	3.1
Other	1,765	2.1	1,561	3.7	80	2.5	47	0.1
<b>Drug</b>	21,255	25.1%	16,132	38.0%	1,615	50.0%	3,250	8.6%
Trafficking	15,622	18.5	11,677	27.5	1,354	41.9	2,454	6.5
Other	5,633	6.7	4,455	10.5	261	8.1	796	2.1
<b>Weapons</b>	8,047	9.5%	7,622	17.9%	71	2.2%	312	0.8%
<b>Public order</b>	7,138	8.4%	5,996	14.1%	368	11.4%	446	1.2%
Regulatory	1,163	1.4	632	1.5	188	5.8	292	0.8
Other	5,975	7.1	5,364	12.6	180	5.6	154	0.4
<b>Immigration</b>	35,644	42.1%	2,680	6.3%	358	11.1%	32,530	85.9%
Illegal entry <sup>a</sup>	251	0.3	27	0.1	9	0.3	213	0.6
Illegal reentry <sup>b</sup>	30,636	36.2	28	0.1	24	0.7	30,552	80.7
Smuggling of persons <sup>c</sup>	3,929	4.6	2,593	6.1	282	8.7	1,019	2.7
Fraud/misuse visas <sup>d</sup>	796	0.9	24	0.1	42	1.3	723	1.9

Note: Details may not sum to totals due to missing data or rounding. Percentages are based on nonmissing records. Less than 2% of cases were missing data on citizenship status (976, 1.2%) or prior convictions (244, 0.3%).

<sup>a</sup>Includes offenses charged under 8 U.S.C. §§ 1325(a), 1325(b).

<sup>b</sup>Includes offenses charged under 8 U.S.C. §§ 1326(a)-1326(c).

<sup>c</sup>Includes offenses charged under 8 U.S.C. § 1324(a).

<sup>d</sup>Includes offenses charged under 18 U.S.C. §§ 1546(a), 1546(b).

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal year 2018.

**TABLE 4****Persons prosecuted in U.S. district courts, by offense type and citizenship status, fiscal years 1998, 2008, and 2018**

Most serious offense charged	Total	U.S. citizen	Non-U.S. citizen	
			Documented non-U.S. citizen	Undocumented non-U.S. citizen
<b>Total</b>				
FY 1998	60,948	39,870	5,422	13,263
FY 2008	88,551	51,040	5,651	30,684
FY 2018	84,838	42,686	3,237	37,939
Percent change, 1998–2018	39.2%	7.1%	-40.3%	186.1%
Percent change, 2008–2018	-4.2	-16.4	-42.7	23.6
<b>Violent</b>				
FY 1998	3,986	3,642	127	100
FY 2008	3,141	2,884	94	129
FY 2018	2,919	2,694	48	128
Percent change, 1998–2018	-26.8%	-26.0%	-62.2%	28.0%
Percent change, 2008–2018	-7.1	-6.6	-48.9	-0.8
<b>Property</b>				
FY 1998	13,463	11,484	887	656
FY 2008	14,647	11,096	1,050	2,199
FY 2018	9,591	7,383	771	1,221
Percent change, 1998–2018	-28.8%	-35.7%	-13.1%	86.1%
Percent change, 2008–2018	-34.5	-33.5	-26.6	-44.5
<b>Drug</b>				
FY 1998	23,631	16,360	3,193	2,980
FY 2008	29,028	20,896	3,183	4,481
FY 2018	21,255	16,132	1,615	3,250
Percent change, 1998–2018	-10.1%	-1.4%	-49.4%	9.1%
Percent change, 2008–2018	-26.8	-22.8	-49.3	-27.5
<b>Weapons</b>				
FY 1998	2,490	2,273	74	85
FY 2008	7,716	7,102	122	448
FY 2018	8,047	7,622	71	312
Percent change, 1998–2018	223.2%	235.3%	-4.1%	267.1%
Percent change, 2008–2018	4.3	7.3	-41.8	-30.4
<b>Public order</b>				
FY 1998	6,170	5,188	471	215
FY 2008	7,870	6,818	507	376
FY 2018	7,138	5,996	368	446
Percent change, 1998–2018	15.7%	15.6%	-21.9%	107.4%
Percent change, 2008–2018	-9.3	-12.1	-27.4	18.6
<b>Immigration</b>				
FY 1998	11,014	759	666	9,209
FY 2008	26,009	2,124	689	23,038
FY 2018	35,644	2,680	358	32,530
Percent change, 1998–2018	223.6%	253.1%	-46.2%	253.2%
Percent change, 2008–2018	37.0	26.2	-48.0	41.2

