
VI. ENFORCEMENT

This section provides information about actions taken by the Immigration and Naturalization Service to prevent illegal entry into the United States and to apprehend and remove deportable aliens from the United States.

Enforcement of Immigration Laws

The Immigration and Naturalization Service (INS) has the initial responsibility for determining who may be admitted to the United States. The INS also has the responsibility for enforcing immigration laws within the United States and on the borders. These responsibilities include locating and arresting aliens who are in violation of the Immigration and Nationality Act (INA) (see Appendix 1, p. A.1-12), *i.e.*, aliens attempting an illegal entry, aliens who successfully complete an illegal entry, and aliens who entered the United States legally but have since lost their legal status. The arrests are known as apprehensions. Almost all of the work involved in locating and arresting aliens is done by either Border Patrol agents or Investigations special agents. Immigration Inspectors work to prevent the entry of inadmissible aliens at a port of entry. The custody and processing of apprehended aliens and certain of the aliens refused entry is a joint effort involving arresting agents, INS attorneys, and detention and deportation officers. Aliens refused admission or apprehended may be removed from the United States as described below.

Border Patrol

The primary mission of the U.S. Border Patrol is to secure the 8,000 miles of land and water boundaries of the United States between ports of entry. The major objectives of the Border Patrol are to prevent illegal entry into the United States, interdict drug smugglers and other criminals, and compel those persons seeking admission to present themselves legally at ports of entry for inspection. The INS “prevention through deterrence” strategy calls for deploying Border Patrol agents along the border to prevent and deter illegal entry, rather than apprehending undocumented immigrants after they have entered the United States. Border Patrol operations are divided into 21 sectors. The southwest border covers four states (California, Arizona, New Mexico, and Texas) and divides into nine sectors: San Diego and El Centro in California; Yuma and Tucson in Arizona; El Paso sector covering New Mexico and the western-most portion of Texas; and Marfa, Del Rio, Laredo, and McAllen in Texas. The

remaining 12 sectors are: Livermore in California; New Orleans in Louisiana; Miami in Florida; Havre in Montana; Blaine and Spokane in Washington; Grand Forks in North Dakota; Buffalo in New York; Swanton in Vermont; Detroit in Michigan; Ramey in Puerto Rico; and Houlton in Maine.

