

6. CASE STUDY: CRIMINAL DEPORTATIONS AND JAMAICA

It has been hypothesized that recent crime troubles in the Caribbean could be tied to the activities of deportees who have learned criminal behavior in the developed countries. This report examines the situation in Jamaica, which is one of the Caribbean countries proportionately most affected by criminal deportations. With currently available data, it is possible to conclude that it is unlikely that the average deportee is committing crime in Jamaica. At the same time, it is possible that a minority of deportees is involved in criminal activity. Assisting in reintegration efforts for deported offenders could be a cost-effective way for deportee-sending countries to promote development and weaken international crime networks.

6.1. Each year, the United States, the United Kingdom, and Canada deport thousands of people convicted of various crimes to their countries of citizenship in the Caribbean. Between 1998 and 2004, the United States alone deported over 31,000 convicted criminals to the Caribbean. This chapter focuses exclusively on the issue of *criminal* deportees: people who have been forcibly returned to their country of origin due to their conviction for a criminal offense, such as drug offenses, violent crime, and immigration-related crime. The chapter does not discuss the less controversial practice of deporting those who have entered the country without a visa or violated the terms of their visa or residency permit.¹

6.2. There are few topics in Caribbean criminal justice more contentious than criminal deportation. On the one hand, as the international community has recognized, “It is the right of every nation State to decide who can enter and stay in its territory and under what conditions” (United Nations, 2004). Residence permits are a privilege granted to non-citizens contingent on their good behavior. Clearly, the commission of a crime does not constitute “good behavior,” and few would deny the right of host countries to revoke the permits of convicted criminals. This practice is widespread, and Caribbean countries themselves deport non-citizen convicts on a regular basis.

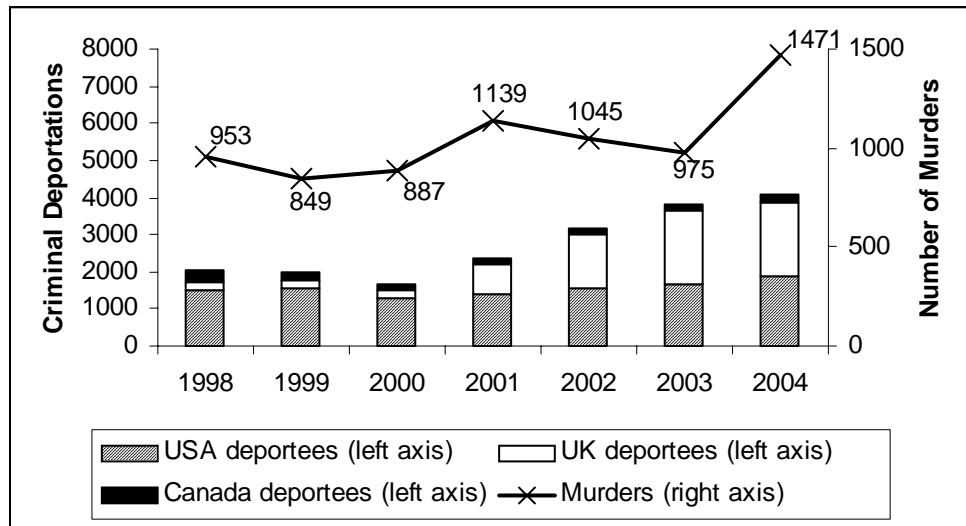
6.3. On the other hand, there is a widely held belief in the Caribbean (as well as in Central America) that recent crime troubles can be tied directly to the activities of deportees “schooled” in crime in the developed countries, especially the United States, Canada, and the United Kingdom.² This chapter looks at the situation in Jamaica, which is proportionately most affected by criminal deportations, and where officials have worried that the country’s rising murder rate may be linked to the growing stock of

¹ Criminal deportations are distinct from deportations for simple immigration violations like entering the country without a visa or permit. However, the ranks of criminal deportees do include those deported for crimes that are related to immigration. Examples of immigration-related crimes include modifying visa papers, attempting to bribe an immigration official, lying on an immigration-related document, and smuggling migrants.