Note: Details may not sum to totals due to missing data. Percentages are based on nonmissing records. For fiscal year (FY) 1998, less than 4% of cases were missing data on citizenship status (2,393, 3.9%) or offense type (194, 0.3%). For FY 2008, less than 2% of cases were missing data on citizenship status (1,176, 1.3%) or offense type (140, 0.2%). For FY 2018, less than 2% of cases were missing data on citizenship status (976, 1.2%) or offense type (224, 0.3%).

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal years 1998, 2008, and 2018.

## Most defendants (71%) charged in U.S. district courts did not receive pretrial release in 2018

Among defendants charged in 2018, 71% did not receive pretrial release. Ninety-six percent of undocumented non-U.S. citizens, 57% of documented citizens, and 51% of U.S. citizens were not released pretrial (table 5). Under 18 U.S.C. § 3142, the courts can order the temporary detention of undocumented non-U.S. citizens for up to 10 business days. If temporary detention is ordered, the defendants must prove to the court that they are in the U.S. legally. Otherwise, they can remain detained until case disposition.

## Sentencing

### In 2018, most non-U.S. citizens were sentenced to prison for immigration offenses; most U.S. citizens were sentenced to prison for drug offenses

Immigration violation was the most common offense for undocumented non-U.S. citizens sentenced to prison. Seventy-seven percent (20,018) of undocumented non-U.S. citizens who received a prison sentence in 2018 were sentenced for an immigration offense (table 6). Drug violation was the most common offense for documented non-U.S. citizens (51%) and for U.S. citizens (41%) sentenced to prison. Sentences received by non-U.S. citizens were typically shorter than those for U.S. citizens. Undocumented non-U.S. citizens received a median prison term of

**TABLE 5**  
Persons receiving pretrial release, by citizenship status, fiscal year 2018

Pretrial release	Total		U.S. citizen		Non-U.S. citizen			
	Number	Percent	Number	Percent	Documented non-U.S. citizen		Undocumented non-U.S. citizen	
					Number	Percent	Number	Percent
Total	84,838	100%	42,686	100%	3,237	100%	37,939	100%
Not released	60,159	71.0%	21,635	50.8%	1,833	56.7%	36,239	95.5%
Released at—								
Initial hearing <sup>a</sup>	15,744	18.6%	13,319	31.3%	784	24.2%	1,206	3.2%
Any later hearing <sup>b</sup>	8,855	10.4	7,662	18.0	617	19.1	492	1.3

Note: Details may not sum to totals due to missing data or rounding. Percentages are based on nonmissing records. Less than 2% of cases were missing data on citizenship status (976, 1.2%) or offense type (80, 0.1%).

<sup>a</sup>Release was ordered at the first hearing before a judicial officer.

<sup>b</sup>The defendant was detained at the initial hearing but was released at any later hearing in the case.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal year 2018.