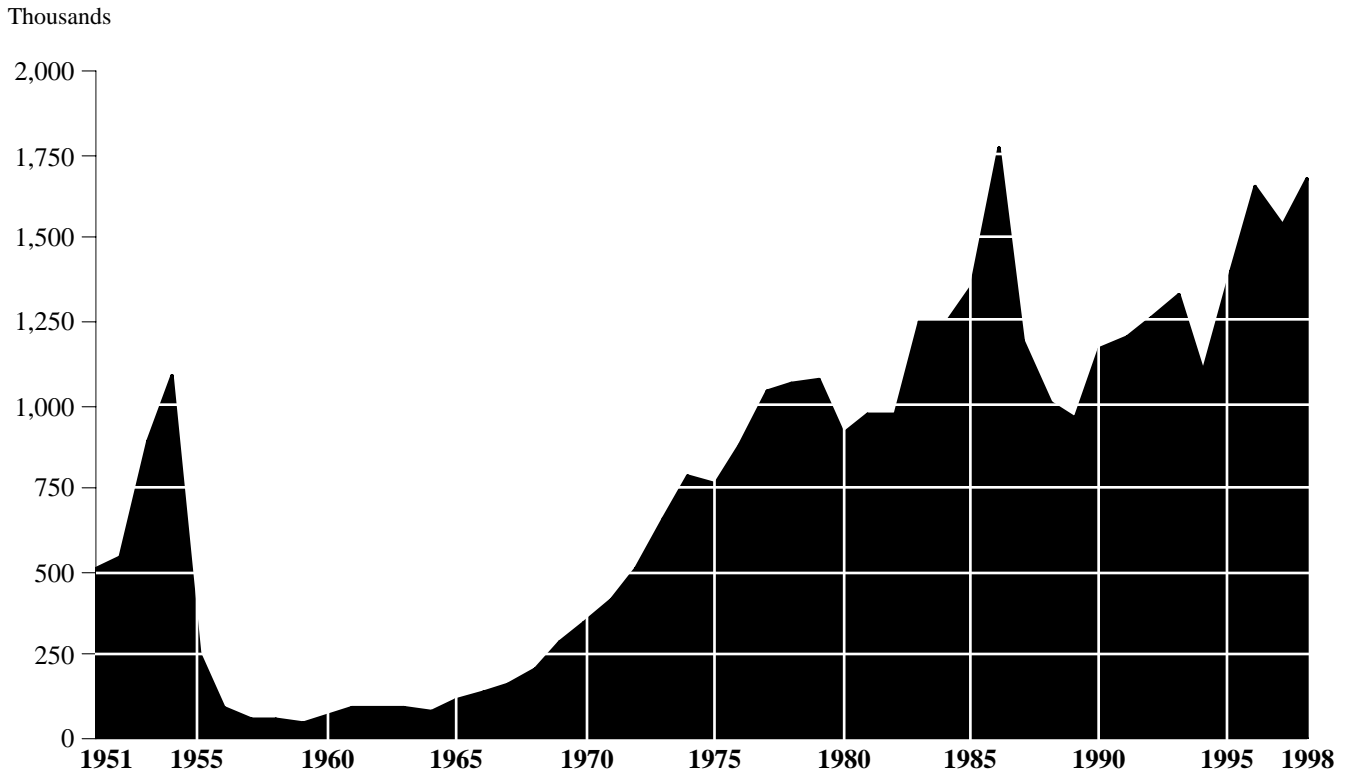
Investigations Program

The Investigations Program focuses on the enforcement of immigration laws within the interior of the United States. Special agents plan and conduct investigations of persons and events subject to the administrative and criminal provisions of the INA. Agents use both traditional and modern technological methods, including forensic science, to investigate violations of immigration law and aliens involved in criminal activities. They often work as team members in multi-agency task forces against terrorism, violent crime, document fraud, narcotic trafficking, and various forms of organized crime. They also seek to identify aliens who are incarcerated and deportable as a result of their criminal convictions. In addition, Agents monitor and inspect work sites to apprehend unauthorized alien workers and to impose sanctions against employers who knowingly employ them. Apprehensions at places of employment may result in removals from the workplace and also can result in removal from the United States.

Inspections Program

Immigration inspectors determine the admissibility of aliens who have arrived at a designated port of entry. There are approximately 300 such ports in the United States. Inspectors may permit most inadmissible aliens the opportunity to withdraw their application for admission or in some cases inspectors will refer an alien to an immigration judge for removal proceedings. Since April 1997 inspectors have had the authority to order certain aliens removed under expedited removal proceedings without further hearings or review by an immigration judge. The expedited removal order carries the same penalties as a removal order issued by an immigration judge. Immigration inspectors also prepare cases for criminal prosecution by United States Attorneys, including cases involving alien smuggling, document fraud, and attempted illegal entry.

Chart R
Aliens Apprehended: Fiscal Years 1951-98



Source: Table 58. See Glossary for fiscal year definitions.

More than 55,000 criminal aliens were removed during 1998.

Detention and Removal Program

Removal proceedings encompass the actions that lead to the formal removal of an alien from the United States when the presence of that alien is deemed inconsistent with the public welfare. The INS has several options in removing an alien from the United States. Traditionally, these options included deportation, voluntary departure and exclusion; however, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, see Appendix 1, p. A.1-23) made major revisions to these procedures that were effective on April 1, 1997. Deportation and exclusion proceedings were consolidated as removal proceedings (with voluntary departure continuing as an option at government convenience). The most significant change was the new authority for expedited removals.

Most removal proceedings are conducted before an immigration judge. Possible outcomes of an immigration hearing include removal, adjustment to a legal status, or a

termination of proceedings. Some aliens abscond before or after the hearing. Decisions of the immigration judge can be appealed to the Board of Immigration Appeals.

