Public Safety

Section IV of the

2006-2007 Travis County Immigrant Assessment

Conducted by

Travis County Health and Human Services & Veterans Service
Research and Planning Division

Questions and comments regarding this report may be directed to
rachel.coff@co.travis.tx.us or koren.darling@co.travis.tx.us

Public Safety Overview

Community Goal

The community goals for public safety in Travis County are reflected in the following statements:

> **[To] be a community where all persons will be safe from crime and victimization.** (Community Action Network, 2000)
>
> **To protect and serve Austin's diverse community so that residents and visitors feel, and are, safe.** (Austin Police Department)

Building a safe community is only possible if all individuals present in the community have the right to protection from crime and victimization.

Highlights

- Historically, the role of local police in enforcing immigration policy has been limited. More recently, the federal government has supported an expanded role for local police. Austin and Travis County law enforcement agencies have maintained policies not to stop or detain individuals based on their assumed immigrant status and do not play a role in enforcing civil immigration laws.
- Data suggest that immigrants may be overrepresented as victims of crime, most significantly homicide, robbery and human trafficking. Crimes against recent immigrants are more likely to go unreported.
- Immigrant women appear to be at higher risk of experiencing family violence and may encounter greater difficulty escaping abuse than other women due to immigration laws, language barriers, social isolation and/or a lack of financial resources. Family violence impacts not only the adult victims, but also children living in families where violence between intimate partners is present.
- While immigrants are often associated with disproportionately high rates of crime, crime data indicate this is not the case. National statistics indicate that first generation immigrants are ***less likely*** to be incarcerated than their native-born counterparts. In Travis County, intake data indicate that foreign-born residents are generally ***as likely*** as native-born residents to be charged with a crime. However, as related to the ***type*** of offense, foreign-born offenders are more likely to be charged with lesser offenses than are native-born offenders.

The Role of Local Police in Immigration Enforcement

Federal Law and Policy

Historically, federal law has been unspecific regarding the role of local police in immigration enforcement. Typically, the federal courts and federal departments have interpreted the role of local government as limited in scope and authority. When Congress first passed the Immigration and Nationality Act (INA) in 1952, it contained no language on the role of state or local governments. In the few cases in which federal courts have considered the scope of local police in immigration enforcement, they have historically ruled that local police could enforce only criminal provisions of the INA. Additionally, Department of Justice policies have traditionally reflected a clear position that state and local authority had minimal involvement in civil immigration enforcement and that increased involvement was not advisable or encouraged. For example, in 1978, U.S. Attorney Griffin Bell issued a policy statement declaring that the enforcement of immigration laws rests with the Immigration and Naturalization Service. He stated that local police forces shall not place an immigrant "on hold" solely on the basis of immigration status. However, he also stated that in cases where an undocumented individual has been arrested for committing a crime, local police shall notify the Immigration and Naturalization Service for any action. (Appleseed, n.d.; Texas Department of Public Safety, 2004)

More recently, the federal government has demonstrated support for an expanded role for local police in immigration enforcement. In 1996, the Anti-Terrorism and Effective Death Penalty Act gave local police the authority to apprehend undocumented immigrants who had previously been convicted of crimes and subsequently deported, but had since reentered the United States. In this same year, the Illegal Immigration Reform and Immigrant Responsibility Act created rules allowing the Immigration and Naturalization Service (INS) to deputize local officials in case of an "immigration emergency." The law also allows the United States Attorney General's office to enter into Memorandums of Understanding (MOU) with states or local governments to formally involve them in enforcing federal immigration laws. Additionally, in 2002 the Department of Justice set a new precedent, announcing that state and local officials have "inherent authority" to enforce both criminal and civil provisions of immigration laws. (Appleseed, n.d.; Gladstein, Lai, Wagner, & Wishnie, 2005)

The Current Policy Debate: Local Police and Immigration Enforcement

With continued legislative proposals[13] to increase the role of local police in immigration law enforcement, the debate around this issue continues to gain attention. Table 4-A on the following page summarizes the two general viewpoints on this topic.