**TABLE 6**  
Persons sentenced to prison in U.S. district courts, by citizenship status and offense type, fiscal year 2018

Most serious commitment offense*	Total		U.S. citizen		Non-U.S. citizen			
	Number sentenced to prison	Median prison term	Number sentenced to prison	Median prison term	Documented non-U.S. citizen		Undocumented non-U.S. citizen	
					Number sentenced to prison	Median prison term	Number sentenced to prison	Median prison term
Total	60,976	24 mos.	32,609	50 mos.	2,298	30 mos.	25,897	8 mos.
Violent	2,316	71	2,138	75	44	55	130	24
Property	5,970	21	4,147	24	503	24	1,291	5
Drug	18,364	60	13,457	66	1,178	37	3,702	50
Public order	5,283	39	4,576	46	232	24	387	24
Weapons	7,211	46	6,794	48	73	51	339	21
Immigration	21,700	6	1,407	13	267	10	20,018	6

Note: Includes persons sentenced to prison in U.S. district courts. Excludes sentences of community confinement imposed in conjunction with a term of imprisonment. Percentages are based on nonmissing records. Data are missing for type of offense (132) and citizenship (172).

\*Includes offense with the longest sentence.

Source: Bureau of Justice Statistics, based on data from the U.S. Sentencing Commission, Monitoring data, fiscal year 2018.



8 months compared to 30 months for documented non-U.S. citizens and 50 months for U.S. citizens.

The median prison term imposed for undocumented non-U.S. citizens ranged from 50 months for drug offenses to 5 months for property offenses. For documented non-U.S. citizens, the range was from 55 months for violent offenses to 10 months for immigration offenses. U.S. citizens received the longest median sentence for violent offenses (75 months), followed by drug offenses (66 months) and weapons violations (48 months). The median prison term for undocumented non-U.S. citizens sentenced for an

immigration violation was 6 months in 2018. The median sentence for U.S. citizens sentenced for an immigration violation was 13 months in 2018.

### Methamphetamine was the most common drug type for U.S. citizens and documented non-U.S. citizens sentenced for drug trafficking

Overall, the number of persons sentenced for drug trafficking decreased between 2016 and 2018, during which the most common drug trafficked was methamphetamine (table 7). In 2018, most drug-trafficking sentences of U.S. citizens were

**TABLE 7**  
**Persons sentenced in U.S. district courts for drug trafficking, by citizenship status and drug type, fiscal years 2016–2018**

Most serious drug	Total		U.S. citizen		Non-U.S. citizen			
					Documented non-U.S. citizen		Undocumented non-U.S. citizen	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>								
FY 2016	19,199	100%	13,636	100%	1,398	100%	4,153	100%
FY 2017	19,223	100	14,106	100	1,200	100	3,872	100
FY 2018	18,404	100	13,844	100	1,184	100	3,370	100
<b>Cocaine powder</b>								
FY 2016	3,642	19.0%	2,284	16.8%	378	27.0%	976	23.5%
FY 2017	3,796	19.7	2,241	15.9	346	28.8	1,189	30.7
FY 2018	3,523	19.1	2,070	15.0	321	27.1	1,129	33.5
<b>Crack cocaine</b>								
FY 2016	1,544	8.0%	1,503	11.0%	22	1.6%	19	0.5%
FY 2017	1,543	8.0	1,509	10.7	16	1.3	18	0.5
FY 2018	1,350	7.3	1,320	9.5	15	1.3	15	0.4
<b>Heroin</b>								
FY 2016	2,772	14.4%	2,247	16.5%	149	10.7%	375	9.0%
FY 2017	2,661	13.8	2,193	15.6	127	10.6	338	8.7
FY 2018	2,565	13.9	2,091	15.1	124	10.5	350	10.4
<b>Marijuana<sup>a</sup></b>								
FY 2016	3,398	17.7%	1,434	10.5%	307	22.0%	1,655	39.9%
FY 2017	2,730	14.2	1,365	9.7	215	17.9	1,143	29.5
FY 2018	2,101	11.4	1,108	8.0	196	16.6	796	23.6
<b>Methamphetamine<sup>b</sup></b>								
FY 2016	6,567	34.2%	4,982	36.5%	488	34.9%	1,092	26.3%
FY 2017	7,198	37.4	5,597	39.7	443	36.9	1,145	29.6
FY 2018	7,489	40.7	6,012	43.4	466	39.4	1,009	29.9
<b>Other<sup>c</sup></b>								
FY 2016	1,276	6.6%	1,186	8.7%	54	3.9%	36	0.9%
FY 2017	1,295	6.7	1,201	8.5	53	4.4	39	1.0
FY 2018	1,376	7.5	1,243	8.9	62	5.2	71	2.1