Under expedited removal an immigration officer may determine that an arriving alien is inadmissible because the alien engaged in fraud or misrepresentation or because the alien lacks proper documents. The officer can order the alien removed without further hearing or review unless the alien states a fear of persecution or an intention to apply for asylum. Officers refer aliens who make such pleas to an asylum officer and the case may eventually be argued before an immigration judge.

The penalties associated with formal removal include not only the removal but possible fines, imprisonment for up to 10 years, and a bar to future legal entry (the bar is permanent for aggravated felons and up to 20 years for other aliens). The imposition and extent of these penalties depends upon the circumstances of the case.

Voluntary departure

In some cases, an apprehended alien may be offered a voluntary departure. This procedure is common with non-criminal aliens who are apprehended by the Border Patrol

during an attempted illegal entry. They agree that their entry was illegal, waive their right to a hearing, remain in custody, and are removed under supervision. Some aliens apprehended within the United States agree to voluntarily depart and pay the expense of departing. These departures may be granted by an immigration judge or, in some circumstances, by an INS District Director. Aliens who have agreed to a voluntary departure can be legally admitted in the future without penalty. Although such departures are called “voluntary departures,” they are required and verified.

Data Overview: Apprehensions

(Tables 56-59)

Aliens are apprehended under three INS programs—Border Patrol, Investigations, and Examinations. The largest of these programs by far is the Border Patrol. In fiscal year 1998, the INS apprehended 1,679,439 aliens. Of this number, the Border Patrol made 1,555,776 apprehensions, of which 97 percent were made along the southwest border. During the fiscal year 1986-98 period, the Border Patrol accounted for between 92 to 97 percent of total apprehensions, Investigations for 3 to 8 percent, and Examinations for less than 1 percent. Technically, the Inspections Program does not apprehend aliens and their interceptions of inadmissible aliens are not reported in the apprehension statistics.

Southwest border apprehensions (Table 58)

Southwest border apprehensions were an all-time record 1,615,844 in fiscal year 1986 and then decreased 3 consecutive years immediately following enactment of the Immigration Reform and Control Act (IRCA) of 1986 (see Appendix 1, p. A.1-19). This legislation allowed 2.7 million formerly illegal aliens to become legal immigrants, established sanctions against employers who hire illegal aliens, and authorized an increase in the size of the Border Patrol. The number of apprehensions reached a low of 852,506 in 1989 and has generally increased since then. The only years with annual decreases were 1994 and 1997. The number of southwest border apprehensions in 1998 was 1,516,680, an 11 percent increase compared to fiscal year 1997.

Border Operations

Several major INS operations have had an impact on apprehensions over the years. These operations typically deploy agents nearer the border at strategic locations in order to deter illegal entry. The number of apprehensions tend to decrease in the targeted areas and increase in surrounding sectors.

The first initiative was Operation Hold-the-Line, in El Paso, beginning in September 1993. The second, Operation Gatekeeper, began in San Diego in October

1994. These two sectors accounted for two out of every three apprehensions along the southwest border in fiscal year 1993. The percentage dropped to 50 percent of the total in 1995, and was approximately 25 percent in fiscal year 1998.

The number of apprehensions in El Centro, CA and Tucson, AZ, the sectors east of San Diego, increased following introduction of Operation Gatekeeper. The number of apprehensions in Tucson increased from 139,473 in fiscal year 1994 to 387,406 in fiscal year 1998. El Centro increased from 27,654 in fiscal year 1994 to 226,695 in 1998. McAllen surpassed El Paso as the leading sector in number of apprehensions in Texas following Operation Hold-the-Line in fiscal year 1994, going from 124,251 in 1994 to 243,793 in 1997. Reacting to the increases, the INS began a new operation in McAllen in August 1997 called Operation Rio Grande. Apprehensions declined to 204,257 in fiscal year 1998, a 16 percent decrease compared to 1997.

