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## Hot Topics

## Two Governmental Programs Track Illegal Immigration Costs in County Jails

## Issue Briefs

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Texas counties have access to two resources that track jail costs associated with non-citizens. Neither tracks all of those costs; they do, however, provide some insight into what counties are spending – and one of them even provides some funding to partially reimburse counties.

## Legislative Resources

**SCAAP**

## County Bills by Office

In October, the U.S. Department of Justice (DOJ) announced \$213 million in fiscal year 2013 State Criminal Alien Assistance Program (SCAAP) payments. Of that amount, \$10,336,844 went to the State of Texas, and 112 counties shared \$6,802,584 for partial reimbursement for their costs incurred while incarcerating *criminal aliens*. Total dollars awarded in Texas increased over the prior year, although the number of counties receiving an award decreased. For fiscal year 2012, 115 counties received awards totaling \$4,754,331.

## Legislative Links

## Presentations

The Bureau of Justice Assistance (BJA) administers SCAAP in conjunction with the Immigration and Customs Enforcement (ICE) agency and the Department of Homeland Security (DHS). SCAAP provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who were incarcerated for at least four consecutive days during the reporting period. Each year, local entities (i.e., county jails) send detailed lists of suspected undocumented criminal aliens to the BJA with the number of days they held each inmate. The report also includes salary costs for supervising the inmates from which an average cost per day is calculated.

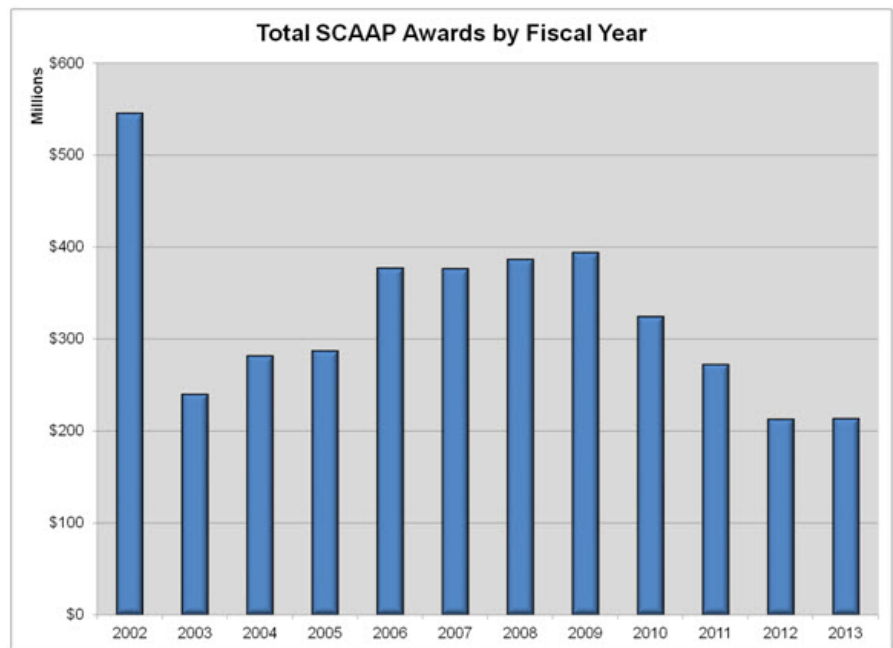
Upon receiving the list, the BJA sends the information to the DHS to determine and separate inmate records into three categories: (1) confirmed undocumented criminal aliens whose records exist in the federal databases, (2) those whose citizenship status can be determined and are not undocumented criminal aliens, and (3) those whose status is “unknown” and unable to be determined from information available at DHS.

SCAAP provides for the possibility of a full reimbursement only for those inmates who are determined to be actual criminal aliens. Local entities can receive only a partial reimbursement for those inmates who are determined to be “unknown.”

Unfortunately, Congress does not appropriate sufficient funds to completely reimburse each local entity. Therefore, once the actual cost to local entities is determined, each receives a prorated share of the funds Congress has allocated for the program.

For fiscal year 2014, President Obama has requested a budget that eliminates all funding for the program.<sup>1</sup> In Congress, both chambers have bills that would reduce, but not eliminate, funding for SCAAP. As of early November, HR 2787 seeks \$165 million in funding for SCAAP while S. 1329 includes \$190 million.<sup>2</sup> At this time, there is no federal budget for fiscal year 2014.