Note: Details may not sum to totals due to rounding. There were 67,742 total cases, 19,923 drug cases, and 19,199 drug-trafficking cases sentenced in fiscal year (FY) 2016. There were 66,873 total cases, 19,830 drug cases, and 19,223 drug-trafficking cases sentenced in FY 2017. There were 69,425 total cases, 18,945 drug cases, and 18,404 drug-trafficking cases sentenced in FY 2018. Percentages based on nonmissing records. For FY 2016, less than 1% of cases were missing data on type of drug (70, 0.4%) or citizenship status (13, 0.1%). For FY 2017 less than 1% of cases were missing data on citizenship status (54, 0.3%). For FY 2018, less than 1% of cases were missing data on citizenship status (17, 0.1%).

<sup>a</sup>Includes marijuana, marijuana plant, hashish, and hashish oil.

<sup>b</sup>Includes actual methamphetamine, methamphetamine mixture, and methamphetamine precursors.

<sup>c</sup>Includes any drug other than cocaine powder, crack cocaine, heroin, marijuana, and methamphetamine identified in the U.S. Sentencing Commission guidelines.

Source: Bureau of Justice Statistics, based on data from the U.S. Sentencing Commission, Monitoring data, fiscal years 2016–2018.

for methamphetamine (43%), cocaine powder (15%), and heroin (15%). Most drug-trafficking sentences of documented non-U.S. citizens were for methamphetamine (39%) and cocaine powder (27%), while those of undocumented non-U.S. citizens were for cocaine powder (34%) and methamphetamine (30%).

U.S. citizens made up 80% and non-U.S. citizens accounted for 20% of sentences for methamphetamine in 2018 (not shown in tables). Of defendants sentenced for trafficking cocaine powder, 59% were U.S. citizens and 41% were non-U.S. citizens (not shown in tables).

## Corrections

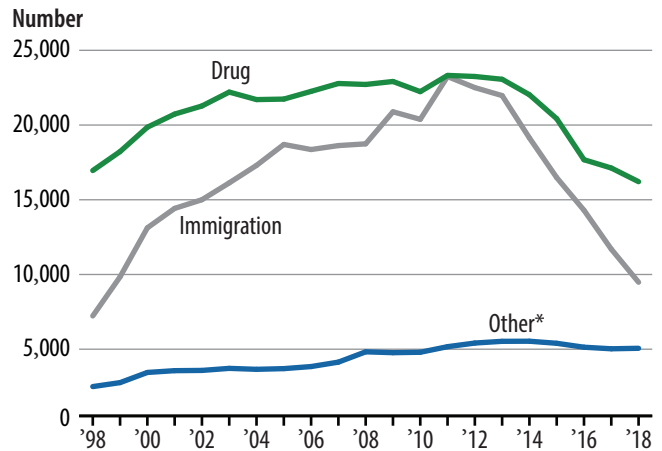
### The number of non-U.S. citizens in prison for immigration and drug offenses fell between 2011 and 2018

The number of non-U.S. citizens in prison for immigration and drug offenses peaked at fiscal year-end 2011. By fiscal year-end 2018, those numbers had declined by 59% for non-U.S. citizens in prison for immigration offenses and 30% for non-U.S. citizens in prison for drug offenses (**figure 2**). Sixty-five percent of non-U.S. citizens and 4% of U.S. citizens were imprisoned for an immigration offense in 2018, while 40% of U.S. citizens and 25% of non-U.S. citizens were imprisoned for a drug offense (**table 8**).