Nationality (Table 57)

Nationals of 186 countries were apprehended in 1998—aliens from Mexico predominated, accounting for 96.1 percent of the total. The next largest source countries were El Salvador, Honduras, Guatemala, the Dominican Republic, Canada, Cuba, Jamaica, Colombia, Haiti, and Ecuador.

Data Overview: Investigations

(Table 60)

Investigations work is composed of four major categories—criminal, work site enforcement, fraud, and anti-smuggling.

Criminal

Criminal cases have historically represented the largest proportion of the total Investigations workload. In 1998 they account for 86 percent of cases completed. These cases have steadily increased over the years from 38,716 cases in 1992 to 87,295 in 1998, an increase of 126 percent. The targets of these investigations include large scale organizations engaged in ongoing criminal activity in violation of Title 8 or Title 18, U.S.C. or similar laws, including those pertaining to narcotics and terrorism. Criminal cases also include individual aliens convicted of a crime or crimes rendering them subject to INS action, aliens arrested for the commission of an aggravated felony, aliens involved in activities considered contrary to the security of the United States, and aliens included in certain immoral classes. Defendants prosecuted in 1998 increased 53 percent compared to the number in 1997, while the number of defendants convicted was up 46 percent.

Work site enforcement

The focus of work site enforcement is employers of aliens who are not authorized to work. Immigration law prohibits the unlawful employment of aliens and provides for penalties and fines against employers who hire, recruit, or refer aliens to employment for a fee. Employer cases may involve criminal or administrative investigations as well as general inspections. Employer cases may also originate as referrals from the Department of Labor. Total work site cases completed dropped annually from 7,053 cases in fiscal year 1992 to 5,283 in 1995, and 5,149 cases in 1996, then rose to a high of 7,795 in 1998. The number of arrests rose significantly from 7,554 in fiscal year 1994 to 17,552 in 1997, an increase of 132 percent. Arrests dropped to 13,934 in fiscal year 1998, a decrease of 21 percent. In addition, the number of warnings to employers in 1998 (642) decreased 12 percent compared to the number issued in 1997. Notices of intent to fine (1,023) increased 19 percent while the number of final orders (535) was down by 31 percent.

Fraud investigations

Fraud investigations seek to penetrate fraud schemes of all sizes and complexity that are used to violate immigration and related laws, or to shield the true status of illegal aliens in order to obtain entitlement benefits from federal, state, or local agencies. Fraud cases completed in fiscal year 1998 decreased 5 percent when compared to 1997. Of the 4,614 fraud cases completed in fiscal year 1998, 71 percent pertained to individuals involved in immigration fraud, 4 percent to large-scale organizations, 15 percent to facilitators, 6 percent to civil document fraud (INA 274C), and the remaining 4 percent to special projects and entitlement fraud. The majority of fraud cases involved immigration fraud stemming from aliens misrepresenting themselves through the misuse or absence of documents.

Anti-smuggling activities

Anti-smuggling activities of the INS include the detection, apprehension, and prosecution of alien smuggling operations. The target of these investigations are persons or entities who bring, transport, harbor, or smuggle illegal aliens into or within the United States. The targets include violators with a substantial volume of smuggled aliens or revenues from the smuggling activity, *e.g.*, organized conspiracies consisting of four or more persons, and individuals such as freelance operators who smuggle infrequently or independently, or non-professional violators who smuggle relatives, household employees, or employees of small businesses. The INS completed 2,033 smuggling investigations cases in fiscal year 1998, a 74 percent increase from the 1,171 cases completed in 1997. In 1998, the INS arrested 45,128 smuggled aliens, a 34 percent decrease from the high of 68,203 in 1995.