[13] Federal: Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, introduced in 2003 and reintroduced in 2005; Immigration Law Enforcement Act (H.R. 6095) introduced in 2006. State: A number of related bills have been filed in the 80th Texas Legislature, as of report publication final status is still pending ("General Subject Index," 2007).

Table 4-A. Perspectives on Roles of Local Police in Immigration Enforcement		
	Support Increased Role of Local Police	**Oppose Increased Role of Local Police**
Impact on Local Communities	Unauthorized immigration has a negative impact on communities. As such, immigration enforcement requires greater attention, including attention by local police. Further, local police are uniquely positioned to enforce such laws due to their knowledge of their communities.	An increased focus on immigration enforcement would distract local police from their core mission and duty—to serve, protect and provide order in their diverse communities. A dual role for local police would also act a significant barrier to immigrant victims or witnesses reporting crime, putting the safety of community members at risk.
Resources	A greater level of integration between local police and the federal immigration system is necessary in order to assist overburdened federal agents.	An increased role in immigration enforcement would strain local departments already experiencing insufficient resources and staff. Also, state and local resources should not be used to fund a federal responsibility.
National Security	Permitting local law enforcement to enforce immigration law would make it easier to arrest potential terrorists and criminal who are not authorized to be in the country, providing an elevated level of security for the nation. Once arrested, these individuals could provide important tips in an investigation.	Local enforcement of federal immigration laws would undermine outreach efforts to build trust and cooperation within immigrant communities. The trust and cooperation of all residents is crucial for police officers to prevent and solve crimes, including crimes linked to national security.
Application of Policy	Current law, which allows the U.S. Attorney General to enter into separate agreements with states and localities, allows the flexibility to design agreements that meet the unique needs of each jurisdiction.	Allowing states and local governments to enter into separate agreements with the federal government could lead to inconsistent application of immigration laws across jurisdictions. Different application of the law heightens the risk of disparate treatment, racial profiling, and the targeting of certain ethnic minority groups.
Training	Additional duties for local officers should not be a burden on state or local resources and could be integrated into an officer's duties through existing training and resources.	Local law enforcement officers do not have expertise in the complex, technical field of federal immigration law. Given the complexity of the law and different roles and authority of local, state and federal officers, training would probably inadequately prepare local officers to adopt this new duty.

Sources: Seghetti, Vina, & Ester, 2004; Appleseed, n.d.; Gladstein, Lai, Wagner, & Wishnie, 2005; House Research Organization, 2006; Major Cities Chiefs Immigration Committee, 2006

Variation in State and Local Response

Current federal policies allow (but do not mandate) local enforcement of civil immigration laws. Thus, local governments vary in their interpretation of responsibility. Some states and smaller jurisdictions have responded by increasing their role in immigration enforcement and by formally entering into memorandums of understanding (MOUs) with the federal government. For example, Florida and Alabama both have MOUs in place permitting local officers to "arrest without a warrant for civil and criminal immigration violations." Los Angeles County also has an MOU in place. However, it is much more limited in scope, and functions solely to allow law enforcement officers to conduct interviews of inmates at the Los Angeles County jail. Some communities do not have formal MOUs in place but have enacted formal and informal policy to involve local police in civil immigration enforcement. Conversely, other communities have responded by voicing opposition to policies that increase local involvement in civil immigration enforcement. Many have adopted or maintained policies dictating that local police do not stop, detain, or arrest individuals solely based on their assumed immigrant status. (Appleseed, n.d.)

As related to relevant local responses, the policies of the state of Texas and the local jurisdictions of Austin and Travis County are described briefly below.