² This view is widely held enough that the CARICOM representatives recently suggested that the Inter-American Commission on Human Rights intervene to reduce the flow of deportees. See Smith, S, “Carib states want a study on the link between deportation and crime.” Jamaica Gleaner, 16 December 2005.

deported convicts.³ Figure 6.1 shows the figures for both homicides and deportee arrivals in recent years. No clear relationship emerges from this graph.

Figure 6.1: Number of Deportees and Number of Murders in Jamaica



Source: Social and Economic Survey of Jamaica; Jamaica Constabulary Force.

6.4. Some Caribbean commentators have argued that it was conditions experienced in the developed countries, not in their countries of citizenship, which drove these people into criminality. For example, Dr. Prem Misir, Pro-Chancellor of the University of Guyana, asserts, "...criminal deportees have been intensively socialized in the criminal fields in the U.S. These deportees are in full possession of their U.S. criminal tool kit."⁴ If Dr. Misir is correct, the question then becomes: who is responsible for criminals born in the Caribbean but made in the developed world? And who should bear the burden of this population, the large and wealthy countries or the small Caribbean countries?

6.5. Of course, the issues are not as clear cut as this. Deportees are not a homogenous group. There are cases of deportees who, in all but their paperwork, were citizens of the developed countries, having been raised there and holding few connections to the countries of their birth. But there are also those who were career offenders in their home countries before venturing out into trans-national organized crime, and those who fall somewhere in the middle, whose criminality may be attributed to experiences in both countries. And even if it were possible to determine where a criminal is made a criminal, this would not answer the broader policy question: how can developing countries cope

³ In his address at the Opening of the Twenty-Fifth Meeting of the Conference of Heads of Government of the Caribbean Community on 4 July 2004, in St. George's, Grenada, then Jamaican Prime Minister PJ Patterson referred to "security concerns arising from the nexus of the narcotics trade, gun-smuggling and criminal deportees." He used similar language in a speech at the CARICOM 30th Anniversary Lecture Series at Medgar Evers College in New York on 2 October 2003, where he referred to "the U.S.-based nexus of the narcotics trade, gun smuggling and criminal deportees." In his address to the Joint Session of The St. Lucian Parliament on 1 July 2004, he referred to "the impact of deportees on the escalating rate of crime."

⁴ Misir, P., "Government tackling globally-rooted crimes." Accessed on the website of the Guyana Government Information Agency: <http://www.gina.gov.gy/archive/research/rpggovtacklingcrimes.html>

with regular injections of uprooted convicts? And how can this problem be resolved to reduce the spread of transnational criminality?

6.6. This chapter lays out the latest available data on the scale and nature of criminal deportation from the United States, the United Kingdom, and Canada to Jamaica and suggests some ways the issue might be resolved for the benefit of all concerned.

THE SCALE OF THE EXPATRIATE POPULATION

6.7. To appreciate the scale of the deportations, it is necessary to understand the size of the Caribbean expatriate community. An estimated three million Caribbean-born people were living in the United States at the time of the 2000 Census, about 10 percent of the total immigrant population in the U.S. and about 1 percent of the U.S. national population. The 300,000 Caribbean-born people living in Canada at the time of its 2001 Census also make up about 1 percent of the population of that country. In the United Kingdom, some 250,000 people born in the Caribbean were counted during the 2001 Census.