From 2005 to 2018, about twice as many non-U.S. citizens entered federal prison for an immigration offense as for a drug offense (not shown in tables). Sentences were typically longer for drug offenses than immigration offenses. As a result, the number of non-U.S. citizens in prison at fiscal year-end for an immigration offense never exceeded the number in prison for a drug offense.

**FIGURE 2**

### Non-U.S. citizens incarcerated in federal prisons at fiscal year-end, by selected offense type, fiscal years 1998–2018



Note: Includes persons sentenced in U.S. district courts and in the custody of the Federal Bureau of Prisons (BOP) as of September 30, 2018. Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs. Less than 1% of cases were missing data on type of offense (3,046, 0.4%). See appendix table 2 for counts.

\*Includes violent, property, weapons, and public-order offenses.

Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, fiscal years 1998–2018.

**TABLE 8**

### Persons admitted to federal prisons, by commitment offense and citizenship status, fiscal year 2018

Commitment offense*	U.S. citizen		Non-U.S. citizen	
	Number	Percent	Number	Percent
<b>Total</b>	41,154	100%	17,820	100%
<b>Violent</b>	2,326	5.7%	111	0.6%
<b>Property</b>	4,435	10.8%	814	4.6%
<b>Drug</b>	16,658	40.5%	4,413	24.8%
Trafficking	16,595	40.3	4,121	23.2
Other	63	0.2	292	1.6
<b>Weapons</b>	9,295	22.6%	347	2.0%
<b>Public order</b>	6,758	16.4%	583	3.3%
<b>Immigration</b>	1,682	4.1%	11,515	64.8%
Illegal entry/reentry	29	0.1	10,839	61.0
Other	1,653	4.0	676	3.8

Note: Includes persons sentenced in U.S. district courts and admitted into the custody of the Federal Bureau of Prisons (BOP). Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs. Percentages are based on nonmissing records. Less than 1% of cases were missing data on type of offense (266, 0.5%) or citizenship status (47, 0.1%).

\*Includes offense with the longest sentence.

Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, fiscal year 2018.

At fiscal year-end 2018, 96% of federally sentenced persons in BOP custody with U.S. citizenship status were born in the U.S. (table 9). Almost 100% of sentenced persons in BOP custody who were non-U.S. citizens were foreign-born.

Eighty-one percent of the federal prison population in 2018 were U.S. citizens, and 13% were Mexican citizens (table 10). The number of non-U.S. citizens in federal prison decreased from 46,444 in FY 2008 to 30,848 in FY 2018. From 1998 to 2018, the number of federally sentenced U.S. citizens in the federal prison population increased by about 3% annually, while non-U.S. citizens in federal prison increased by about 1% annually. Much of the growth in the number of non-U.S. citizens in federal prison was in persons

**TABLE 9**  
Persons in federal prisons, by country of birth and citizenship status, fiscal year 2018

Birth country	Total	U.S. citizen		Non-U.S. citizen	
		Number	Percent	Number	Percent
Total	161,885	131,035	100%	30,848	100%
U.S.-born	124,908	124,848	96.0	59	0.2
Foreign-born	35,830	5,221	4.0	30,608	99.8

Note: Includes persons sentenced in U.S. district courts and in the custody of the Federal Bureau of Prisons (BOP) as of September 30, 2018. Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs. Details may not sum to totals due to missing data. Percentages are based on nonmissing data. Less than 1% of cases were missing data on country of citizenship (2, <0.01%) or country of birth (1,147, 0.7%). Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, as of September 30, 2018.