Texas: In the state of Texas, the Texas Department of Public Safety has a loosely defined role in regulating immigration. The Texas Attorney General has held that while "the power to regulate immigration is unquestionably exclusively a federal power", the applicable Texas statutes together with the federal immigration laws make it necessary for arresting officers to have a complete understanding of the federal laws and circumstances under which they are applicable. The Department of Public Safety maintains that although enforcement of U.S. immigration law is not its primary responsibility, it may assist federal officers with road checks or business and residence searches upon the request of a federal officer. (Texas Department of Public Safety, 2004)

City of Austin and Travis County: Within the local community, the Austin Police Department (APD) and Travis County Sherriff's Office (TCSO) have maintained policies not to stop or detain individuals based on their assumed immigration status and do not play a role in enforcing civil immigration laws[14].

Further, both APD and TCSO have established and partnered with community organizations in outreach initiatives directly targeting immigrants or targeting broader populations, which include significant immigrant components. These efforts seek to:

[14] In 1997, the Austin City Council adopted Resolution 970130-33 declaring Austin to be a "Safety Zone" for all persons regardless of immigration status. Travis County Sheriff's Office prohibits bias-based profiling or any other discriminatory practice. Racial profiling are law enforcement-initiated actions based on an individual's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. (Travis County Sheriff's Office, n.d., p. 1)

- Build relationships between community residents and law enforcement,
- Provide information about rights, laws and customs in the United States,
- Increase awareness of community services and resources, and
- Prevent victimization and/or meet the needs of victims.

Examples of such efforts include:

Public Awareness in Underserved Communities Program: This program is a collaborative effort to plan and develop a comprehensive, culturally appropriate public awareness campaign for victim's rights and services within the Spanish-speaking community in Austin/Travis County. In addition, the program aims to increase the safety of Spanish speaking immigrants who are victims of crime by informing them of their rights and avenues for reporting crimes. (Austin Police Department, n.d.)

***Central Texas Coalition Against Human Trafficking*:** This coalition of law enforcement and social service providers, works to increase public awareness and identification of human trafficking cases and to provide identified victims of human trafficking with comprehensive social and medical services. (Central Texas Coalition Against Human Trafficking, 2006)

Asian and Immigrant Outreach Programs, Austin Police Department, Office of the Community Liaison: Two positions are designated to conduct outreach to immigrant communities (specifically Asian and Latino). Asian outreach efforts focus on overcoming the cultural barriers in many Asian nations to interact with the police and on increasing cultural awareness among officers. Latino outreach efforts encourage immigrant participation in school- and police-related activities, acquaint Latino immigrants with U.S. law and customs as they differ from Mexico and Latin America, and provide information about community resources available to enhance safety and well being. (*Austin Police Department-*,n.d.)

Community Services and Outreach Unit, Travis County Sheriff's Office*:* The unit's mission is to broaden, educate, and to strengthen partnerships and relationships with the citizens of Austin and the surrounding Travis County areas thereby bridging the gap between law enforcement and the community. Current efforts focus on child safety, personal safety, and neighborhood safety. (K. Page, personal communication, November 29, 2006)

District Representative, Austin Police Department*:* The program is designed to allow the community to participate in its own public safety, with an officer assigned to a neighborhood as a liaison. The "DR", assists the community in problem-solving and participates in community functions. "Operation Restore Hope", an effort to improve quality of live in distressed neighborhoods, many with a large immigrant population, was a DR initiative. (Austin Police Department, 2006)

Local Findings: Interactions with and Perceptions of Local Police

Focus group participants described varying experiences in their interactions with local law enforcement. Some reported positive interactions or noted that police presence has made them feel safe:

- "I feel safe and sure of myself. I walk on the street at night if I've had a job that ends after dark and I am walking to the bus stop. I see a lot of police in their cars making their rounds and that makes me feel safe."
- One participant recounted a situation in which her home was burglarized and she had to involve Travis County Sherriff's Office. She reported that the Sherriff's deputies were nice and helpful and never made her feel inferior.

