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### Increasing Evidence That Recession Has Caused Number of Unauthorized Immigrants in US to Drop

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In another indication that the recession has affected the size of the unauthorized immigrant population, the US Department of Homeland Security (DHS) now estimates that the number of unauthorized immigrants residing in the United States fell by about 1 million between January 2007 and January 2009. According to a new DHS report, 11.8 million unauthorized immigrants lived in the United States as of January 2007. By January 2009, that number had fallen to 10.8 million.

Though estimates of illegal immigration are subject to wide margins of error, the new report is consistent with an earlier study that also found a decline in the unauthorized population beginning in 2007. In April 2009, the Pew Hispanic Center estimated that between March 2007 and March 2008, the size of the unauthorized immigrant population decreased by 500,000 people. Pew has not published more recent estimates.

The DHS report indicates that the drop in unauthorized immigrants was particularly pronounced in certain states. California and Florida experienced the greatest absolute decreases between 2007 and 2009, as each state lost more than 200,000 unauthorized immigrants. In California, this represented an 8 percent drop and in Florida a 25 percent drop. In Arizona, the unauthorized population fell by 13 percent, but in absolute terms this was less than 75,000 people.

Although the number of unauthorized immigrants residing in Texas, Georgia, and Illinois also decreased, the drops represented a decrease of just a few percent — probably within the margin of error of the estimates.

In terms of country of origin, the number of unauthorized Mexican immigrants dropped by only about 5 percent (or about 300,000). DHS estimates that the number of unauthorized Chinese immigrants fell by about half and the number from Brazil by about a fifth. In contrast, there was a marked increase in the number of unauthorized immigrants from Honduras and Ecuador.

The overall decrease in the unauthorized population marks a dramatic break from the 1990s and the first decade of the new millennium, when the unauthorized population steadily increased. Pew Hispanic Center estimates there were 3.5 million unauthorized immigrants in the United States in 1990, and that the inflow of unauthorized immigrants averaged 800,000 immigrants per year between 2000 and 2004, and 500,000 immigrants per year between 2005 and 2007.

Most experts agree that the decline in the number of unauthorized immigrants is closely linked to the US recession. Studies have found that historically, recessions affect unauthorized workers disproportionately, as they are more likely to work in industries that are sensitive to business cycles, such as construction, manufacturing, and hospitality. In addition, unauthorized immigrants tend to have less secure contractual arrangements with their employers than do native-born and lawful-immigrant workers.

The current recession has hit unauthorized immigrants especially hard because of job losses in the construction industry, the sector of the economy the recession weakened most. According to the Pew Hispanic Center, the industry shed 700,000 jobs between the first quarter of 2007 and first quarter of 2008. Pew found that 21 percent of unauthorized immigrant workers were employed in the construction industry in 2008. California, Florida, and Arizona have been particularly hurt by the recession, and these three states

have had relatively high foreclosure rates and housing price declines — factors that affect the demand for immigrant labor in construction.

Another indication of the lower levels of unauthorized migration is the drop in the number of apprehensions at the border. US Customs and Border Protection registered only 556,000 apprehensions of individuals attempting to enter the United States illegally during fiscal year (FY) 2009 (the federal government's fiscal year runs from October 1 through September 30). That number represents the lowest level of apprehensions since the mid-1970s. The 2009 level of apprehensions was a 23 percent drop from the number made in FY 2008 (724,000) and a 50 percent drop from the apprehensions number in FY 2006 (1.1 million)

Other sources have also pointed to analogous decreases in the number of Mexican immigrants arriving in the United States. Because the level of legal immigration from Mexico to the United States has not changed in the last few years, experts have attributed the drop to a decline in the numbers of unauthorized Mexican immigrants. The US Census Bureau's Current Population Survey (CPS) estimates that just 175,000 Mexican immigrants entered the United States between March 2008 and March 2009, the lowest level in over a decade.

Similarly, survey results from Mexico's National Survey of Employment and Occupation (ENOE) have reported that flows out of Mexico were 20 percent lower between February 2008 and February 2009 than during the same period a year earlier. Studies have shown that nearly all Mexican migrants that leave the country move to the United States.

Some experts have argued that increased border security and interior immigration enforcement measures are responsible for the drop in levels of unauthorized immigrants. They point to the fact that in Arizona, which experienced a large decrease in its unauthorized immigrant population between 2008 and 2009, state officials have implemented tougher immigration enforcement measures, such as requiring all businesses to use the federal E-Verify program to check whether newly hired employees are authorized to work. However, DHS estimates show a larger drop in Florida, which has implemented no such measures.

Others have attributed the overall drop in the size of the unauthorized immigrant population to higher rates of return migration, either in response to heightened levels of interior immigration enforcement, or because of the recession. But the data from Mexico do not show any major change in the pattern of return migration to that country.