**TABLE 10**  
Persons in federal prisons, by country of citizenship, fiscal years 1998, 2008, and 2018

	FY 1998		FY 2008		FY 2018		Average annual growth rate, FYs 1998–2018 <sup>a</sup>
	Number	Percent	Number	Percent	Number	Percent	
<b>Total persons</b>	105,543	100%	177,844	100%	161,885	100%	2.3%
<b>Citizenship status</b>							
U.S. citizen	78,260	74.5%	131,215	73.9%	131,035	80.9%	2.7%
Non-U.S. citizen	26,751	25.5	46,444	26.1	30,848	19.1	1.0
<b>Country of citizenship</b>							
North America	98,065	93.3%	172,120	96.8%	157,680	97.4%	2.5%
United States	78,260	74.5	131,215	73.8	131,035	80.9	2.7
Mexico	13,361	12.7	31,898	17.9	20,584	12.7	2.7
Caribbean <sup>b</sup>	5,281	5.0	5,547	3.1	3,127	1.9	-2.4
Central America <sup>b</sup>	972	0.9	3,088	1.7	2,750	1.7	5.8
Canada	191	0.2	372	0.2	184	0.1	0.4
South America <sup>b</sup>	4,598	4.4	3,127	1.8	2,358	1.5	-3.2
Asia and Oceania <sup>b</sup>	1,206	1.2	1,394	0.8	858	0.5	-1.6
Africa <sup>b</sup>	644	0.6	509	0.3	463	0.3	-1.5
Europe <sup>b</sup>	498	0.5	509	0.3	524	0.3	0.6

Note: Includes persons sentenced in U.S. district courts and in the custody of the Federal Bureau of Prisons (BOP) as of September 30, 2018. Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs. Details may not sum to totals due to missing data. Percentages are based on nonmissing records. Less than 1% of cases were missing data on country of citizenship in FY 1998 (532, 0.5%), in FY 2008 (225, 0.1%), and in FY 2018 (2, <0.01%).

<sup>a</sup>Calculated using each fiscal year-end count from 1998 through 2018.

<sup>b</sup>Countries aggregated by region. For countries that make up regions, see <https://www.cia.gov/the-world-factbook/maps/world-regional/>

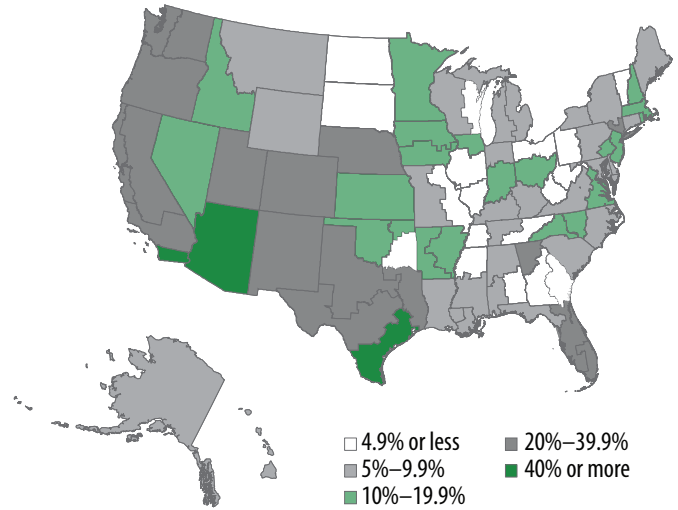
Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, fiscal years 1998–2018.

from Central America (up 6%) and Mexico (up 3%), while the largest decrease was in persons from South America (down 3%).

Of the 161,885 federally sentenced persons in the BOP’s custody at year-end 2018, 30,848 were non-U.S. citizens. Non-U.S. citizens in custody were sentenced in each of the 94 federal judicial districts. In three federal districts, the non-U.S. citizen share of all persons sentenced to prison from that district exceeded 40%. This included the District of the Northern Mariana Islands (54%), the District of Arizona (53%), and the Southern District of Texas (53%) (**map 1**).