Other focus group participants described less positive interactions with law enforcement:

- "Without documents you are always scared about fighting for your rights in court. I got stopped by a policeman who said I had run a red light--I didn't and that I didn't have my safety belt on which I did. They told me at the police station that if I contested the ticket and I lost the case that I would go to jail."
- "One time, police treated my husband really badly. They arrested him for public urination just because there were others doing that right before he parked. But they left right before the patrol car pulled up. All my husband was doing was coming back from the convenience store after work. They questioned him and he explained, but they didn't believe him. They wouldn't let him go prove it. They took him away and he had to pay a fine."

Immigrants and the Criminal Justice System

Like other community residents, immigrants interact with the criminal justice system both as offenders and as victims of crime. In comparison to the Travis County population as a whole, immigrants are estimated to be overrepresented as victims of crime but proportionately represented as offenders[15] of crime, although with lesser offenses.

Immigrant Victims of Crime

While all community members are at risk of victimization, certain groups of people, including immigrants are at higher risk for experiencing violent crime (Community Action Network, 2005). Crimes against recently arrived immigrants are also more likely to go unreported (Travis County Victims Services Task Force, 2003).

In a discussion of immigrants and victimization, some crimes warrant specific mention because: (1) as a group, immigrants tend to be at disproportionately higher risk of victimization for these certain crimes and/or (2) immigrants may face unique barriers to escaping certain types of victimization. Some of these including robbery and homicide, family violence, and human trafficking are described below.

Robbery and Homicide: Data suggest that immigrants, particularly recently arrived Spanish-speaking individuals are considered at higher risk to be victims of homicide and robbery.

[15] For purposes of this assessment, discussion of offenders refers only to adult offenders.

Although victimization data isn't available by immigration or nativity status, ethnicity and language data suggest disproportionately higher rates of victimization for recently arrived Spanish-speaking immigrants. In 2004, Hispanics represented 28% of the Austin population and comprised 38% of all homicide victims and 50% of all robbery victims. It is estimated that at least half of these victims are recently immigrated Spanish-speaking individuals. (Austin Police Department, n.d)

Family Violence: Immigrant women in particular appear to experience high rates of family violence. Although research in this field is still emerging, cultural norms and gender roles may increase an immigrant's vulnerability to intimate partner violence. Additionally, immigrant women may face greater difficulty leaving a violent relationship due to language barriers, social isolation and/or a lack of financial resources. Abusers may also use their partner's immigration status as a tool of control in order to force her to remain in a relationship. (Raj & Silverman, 2002; Family Violence Prevention Fund, 2005)

Family violence often has a significant impact on children growing up in families where it is present. These children may exhibit aggressive and antisocial behavior, experience depression and anxiety, and have slower development of cognitive skills. Children living in a home with family violence are also at a higher risk for child abuse. For immigrant children, the experience of family violence may be intensified by factors such as a history of trauma, loss of the extended family network or stress of adaptation to a new culture. Children from immigrant families may also possess strengths that help them cope with their experience. These assets may include belonging to a culture that emphasizes extended family, community ties, or connection to a faith community. (Family Violence Prevention Fund, 2005)

Local Findings: Family Violence

Immigrant focus group participants discussed family violence as an issue of concern. Participants noted that immigrant victims of family violence may face unique barriers to leaving their abuser including cultural norms and values, lack of information regarding resources and absence of extended family and other social support systems:

- "Often lower income women don't know where to go for help in a domestic violence situation or maybe their money is controlled by their husband, or they are vulnerable because of their immigration status. And it's not just low income women. An MIT education will not teach you how to treat your wife."
- "Because of our culture, others in the community may say that you must try to make the marriage work no matter what. They may try to get a divorcing couple back together even if there is a domestic violence situation. The focus is on protecting the family and our culture from the influence of American culture."