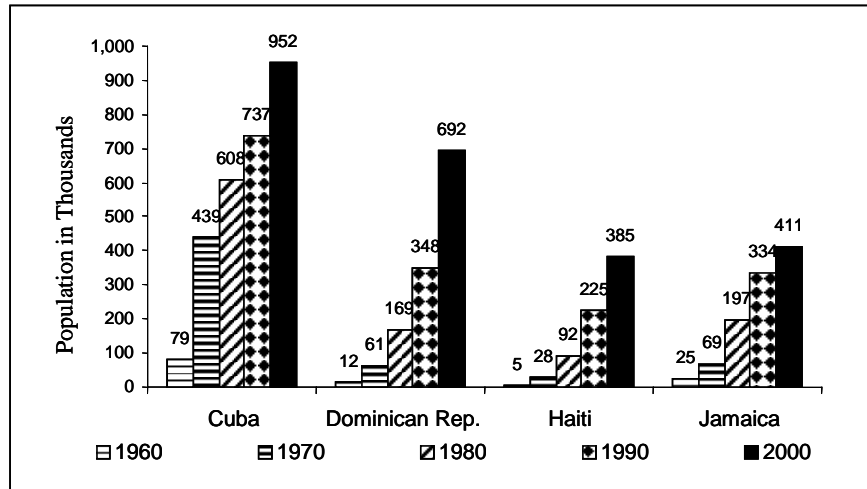
6.8. In total, 3.5 million Caribbean-born people were living in these three countries in 2000/2001. The figure is perhaps 3.8 million Caribbean-born people as of 2006,⁵ more than are presently living in the countries of Montserrat, Anguilla, British Virgin Islands, the Turks and Caicos Islands, the Cayman Islands, St. Kitts and Nevis, Antigua and Barbuda, Dominica, Grenada, Aruba, St. Vincent and the Grenadines, St. Lucia, the Netherlands Antilles, Barbados, the Bahamas, Martinique, Guadeloupe, Suriname, and Guyana *combined*.

6.9. About 85 percent of these migrants live in the United States, with the largest pool from Cuba, followed by the Dominican Republic, Jamaica, and Haiti (the four largest independent countries in the Caribbean). Figure 6.2 shows the Caribbean-born populations in the U.S. from several countries. Jamaica has the largest share of its population living in the United States. For every five Jamaicans living at home in Jamaica, there is one living in the United States, with lower ratios for Cuba (9 percent), the Dominican Republic (8 percent), and Haiti (5 percent). According to U.S. Census projections, the U.S. Jamaican-born population was over 600,000 in 2005 (Department of Homeland Security, 2005).

6.10. In Canada, Jamaicans are the most populous group of Caribbean origin living in the country, with just under 122,000 Jamaican-born residents, nearly twice as many as the next largest Caribbean group (Trinidadians), according to the 2001 Census. About 150,000 of the 250,000 Caribbean-born people living in the United Kingdom were Jamaican, according to the 2001 Census. In total, about 683,000 Jamaicans were living in the three countries in 2000/2001, or more than a quarter of the total living in Jamaica at that time. Because these estimates are based on census figures, which may undercount undocumented immigrants, the true number of Jamaican expatriates may be higher.

⁵ U.S. census projections suggest a Caribbean population of 3.211 million in 2005. Similar projections are not available for Canada and the United Kingdom, but if similar growth were experienced, some 600,000 Caribbean nationals might be seen between the two countries.

Figure 6.2: Caribbean-Born Populations in the United States



Source: Lapham et al., 1993.

CRIMINAL DEPORTATION

6.11. Many migrants arrive with limited resources, and some arrive outside the law. Poor migrants may be forced to settle in some of the most crime-ridden neighborhoods of their new countries, and may face ongoing marginalization. It is not surprising that some engage in criminal behavior, are arrested and imprisoned. Whether migrants are more likely to commit crime is hotly debated, and resolving this issue is hampered by a lack of clarity on the number of undocumented migrants (Rumbaut et al., 2006).⁶

6.12. By mid-2004, federal and state prisons in the United States held over 90,000 non-citizens, representing 6.5 percent of the overall prison population and over 20 percent of the federal prison population. The burden on state prisons varied considerably between regions of the country. In the high-immigration state California, over 10 percent of prisoners were non-citizens (Harrison and Beck, 2005). Some 29 percent of federal drug defendants convicted during 2003 were identified as non-citizens, and more than half (56 percent) had at least one prior adult conviction (Bureau of Justice Statistics, 2005).