Data Overview: Removals

(Tables 61-69)

The most complete picture of adverse actions involving individual aliens includes aliens who withdraw their application for admission when presented with evidence of their inadmissibility, aliens who are allowed to voluntarily depart, and aliens who are formally removed with consequent penalties. The following table summarizes the activities in fiscal year 1998:

	Number of aliens
Withdrew application for admission	500,346
Accepted offer of voluntary departure	1,569,817
Formally removed (with penalties)	172,547

Withdrawal of application for admission

An immigration inspector makes the decision to permit a withdrawal of an application for admission at a port of entry. The inspector also has the authority to place an arriving alien in expedited removal proceedings (discussed below). The INS has very little data on the characteristics of those that are permitted to withdraw. In addition to withdrawals, inspectors referred an additional 11,905 aliens to hearings before an immigration judge in fiscal year 1998.

Voluntary departure (Tables 61, 62)

More than 97 percent of voluntary departures involve aliens who are apprehended by the Border Patrol and removed quickly. This statistic includes recidivists and thus is a measure of events rather than unique individuals. The INS does not currently have a centralized automated information system with the characteristics of most of these aliens. There are, however, characteristics for approximately 71,000 aliens who admitted that they had been in the United States illegally for longer than 3 days and agreed to a witnessed departure. Of this group, approximately 99 percent were aliens from Mexico; their median age was 23 years, and 93 percent were male. These aliens are probably similar to the rest of the voluntary departures but they have been in the United States for a longer period; 31 percent had been here longer than a year and another 39 percent had been here longer than a month but less than one year. One other characteristic distinguishes this longer-staying group (but not all voluntary departures); the INS located 21 percent of these aliens in institutions (generally, county jails). Those found in incarceration were granted a witnessed voluntary departure because their crimes were minor or local authorities declined to prosecute.

Formal removal (Table 61)

In fiscal year 1998 the number of formal removals was up dramatically from previous years. This increase is the result of increased resources available to the program in

recent years and the implementation of expedited removal procedures after April 1, 1997. The following table illustrates the impact of expedited removals (a subset of total removals):

Fiscal year	Total removals	Expedited removals
1993	42,469	X
1994	45,621	X
1995	50,873	X
1996	69,588	X
1997	114,292	23,484
1998	172,547	76,671

X Not applicable.

Expedited removal

Expedited removals were 44 percent of all formal removals in fiscal year 1998. Expedited removal procedures allow the INS to quickly remove certain inadmissible aliens from the United States. In fiscal year 1998 the INS used these procedures with aliens arriving at ports of entry who illegally attempted to gain admission by fraud or misrepresentation or with no entry documents or by using counterfeit, altered, or otherwise fraudulent or improper documents. Aliens placed in the expedited removal process have the opportunity to claim a fear of persecution or an intention to apply for asylum, or they may claim to have certain legal status in the United States. All cases are reviewed by a supervisor and aliens who have made certain claims may be referred to an asylum officer and ultimately to an immigration judge.

Inspectors determined that about 600,000 arriving aliens in fiscal 1998 were inadmissible. Of these about 160,000 were inadmissible for reasons that made them subject to expedited removal. However, 80,000 of those aliens were allowed to withdraw their application for admission. The remaining 80,000 were placed in expedited removal. Only about 3,000 of these aliens expressed a fear of being returned; they were referred to an asylum officer. About 86 percent of those 3,000 aliens were found to have a credible fear of persecution and were taken out of the expedited removal process and scheduled for hearings before an immigration judge.

Aliens from Mexico accounted for over 93 percent of expedited removals in fiscal year 1998. The next largest countries are Jamaica, the Dominican Republic, Canada, and Ecuador (all with less than one percent of expedited removals). Approximately 72 percent of all expedited removals occurred at one of four southwest border ports of

entry; San Ysidro, CA (43 percent), El Paso, TX (12), Calexico, CA (9) and Laredo, TX (8).

The INS collects more data on the characteristics of aliens with a formal removal than it does for the other categories of removal.

Country of citizenship (Tables 64, 65)

Aliens with a formal removal came from 171 countries in fiscal year 1998; 31 countries had more than 100 aliens removed from the United States. However, just 8 countries accounted for almost 94 percent of all formal removals. These same 8 countries have been the top countries for several years with approximately 88 percent or more of all formal removals each year since 1993.