Human Trafficking: Immigrants may be victims of human trafficking, the illegal trade in human beings for the purposes of sexual exploitation or forced labor. Trafficked persons may be recruited from their home country to fill a falsely advertised job, may pay a smuggler to bring them to the U.S and then be sold unknowingly into prostitution or labor, or may be kidnapped from their country and brought to the U.S. to be used in any number of servitude positions. The U.S. Department of State estimates that between 800,000 and 900,000 people are trafficked across international borders annually. Between 18,000 and 20,000 of those victims are

trafficked into the United States. There have been documented cases of human trafficking in Travis County. (*Central Texas Coalition, n.d.*; Texas Office of Immigration and Refugee Affairs, n.d.) In 2006, the Political Asylum Project of Austin (PAPA) confirmed 33 cases of human trafficking in the Austin area (Chris Jimmerson, personal communication, February 2007).

Protections for Immigrant Victims of Crime

In recent years, the federal government has begun to address the vulnerability of immigrant victims and to provide them with an avenue to escape abuse or victimization. The **Violence Against Women Act (VAWA)** of 1994, among other things, addresses the issue of family violence in certain immigrant populations. VAWA allows abused non-citizens, who are married to or are the children or stepchildren of legal permanent residents or U.S. citizens, to petition for themselves and gain lawful immigration status without the help of their abuser. VAWA does not provide a similar path to lawful status for immigrant women or children in cases where the abuser is also undocumented. However, in 2000, Congress passed the **Victims of Trafficking and Violence Protection Act (VTVPA)** which allows undocumented men and women, who are the victims of a variety of crimes[16] including intimate partner violence to apply for the U nonimmigrant visa and three years later become permanent residents. The U visa is designed for non-citizen crime victims who have suffered substantial physical or mental abuse from criminal activity and who agree to cooperate with government officials investigating or prosecuting this criminal activity. Although the U.S. Department of Citizenship and Immigration Services has yet to issue regulations on U visas, it has issued guidance on providing interim relief for those who are eligible for this type of visa. VTVPA also has specific provisions to protect victims of human trafficking. Such victims may obtain a T visa, which affords them temporary legal status. After three years, individuals granted T visas may apply to adjust to legal permanent residence status. (Political Asylum Project of Austin, 2003b; "U Visa Laws," 2006)

[16] Crimes may include rape, torture, trafficking, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, or perjury (*How to Get Permission*, n.d.)

Local Findings: Victimization and Perception of Safety

Few immigrant focus group participants reported specific instances in which they had been victims of crime. One participant did report that her home had been burglarized and another reported that she had been a victim of domestic violence and had filed a VAWA petition.

More commonly, participants noted experiences of feeling unsafe. These discussions included concerns regarding neighborhoods conditions as well as the prevalence of drug and alcohol abuse:

- "There are a lot of drugs in our community. Everyone knows it and everyone knows who is involved. There are also a lot of abandoned or empty lots with overgrown weeds. There are a lot of insecure areas here."
- "But there is so much drugs here. It's full of drugs in this City. It's [drug usage] so readily accepted here."

Others described how their personal safety had been compromised by experiences of harassment:

- "When you get on the bus people insult you".
- "My brother, it was hard for him. They would make fun of him that he is from Africa, saying that they don't wear any clothes. They bullied him and he cried a lot at first."

Still, some participants felt that overall, their experience in Austin/Travis County has been a safe one: "I like Austin and like the respect that people have for the law…. They don't steal cars around here and break your window. It is very peaceful here and that's why we stay here."

Immigrant Offenders of Crime

Crime theory and public opinion often associate immigrants with disproportionately high rates of crime. However, crime data indicate that this is not the case. The following summarizes each of these topics.