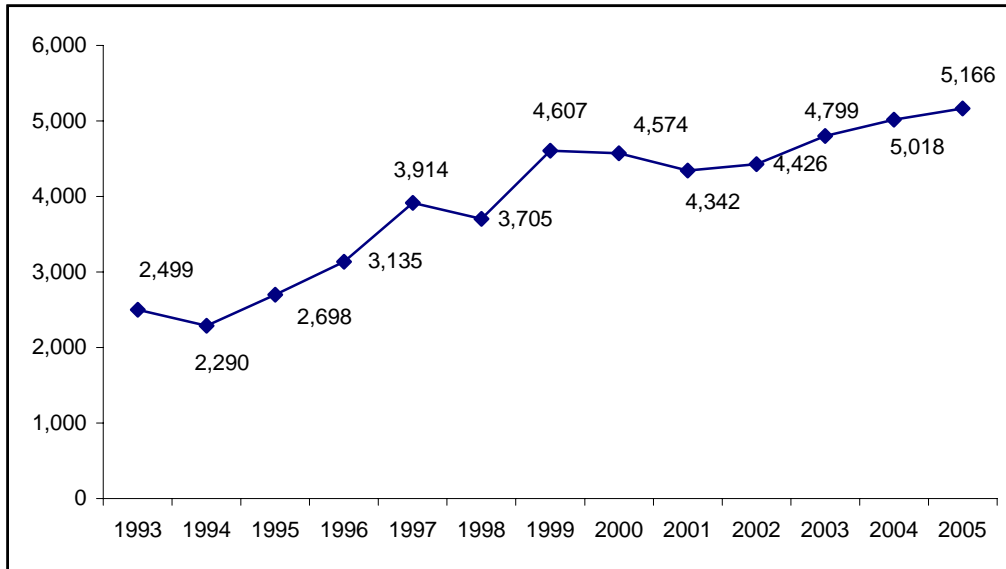
6.13. Concerns about immigrant crime and the demands it was placing on the U.S. criminal justice system contributed to the passage of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. This Act made significant changes to the deportations regime, reducing appeals and greatly expanding the definition of deportable “aggravated felonies” to include a range of lesser offenses.⁷ Resources were also directed

⁶ At least one study has found that first generation immigrants are less likely to be convicted of a crime than the native born.

⁷ The term of “aggravated felony” first appeared in the immigration context in 1988 in the Anti-Drug Abuse Act, where it was limited to murder, drug trafficking and firearms trafficking. This was expanded by subsequent legislation and related case law to include a much wider range of offenses, including most violent crime, theft, and immigration-related offenses, such as document fraud and perjury. The 1996 Act amends the definition of “aggravated felony” by, among other things, lowering the fine and sentencing

to ensure that every deportable convict was, in fact, deported. As a result, the number of criminal deportees from the U.S. to the Caribbean more than doubled between 1994 and 2004 (see Figure 6.3).

Figure 6.3: Total Criminal Deportations from the U.S. to the Caribbean



Source: U.S. Department of Homeland Security.⁸

6.14. If the number of prisoners in U.S. federal prisons is examined as a share of the total populations of the home countries of the convicts, then Jamaica contributes the most prisoners per head of population. Not surprisingly, then, Jamaica is the country in the Caribbean with the largest flow of deportees relative to its population, and its lead is growing (see Figure 6.4). An average of 1,200 convicts per year were deported from the U.S. to Jamaica between 1993 and 2004.