**MAP 1**

**Non-U.S. citizens in the custody of the Federal Bureau of Prisons as a percent of all persons in custody, by district, fiscal year-end 2018**



Note: Includes persons sentenced in U.S. district courts and in the custody of the Federal Bureau of Prisons (BOP) as of September 30, 2018. Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs. The BOP held 30,848 non-U.S. citizens at fiscal year-end 2018. Less than 1% of cases were missing data on judicial district of commitment (2, <0.01%). Not shown in map: District of Columbia (10%–19.9%), Guam (5%–9.9%), Northern Mariana Islands (40% or more), Puerto Rico (5%–9.9%), and U.S. Virgin Islands (10%–19.9%). Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, fiscal year-end 2018.

# Methodology

## Data sources

This report uses data from the Federal Justice Statistics Program (FJSP). The Bureau of Justice Statistics (BJS) constructs the FJSP from files provided by the U.S. Marshals Service, the Drug Enforcement Administration, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts (AOUSC), the U.S. Sentencing Commission (USSC), and the Federal Bureau of Prisons (BOP). The AOUSC provides data describing defendants in cases processed by the federal judiciary, federal pretrial services agencies, and federal probation and supervision service agencies.

**Administrative Office of the U.S. Courts.** The AOUSC's Probation and Pretrial Services Automated Case Tracking System (PACTS) database contains information on defendants investigated, interviewed, and supervised by pretrial services whose cases were disposed (i.e., sentenced or otherwise adjudicated without a sentence) in U.S. district courts by fiscal year-end. The PACTS database includes information on defendants' date of birth, sex, race, ethnicity, pretrial release, and most serious conviction offense.

Offenses in the PACTS database are based on the most serious charged offense. The probation officer responsible for interviewing the defendant determines this by first classifying the major offense charged into the AOUSC four-digit offense codes. For defendants charged with more than one offense on an indictment, the officer chooses the charge carrying the most severe penalty or, in the case of two or more charges carrying the same penalty, the charge with the highest offense severity. To determine the offense severity level, offenses are ranked according to the maximum sentence length, type of crime, and maximum fine amount. Citizenship status is recorded in PACTS as U.S. citizen, undocumented U.S. citizen, or documented U.S. citizen. Cases handled by U.S. magistrate judges were included in the analyses that used PACTS data. D.C. Superior Court and material witness cases were excluded from the analyses.

PACTS data exclude defendants who received services from any other pretrial services agency. For example, the Pretrial Services Agency for the District of

Columbia is the sole pretrial services agency serving the D.C. Superior Court and the U.S. District Court for the District of Columbia. BJS does not receive data from this agency.

**U.S. Sentencing Commission.** The USSC's data contain information on criminal defendants sentenced pursuant to the provisions of the Sentencing Reform Act of 1984, part of the Comprehensive Crime Control Act of 1984 (P.L. 98-473). Data files are limited to defendants whose court records have been obtained by the USSC.

**Federal Bureau of Prisons.** The data extracts from the BOP's SENTRY system include information on all defendants admitted to, held in, or released from federal prison at fiscal year-end (September 30). This report uses data on persons entering and those held in federal prison at fiscal year-end, while the BOP data include both D.C. Superior Court commitments and D.C. district court commitments (federal courts). As D.C. Superior Court is a local jurisdiction court, this report excludes D.C. Superior Court commitments.

The reporting period is fiscal years (FYs) 1998 through 2018.

## Unit of analysis

In federal pretrial, prosecution, and sentencing data, the unit of analysis is the person-case. If the same person is involved in three criminal cases during the specified period, then the person is counted three times. A single criminal case involving four defendants is counted four times. In federal prison data, the unit of analysis is a person entering or in custody at fiscal year-end. A person can be sentenced in two or more cases, but only one person is admitted to prison. Because of this, comparing absolute numbers in a table where the person-case is the unit of analysis to a table where the person is the unit of analysis will not yield the same number. For statistics described as not shown in tables, data are publicly available for research and statistical purposes at the National Archive of Criminal Justice Data at the University of Michigan archive (<https://www.icpsr.umich.edu/web/pages/NACJD/guides/fjsp.html>).