The graph shows how awarded SCAAP amounts have varied from fiscal year 2002 through fiscal year 2013.<sup>3</sup>



### The Immigration Detainer Report

SCAAP has been around for years and has therefore provided something of a baseline estimate of jail costs for holding certain inmates. There has been some confusion regarding the costs of housing this population of criminal aliens and the costs associated with holding other immigrants of questionable status. It should be noted that once the local charges against these criminal aliens have been resolved, they are held until processed by ICE.

The Texas Legislature passed [SB 1698](#) in 2011 to obtain a better understanding of the costs to counties of holding immigrants of questionable status, including those whose local charges have been resolved. The law requires counties to [report monthly](#) to the Texas Commission on Jail Standards (TCJS) the number of prisoners confined in the county jail “for whom an immigration detainer has been issued by United States Immigration and Customs.” In addition, counties are required to report the total cost for holding these inmates and the total number of days they were in the county’s jail during the month.

### How does a criminal alien differ from an inmate with an immigration detainer?

An inmate with an immigration detainer can be significantly different from a criminal alien. Unlike a criminal alien, an inmate with an immigration detainer may not necessarily have any prior convictions. The detainer is a request from the U.S. Immigration and Customs Enforcement to hold onto an inmate after all local charges have been resolved. After the local charges have been resolved, the feds then must take custody of the inmate within 48 hours, excluding weekends and holidays, or local officials are required to release the inmate.<sup>4</sup>

### How do costs reported for inmates with immigration detainers compare to SCAAP awards?

In comparing costs associated with county jail inmates who have an immigration detainer with the awards provided by SCAAP, it is important to remember that:

1. As previously discussed, these are distinct populations; criminal aliens are not the same as immigrants who have entered the country illegally. Although there can be some overlap between the two groups, a person can belong to one group but not the other. Not everyone with a detainer is a criminal alien, nor is everyone with a detainer found to be in the country illegally or deported.
2. SCAAP only covers certain, selected costs for criminal aliens. Costs reported to TCJS for those with detainers are far more comprehensive.
3. Actual amounts of the fiscal year 2013 SCAAP awards to local entities are available. However, further details, such as the number of criminal aliens and the number of jail days by county, are not yet available. These details are available for prior periods.
4. SCAAP awards use a July to June fiscal year; TCJS collects the immigration detainer reports monthly.

Since SB 1698 didn’t go into effect until Sept. 1, 2012, counties did not report costs for holding inmates with immigration detainers for July and August of that year. Therefore, there are only 10 months of data available for a comparison with fiscal year 2012 SCAAP awards; consequently, we had to estimate annual costs associated with SB 1698 for fiscal year 2012.<sup>5</sup>

## Two Governmental Programs Track Illegal Immigration Costs in County Jails

For the July 1, 2011 to June 30, 2012 fiscal year, 115 counties received fiscal year 2012 SCAAP awards totaling \$6.8 million; these same counties reported immigration detainer costs of \$56,932,017 during the last 10 months of fiscal year 2012 (September 2011 through June 2012). This is equivalent to an estimated cost of \$68,318,421 for the entire fiscal year.

Twelve months of immigration detainer reports are available for the fiscal year 2013 period (July 2012 through June 2013). For fiscal year 2013, Texas counties received awards of \$6,802,584 as reimbursement for holding criminal aliens while reporting costs of \$78,696,373 for holding inmates with immigration detainees.

As previously mentioned, selected salary costs are included in the SCAAP requests filed by local entities.<sup>6</sup> For the fiscal year 2012 requests, the 115 counties that received an award reported combined salary costs of just under \$595 million. Reported salary costs are not yet available for fiscal year 2013.

<sup>1</sup> *The President's Budget for Fiscal Year 2014*, accessed 11/13/2013, <http://www.whitehouse.gov/omb/budget>

<sup>2</sup> See <http://thomas.loc.gov/cgi-bin/query/F?c113:1:./temp/~c1133IEAuf:e51047:> and <http://thomas.loc.gov/cgi-bin/query/F?c113:1:./temp/~c113FKUWVp:e54379:> respectively.

<sup>3</sup> Total SCAAP Awards calculated by the authors.

<sup>4</sup> U.S. Immigration and Customs Enforcement, *ICE Detainers: Frequently Asked Questions*, accessed 11/12/2013, <http://www.ice.gov/news/library/factsheets/detainer-faqs.htm>

<sup>5</sup> Cost estimate derived by multiplying costs from the 10 months by 12/10.

<sup>6</sup> Bureau of Justice Assistance, *FY 2013 SCAAP Guidelines*, accessed 11/13/2013, [https://www.bja.gov/Funding/13SCAAP\\_Guidelines.pdf](https://www.bja.gov/Funding/13SCAAP_Guidelines.pdf)