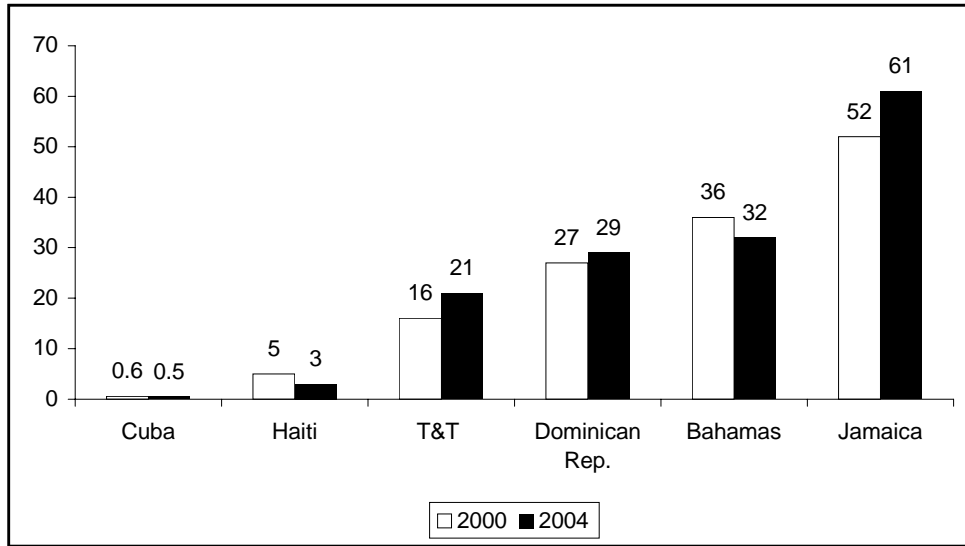
6.15. Jamaicans are also the most deported Caribbean population group from the United Kingdom and Canada, largely because they are by far the largest Caribbean population in those countries. Between 2001 and 2004, Jamaica absorbed an average of 2,700 convicts a year from the three countries. In 2003, Jamaica’s own current prison population was 4,744 (Walmsley, 2005), so the influx was equivalent to releasing more than half the domestic prisoner population into society every year. In one study on released prisoners in the United States in the mid-1990s, about two-thirds were re-arrested within three years.⁹ It is therefore not surprising that Jamaicans might be concerned about an inflow of convicts of this magnitude.

thresholds for many offenses, effectively including relatively minor crimes. Under this law, criminal deportation has been ordered for crimes such as shoplifting and urinating in public. See U.S. Department of Justice Fact Sheet 03/24/97.

⁸ Data published (Table 43) online at:
<http://www.uscis.gov/graphics/shared/aboutus/statistics/ENF03yrbk/ENF2003list.htm>

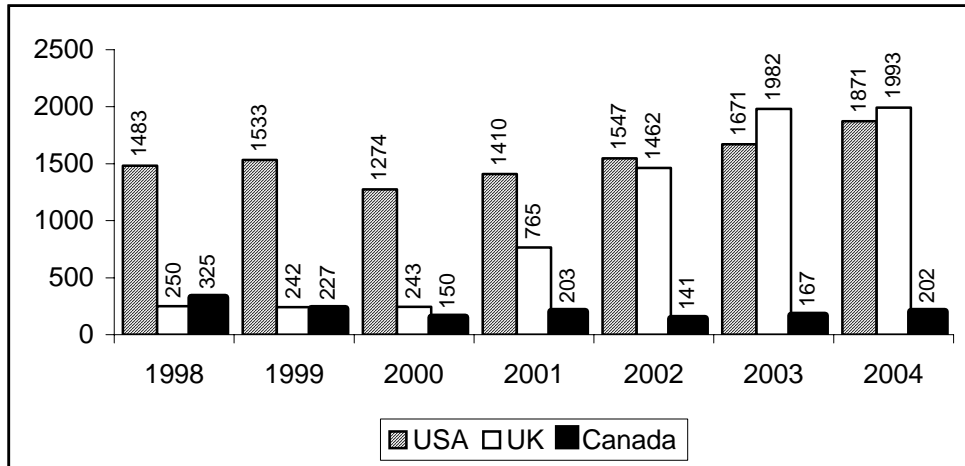
⁹ Data from the United States Bureau of Justice Statistics, accessed on:
<http://www.ojp.usdoj.gov/bjs/reentry/recidivism.htm>

Figure 6.4: Criminal Deportees from the U.S. per 100,000 Population of Home Country



Source: U.S. Department of Homeland Security, 2005.