Country	Number removed	Number of criminals
Mexico	139,135	42,789
El Salvador	5,315	1,711
Guatemala	5,120	974
Honduras	5,105	1,146
Dominican Republic	2,498	1,690
Jamaica	1,844	1,216
Colombia	1,793	1,350
Canada	889	508

Criminal activity (Table 65)

The passage of the Immigration Reform and Control Act in 1986 helped the INS focus on the removal of those aliens determined to be the greatest threat to society. In fiscal year 1986 the INS removed 1,978 aliens for criminal violations (4 percent of all removals). The removal of criminal aliens has increased greatly since then. The 1998 removal of 55,489 criminals is the largest total ever, and an increase of nearly 12 percent over 1997. The 8 countries that account for most of the removals also are the countries that accounted for 93 percent of criminals the INS removed from the United States in 1998. They have been the leading countries in this category for several years with 91 percent or more of all criminals removed each year since 1993. One significant change within the group is that the number of criminal aliens from Canada fell from 1,065 in 1993 to 393 in 1997. Since 1986, the INS has devoted an increasing proportion of resources to drug interdiction at the border and to interagency cooperative task forces designed to eliminate trafficking in illegal drugs within the United States. The INS also has increased its cooperation with other law enforcement agencies to ensure that aliens convicted of crimes and incarcerated are placed into removal proceedings during or at the end of their prison sentence.

The ten most common categories of crime in fiscal year 1998 include:

Crime	Number removed	Percent of total crimes
Dangerous drugs	26,081	47
Immigration	8,064	15
Burglary	2,955	5
Assault	2,882	5
Larceny	1,600	3
Robbery	1,587	3
Weapon offenses	1,458	3
Sexual assault	1,129	2
Stolen vehicle	1,026	2
Sex offenses.....	853	2

Administrative reason for removal

(Tables 63, 66-68)

The administrative reason for removal is the primary charge cited by an immigration judge in the order to remove an alien. There are more than 100 charges that might form the basis for a removal in 1998, but most fall into one of three main categories. Aliens who were present in the United States after making an illegal entry account for 28 percent of all aliens formally removed. Aliens who attempted entry without proper documents, or through fraud or misrepresentation, account for 46 percent and aliens with criminal charges account for 21 percent (a criminal alien as defined in the previous section may not have a criminal charge as the reason for removal if, for example, the immigration judge did not have appropriate documents from the relevant criminal justice system). This distribution is very different than previous years because of the large number of expedited removal cases; those cases are classified as attempting entry.

Immigration status at entry to the United States

At least 43 percent of all aliens with a formal removal attempted (and perhaps completed) an illegal entry between designated ports of entry. Almost 44 percent attempted to enter at a port of entry without proper documents or through fraud or misrepresentation. The remainder made legal entries but then failed to maintain status; parolees, tourists, and legal permanent residents are the largest groups in this category.

Aliens removed from the interior

The INS defines “interior” removals as the removals of aliens who had been in the United States for longer than 3 days. In fiscal year 1998 71,815 formal removals met this definition; about 42 percent of all formal removals. In addition, as noted above, 70,743 aliens were allowed an escorted voluntary departure from the interior. Another 7,124 had other types of voluntary departure. Approximately 31,000 aliens with formal removals had

been in the United States for longer than a year. Aliens apprehended in work site operations and subsequently removed from the United States are a subset of aliens removed from the interior. There were 1,916 such aliens formally removed in 1998 (an additional 8,272 were allowed a voluntary departure).

Gender and age

The median age of aliens with a formal removal in fiscal year 1998 was 26 years, down slightly from the 27 years of age typical of the last several years. That decline is due to the increasing proportion of women among aliens removed; their median age was 25 years in 1998. Between 1992 and 1995 the proportion of women was about 6 percent. The proportion of women rose to 12 percent in 1996, 16 percent in 1997, and 21 percent in 1998. Most of this increase is attributable to women from Mexico who attempted entry without proper documents or through fraud. In 1996 the special “Port Court” processing at the San Diego ports provided the resources necessary to put more arriving aliens into proceedings than had been possible before. This special processing continued until the implementation of expedited removal procedures in April 1997. In either case, larger numbers of women were intercepted as they attempted entry in the San Diego area. Women are 39 percent of all expedited removals.