Crime Theory: Traditional crime theories suggest that immigrants often experience sociological factors that tend to be linked to higher rates of crime. Such factors may include lower educational attainment, lower income levels, experiences of stress associated with adjusting to a new culture, and/or the tendency (particularly for lower income, newly arrived immigrants) to settle in disorganized neighborhoods with high rates of poverty and a high number of young males. (Martinez & Lee, 2000)

Public Opinion: Public opinion—often based on stereotypes of newcomers who may seem different in their language, culture, and religion—leans toward the belief that immigrants are more likely to engage in criminal behavior. For example, 73% of adults in a national survey (General Social Survey, 2000) reported that immigrants were either somewhat likely or very likely to cause higher crime rates. Such perceptions and stereotypes are not a new phenomenon; immigrants who arrived in the United States in large numbers during the 19th and early 20th centuries encountered similar public opinion. (Rumbaut, Gonzales, Komie, & Morgan, 2006)

National Research on Immigrant Offenders: Analysis of historical and recent data indicates that immigrants are responsible for some crime, but not to a disproportionate degree. In 2000, the U.S. Department of Justice commissioned a review of immigration and crime studies conducted during the 20th Century. The authors of the related report concluded that contrary to common perception, immigrants are underrepresented rather than overrepresented in criminal

statistics (Martinez and Lee, 2000). Rumbaut, et al., 2006 found that an analysis of 2000 Census incarceration data also indicates a lower crime rate among immigrants. The report states that the incarceration rate of U.S. born individuals (3.5%) was about four times that of foreign-born individuals (0.9%). However, their analysis also suggests that while incarceration rates are very low among immigrants, they tend to rise very rapidly by the second and third generation. For example, in 2000 the incarceration rate of Mexican immigrants was 0.7%, while the incarceration rate for U.S. born individuals of Mexican descent was 5.9%.

Snapshot of Immigrant Offenses in Travis County: Locally, foreign-born residents of Travis County appear to account for proportionately fewer (although not significantly fewer) intakes into the Travis County Jail System than do native-born residents. While foreign-born adults (age eighteen and older) made up about 20% of the Travis County population in 2005, they made up 19% of total intakes to the Travis County Jail system. Table 4-B on the following page shows the number and percent of foreign-born and native-born intakes into the Travis County Jail System in 2005 for each charge level.

As related to the *type of offense,* immigrant offenders in Travis County are more likely to be charged with lesser offenses than are native-born offenders. In 2005, 13% of intakes of foreign-born individuals were for felony charges while 87% of intakes were for misdemeanor charges. Comparatively 21% of intakes of native-born individuals were for felony charges while 79% of intakes were for misdemeanor charges (see Chart 4-A).