According to ENOE data, between February 2008 and February 2009, an estimated 443,000 Mexican immigrants returned to Mexico, roughly the same number of immigrants who returned between February 2007 and February 2008 (440,000), and 36,000 fewer than returned between February 2006 and February 2007 (479,000). There has likely been more significant return migration to China, Brazil, and other countries not so negatively affected by recession; however, these countries account for much smaller shares of the overall unauthorized population than Mexico.

While the number of unauthorized immigrants living in the United States appears to have significantly declined between 2007 and 2009, the number of legal immigrants has remained constant. According to the 2008 DHS *Yearbook of Immigration Statistics*, the United States admitted about 1.1 million lawful permanent residents during FY 2008, roughly the same number as in FY 2007. The stability of the permanent resident numbers suggests that family sponsorship, which accounts for the bulk of permanent immigrant admissions to the United States, has been relatively unaffected by the economic downturn.

Similarly, the number of refugees admitted to the United States each year has also remained unchanged, as the president sets annual refugee admissions levels in response to specific country conditions abroad.

Yet the recession has tempered employer-driven demand for highly skilled temporary workers. In 2009, the annual cap of 65,000 H-1B visas for skilled foreign-born workers allowed was reached more than eight months after US Citizenship and Immigration Services first began accepting applications. In prior years, the cap had been met within the first few days or weeks of the filing-eligibility date.

The growing evidence that illegal immigration has declined has prompted new speculation

over the prospects for legislation granting legal status to unauthorized immigrants. Supporters of such legislation have argued that the decline in the flow of unauthorized immigrants, combined with the fact that few unauthorized immigrants in the United States are returning home, presents an opportune moment to legalize those already in the country without legal status.

Critics, however, argue that at a time of high unemployment rates, any legalization program would negatively affect employment prospects for native-born and authorized workers.

- Read the new **DHS report**.
- Read the April 2009 **report from the Pew Hispanic Center** on the size of the unauthorized population.
- Read the **July 2009 Pew Hispanic Center report on Mexican immigrants** in the United States.
- Read the report from the **Rand Corporation** on Mexican immigration to the United States
- Check out the **2008 Yearbook of Immigration Statistics**.
- Read more about the drop in the unauthorized population in the **October 2008 Policy Beat**.

### **Appeals Court Strikes Two Employer Provisions in Oklahoma Immigration Law**

Two controversial immigration provisions in a 2007 Oklahoma law conflict with federal law, the US Court of Appeals for the Tenth Circuit found in affirming the decision of a lower court.

The Oklahoma Taxpayer and Citizen Protection Act of 2007 would have made it a discriminatory practice for a business in Oklahoma to fire a US citizen or lawful permanent resident while retaining an unauthorized immigrant in the same position. The law would also have imposed a new tax on businesses that did not confirm that their independent contractors were authorized to work.

The appeals court found that these provisions were preempted by the 1986 Immigration Reform and Control Act.

The appeals court split, however, over a provision that would require all public employers in Oklahoma to use E-Verify to check the employment eligibility of new hires. While a majority of the judges reversed the district court's decision to summarily strike down this section of the statute, the judges upheld the decision to temporarily prevent the E-Verify provision from taking effect until after the district court had fully considered the merits of the case.

Notably, the appeals court decision came as the US Supreme Court considers whether to accept for review a related case involving Arizona's E-Verify law.

- Read the Appeals Court's decision in ***Chamber of Commerce v. Edmondson***.
- Read the **Oklahoma Taxpayer and Citizen Protection Act of 2007**.
- Read the Ninth Circuit's decision in ***Chicanos Por La Causa v. Napolitano***.
- Read more about the Legal Arizona Worker Act in the **January 2008 Policy Beat**.

### **Policy Beat in Brief**

***Detained Immigrants with Criminal Convictions***. Roughly 43 percent of detained immigrants had criminal convictions in the first quarter of FY 2010, compared to 27 percent in FY 2009, according to a new report issued by the Transactional Records Clearinghouse (TRAC). TRAC attributes the change to Immigration and Customs Enforcement shifting its detention priorities away from apprehending noncriminal aliens.

- Read the new **TRAC report**.
- Read MPI's **Spotlight on Immigration Enforcement in the United States**.

***Asylum for German Homeschooling Family***. A German man who feared persecution because he and his wife homeschool their five children has received asylum. Citing strict German laws that prohibit homeschooling and impose heavy fines on parents, as well as the fact that the applicant's children had been escorted to school in a police van, immigration judge Lawrence O. Burman found that the family's treatment rose to the level of "persecution." To gain asylum in the United States, an applicant must show past

persecution or a well-founded fear of future persecution on the basis of race, ethnicity, religion, political opinion, or membership in a particular social group.

- Read the [press release](#) on the case published by the Home School Legal Defense Association, which assisted in bringing the asylum case.
- Read MPI's latest [Spotlight on Refugees and Asylees in the United States](#).