Understanding the Data

Data Collection

Apprehension and voluntary departure

Apprehension data are collected on Form I-213, Record of Deportable/Inadmissible Alien. Much of the data collected establishes the identity of the individual and the circumstances of the apprehension. Some demographic data are available including country of birth, country of citizenship, gender, date of birth, and marital status. However, the Performance Analysis System (PAS, the principal automated data system for a variety of INS workload measures) captures only aggregated data on country of citizenship, location of apprehension, status at entry, length of time in the United States, and limited information on employment status. Individual INS offices report these data once a month. Statistics on the number of voluntary departures are also based on data captured on Form I-213. The data on most voluntary departures are aggregated and reported in PAS. The only data element collected is whether the alien was a Mexican national.

Voluntary departure (interior)

Data on aliens granted a voluntary departure who had been in the United States for longer than 3 days are collected from the Form I-213s for those aliens. The data capture for this special subset of aliens is not aggregated to the office level but rather maintained at the individual alien level.

Individuals removed

The data on individuals removed with a formal order of removal or given a voluntary departure under docket control are more extensive. These data are collected via the INS' automated Deportable Alien Control System (DACS). The data captured include immigration status, type of entry into the United States, reasons for removal, history of criminal activity, limited employment information, and basic demographic information such as date of birth, gender, marital status, country of birth, country of citizenship, and country to which deported. In general, these data are entered in DACS over a period of time that begins with the placing of an apprehended alien in docket control. In some INS offices most of the data entry is done at the time of case closure (removal, adjustment of status, *etc.*).

Other data

Data on drug seizures, accomplishments of the Border Patrol, accomplishments of the Investigations program, prosecutions, fines, convictions, and judicial activities are captured in PAS. As noted above, these are aggregated data updated once a month by INS offices.

Limitations of Data

Case tracking

The INS' current data systems cannot link an apprehension to its final disposition (removal, adjustment of status, *etc.*). Therefore, analysts should use caution when comparing apprehension and removal data. Apprehended aliens who choose to use the available appeals procedures will spend several months and perhaps several years in the process before final disposition of their cases. In other words, aliens apprehended in any given fiscal year are quite likely to be removed (or adjusted to legal status, *etc.*) in some future fiscal year. In addition, INS statistics on apprehensions and removals relate to events, not individuals. For example, if an alien has been apprehended three times during the fiscal year, that individual will appear three times in the apprehension statistics.

Time lags in data entry

The data on removals under docket control (formal removals) reported in this and other *Statistical Yearbooks* should be used cautiously. One problem is the time lag in reporting removals. The data in this *Yearbook* have been adjusted to reflect the actual year of removal. The data for each fiscal year require updating and cannot be considered complete for at least 4 years. For example, the removals reported during fiscal year 1998 that occurred in 1997 increased the number for fiscal year 1997 by 2.2 percent.

Changes in definitions

Another area of caution involves changes in definitions across years. For example, the INS has expanded the information about the crimes of aliens removed in recent years. This change allows the INS to more accurately count the number of criminals that it removes. The statistics in this *Yearbook* reflect these changes and update the data on criminals from fiscal year 1990 onward.

Changes in definitions and new reporting requirements may also explain some of the variations in the data concerning Investigations activities. In particular, there have been significant changes in the reporting requirements for anti-smuggling and work site enforcement activities.

Tracking system for work site enforcement

Another historical problem has been the difficulty in providing the number of work site apprehensions that have resulted in deportation or removal from the United States. Until 1997, an adequate tracking system did not exist to track the number of aliens removed from the United States who were arrested during work-site enforcement operations. Currently, the Deportable Alien Control System (DACS) and the Voluntary Returns (IVR) systems provide data but there have been data collection problems associated with the new data entry requirements.