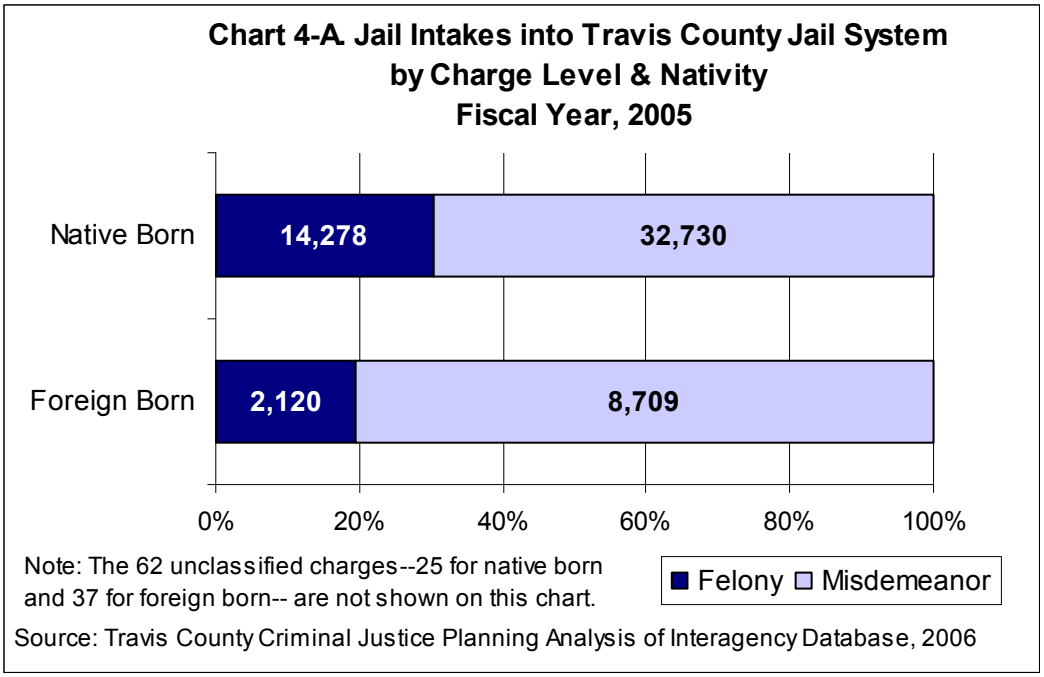

Table 4-B. Intakes into the Travis County Jail System by Most Severe Charge Level and Nativity (when known), Fiscal Year 2005			
Charge Level	**Description**	**Foreign-born**	**Native-born**
Felony Charges			
Capital Murder	Any murder charge which is punishable by the death penalty[17]	0 (0%)	4 (100%)
First Degree Felony	Includes such offenses as aggravated assault and aggravated robbery.	118 (16%)	601 (84%)
Second Degree Felony	Includes such offenses as burglary of habitation and robbery.	285 (14%)	1,803 (86%)
Third Degree Felony	Includes such offenses as assault and theft ($20,000 to $100,000.)	423 (15%)	2,420 (85%)
State Jail Felony	Unauthorized use of a motor vehicle and theft ($1,500 to $20,000).	476 (12%)	3,510 (88%)
Unclassified Felony	Any felony charge where the charge level was not determined at the time of booking.	818 (12%)	5,940 (88%)
Total Felony	**Total capital murder, first, second, third, state jail and unclassified felony intakes.**	**2,120 (13%)**	**14,278 (87%)**
Misdemeanor Charges			
Class A Misdemeanor	Includes such offenses as assault and DWI (2nd offense).	1,757 (20%)	7,240 (80%)
Class B Misdemeanor	Includes such offenses as DWI and possession of 2 ounces or less of marijuana.	3,812 (22%)	13,138 (78%)
Unclassified Misdemeanor	Any Class A, B, or C misdemeanor where the charge level was not determined at the time of booking.	296 (20%)	1,173 (80%)
Class C Misdemeanor	Includes such offenses as public intoxication and city ordinance violation.	2,844 (20%)	11,179 (80%)
Total Misdemeanor	**Total class A, class B, class C and unclassified misdemeanor intakes.**	**8,709 (21%)**	**32,730 (79%)**
Unclassified Charges			
Either Felony or Misdemeanor	Any felony or misdemeanor where the charge level was not determined at booking.	37 (60%)	25 (40%)
Total			
Total: Intakes for All Charges Levels		**10,866 (19%)**	**47,033 (81%)**

Source: Travis County Criminal Justice Planning Analysis of Interagency Database (IDB), 2006
Notes: Caution should be used when considering rarely occurring offense levels as small changes in intakes can have large effects on the percentage breakdown. Birth location "Unknown" or "Expunged" not included in this analysis (15 intakes).

[17] The following crimes are capital murder in Texas: murder of a public safety officer or firefighter; murder during the commission of kidnapping, burglary, robbery, aggravated sexual assault, arson, or obstruction or retaliation; murder for remuneration; murder during prison escape; murder of a correctional employee; murder by a state prison inmate who is serving a life sentence for any of five offenses (murder, capital murder, aggravated kidnapping, aggravated sexual assault, or aggravated robbery); multiple murders; murder of an individual under six years of age. (Texas Department of Criminal Justice, 2007)