**Haitian TPS Applicants.** Nearly 32,000 Haitian nationals have applied for Temporary Protected Status (TPS) as of March 2010, according to media reports. The low number has surprised some immigrant advocates because DHS has estimated that between 100,000 to 200,000 Haitian immigrants are eligible to apply. The designation of Haiti for TPS, which DHS announced on January 15, 2010, allows Haitian nationals who were present in the United States as of January 12, 2010, to work and protects them against deportation for 18 months. Haitian immigrants have until July 20, 2010, to apply for TPS.

- Read Homeland Security Secretary Janet Napolitano's [statement](#) on the designation of Haiti for TPS.
- Read more about TPS for Haitians in the [February 2010 Policy Beat](#).

**US-Cuba Immigration Talks.** Representatives from the State Department and the Cuban government met in Cuba to discuss the migration policies between the two countries, the second set of immigration talks to take place since the Obama administration took office. The United States suspended immigration discussions with Cuba in 2004, citing concerns over Cuba's treatment of political dissidents and Cuban nationals who had been repatriated. Since resuming immigration talks last July, the Obama administration has pressed Cuba to reconsider its policy of not allowing Cuban immigrants to legally immigrate to the United States.

- Read more about the start of US-Cuba talks on legal immigration in the [June 2009 Policy Beat](#).

**Online Visa Applications for Nonimmigrant Visas.** The State Department now requires nonimmigrant-visa applicants in many countries to complete and file their visa applications electronically. The switch to electronic applications is aimed at consolidating several visa forms into one and making the process simpler for visa applicants.

- Read the State Department's [web page explaining the new form DS-160](#).

**Reversal in Female Genital Mutilation Asylum Case.** The US Court of Appeals for the Second Circuit reversed an immigration judge's decision denying asylum to a woman from the Ivory Coast who claimed that she feared persecution in her home country because she had previously been subjected to female genital mutilation. The immigration judge denied the woman asylum because she had returned to the Ivory Coast multiple times since first leaving the country in 2002. The appeals court found that the applicant's return trips to the Ivory Coast did not bar her from winning asylum, since she had clearly demonstrated "past persecution" in the Ivory Coast, and the government had not adequately shown that she was unlikely to face "future persecution."

- Read the appeals court's decision in [Kone v. Holder](#).

## State and Local PB in Brief

**Massachusetts Lawsuit over Immigrant Health Care.** Health-care advocates in Massachusetts have filed a lawsuit claiming that recent legislation excluding some groups of legal immigrants from a state-subsidized health insurance program violates state and federal equal-protection laws. In 2006, Massachusetts began requiring all legal residents to obtain health insurance and enacted several state-subsidized programs to help provide health insurance to low-income residents. As a cost-cutting measure, legislators in 2009 dropped several groups of legal immigrants, including lawful permanent residents who had held green cards for fewer than five years, from the state-subsidized program. Advocates have estimated that the 2009 legislation affected 26,000 immigrants.

- Read the text of the lawsuit's [complaint](#), filed by Health Law Advocates.
- Read more about health-care options for legal immigrants in Massachusetts in the [August 2009 Policy Beat](#).
- Visit the MPI Data Hub for the latest stats on immigrants in [Massachusetts](#) and for the [State Responses to Immigration](#) data tool.

**Police Policy in Chandler, AZ.** A Phoenix suburb has repealed a 1999 ordinance that allowed local police officers to question only those apprehended for serious crimes about their immigration status, paving the way for expanded policy authority. In February, Chandler, Arizona, Police Chief Sherry Kiyler said she wanted local police officers to be able to question *all* misdemeanor and felony suspects about their immigration status. The 1999 policy was adopted in response to national criticism of a 1997 "roundup" of suspected unauthorized immigrants in Chandler.

- Read the [press release](#) from the Chandler City Council about the vote repealing the 1999 policy.
- Visit the MPI Data Hub for the latest stats on immigrants in [Arizona](#) and for the [State Responses to Immigration](#) data tool.

**Maricopa County, AZ, Lawsuit.** A federal district court judge has thrown out a motion to dismiss the lawsuit brought by several Latino residents of Maricopa County, Arizona, alleging racial profiling and discrimination by the Maricopa County Sheriff's Office. In their complaint, the plaintiffs assert that their constitutional rights were violated when they were unlawfully stopped, detained, and mistreated by Maricopa police officers who were looking to arrest unauthorized immigrants. The ruling clears the way for the lawsuit to move forward.

- Read the district court judge's decision in [Ortega Melendres v. Arpaio](#).
- Read more about immigration enforcement in Maricopa County in the [August 2009 Policy Beat](#).
- Visit the MPI Data Hub for the latest stats on immigrants in [Arizona](#) and for the [State Responses to Immigration](#) data tool.

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