**APPENDIX TABLE 1****Counts for figure 1: Persons prosecuted in U.S. district courts, by citizenship status, fiscal years 1998–2018**

Fiscal year	Total	U.S. citizens	Non-U.S. citizens	Citizenship status missing
1998	60,948	39,870	18,685	2,393
1999	65,558	42,569	19,984	3,005
2000	67,902	43,602	21,948	2,352
2001	68,214	44,506	21,621	2,087
2002	71,571	46,234	23,254	2,083
2003	76,305	46,943	27,143	2,219
2004	78,219	46,688	29,344	2,187
2005	79,133	46,197	30,770	2,166
2006	82,653	48,720	32,280	1,653
2007	81,322	47,928	32,672	722
2008	88,551	51,040	36,335	1,176
2009	93,267	48,941	43,157	1,169
2010	99,712	48,321	50,186	1,205
2011	103,163	49,246	52,658	1,259
2012	104,795	50,629	53,843	323
2013	103,174	49,595	52,523	1,056
2014	98,388	47,358	49,989	1,041
2015	89,719	44,295	44,343	1,081
2016	83,435	42,139	40,336	960
2017	79,846	42,036	36,761	1,049
2018	84,838	42,686	41,176	976
Percent change, 1998–2018	39.2%	7.1%	120.4%	-59.2%
Percent change, 2017–2018	6.3%	1.5%	12.0%	-7.0%

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Probation and Pretrial Services Automated Case Tracking System, fiscal years 1998–2018.



**APPENDIX TABLE 2****Counts for figure 2: Non-U.S. citizens incarcerated in federal prisons at fiscal year-end, by selected offense type, fiscal years 1998–2018**

Fiscal year	Total	Type of offense			
		Drug	Immigration	Other*	Missing
1998	26,751	16,952	7,226	2,498	75
1999	30,942	18,223	9,843	2,764	112
2000	36,572	19,855	13,122	3,444	151
2001	38,886	20,733	14,423	3,564	166
2002	40,008	21,275	15,002	3,580	151
2003	42,201	22,205	16,129	3,718	149
2004	42,791	21,703	17,300	3,654	134
2005	44,305	21,736	18,700	3,700	169
2006	44,633	22,253	18,361	3,839	180
2007	45,714	22,780	18,625	4,135	174
2008	46,444	22,715	18,741	4,825	163
2009	48,723	22,915	20,886	4,767	155
2010	47,551	22,235	20,382	4,795	139
2011	51,856	23,321	23,245	5,169	121
2012	51,308	23,249	22,504	5,412	143
2013	50,699	23,062	21,971	5,528	138
2014	46,876	22,028	19,138	5,534	176
2015	42,497	20,426	16,483	5,396	192
2016	37,257	17,679	14,298	5,133	147
2017	33,962	17,124	11,695	5,028	115
2018	30,848	16,209	9,482	5,061	96
Percent change 1998–2018	15.3%	-4.4%	31.2%	102.6%	28.0%
Percent change 2017–2018	-9.2%	-5.3%	-18.9%	0.7%	-16.5%

Note: The unit of count is the individual, federally sentenced prisoner. Includes persons sentenced in U.S. district courts and in the custody of the Federal Bureau of Prisons (BOP) as of September 30, 2018. Excludes persons sentenced to the BOP by the D.C. Superior Court, military prisoners transferred to BOP facilities to serve their sentence, U.S. citizen-prisoners transferred to the U.S. from another country to serve their sentence closer to home, and persons convicted of a state offense but serving time in a federal prison for their security needs.

\*Includes violent, property, weapons, and public-order offenses.

Source: Bureau of Justice Statistics, based on data from the Federal Bureau of Prisons, SENTRY database, fiscal years 1998–2018.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Doris J. James is the acting director.

This report was written by Suzanne M. Strong and Mark Motivans. Jennifer Bronson, George Ebo Browne, and staff from The Urban Institute (William Adams, KiDeuk Kim, and Kelly Roberts-Freeman) verified the report.

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