Figure 6.5: Total Criminal Deportations to Jamaica: 1998-2004



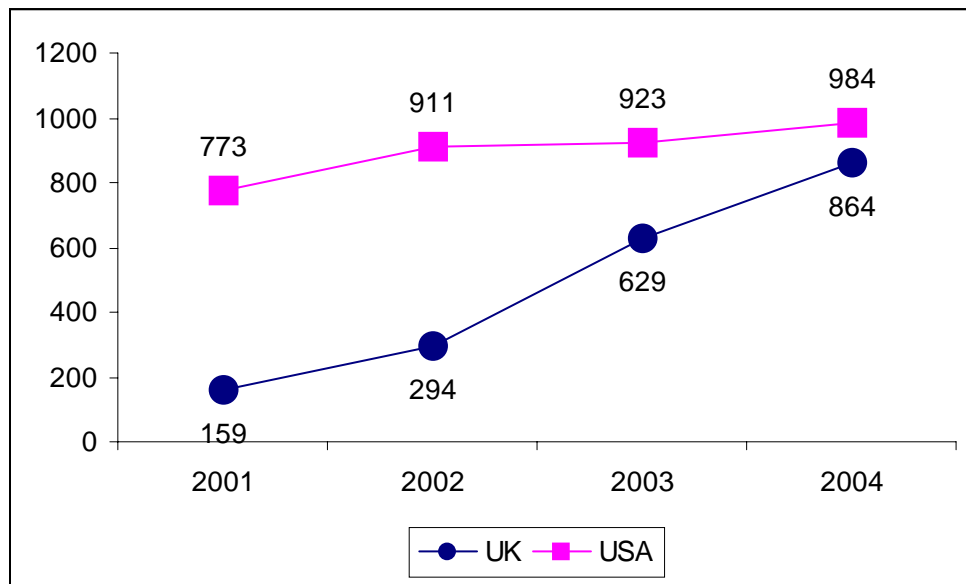
Source: Social and Economic Survey of Jamaica, various years.

6.16. During the late 1990s, the United States was far and away the leading source of criminal deportations to Jamaica, but then deportations from the United Kingdom began to rise rapidly. While the bulk of these deportations were due to immigration-related crime, the number and the share of drug-related deportations increased dramatically from 2001, nearly reaching U.S. levels by 2004. Proportionate to the expatriate Jamaican population in each country, the U.K. today has a greater rate of deporting drug offenders than the U.S. This may be due to the fact that cocaine markets are growing in the U.K.,

and Jamaican “yardie” groups have traditionally been associated with marketing this drug (see National Criminal Intelligence Service, 2005).¹⁰

6.17. Despite this shift, the U.S. has continued to expel by far the largest number of violent offenders, deporting over 200 convicted murderers and 128 sex offenders to Jamaica between 2001 and 2004, while the U.K. and Canada combined deported 24 murderers and 32 sex offenders between them. On the whole, however, 81 percent of the criminal deportees sent from the three countries between 2001 and 2004 were deported for immigration-related matters, fraud, and drug offenses, which include an unspecified share of drug possession cases¹¹ (see Annex 6.1 for detailed statistics on deportations to Jamaica from Canada, the U.K., and the U.S. for the 2001-2004, period, disaggregated by reason for deportation).

Figure 6.6: Drug Deportations to Jamaica from the United States and the United Kingdom



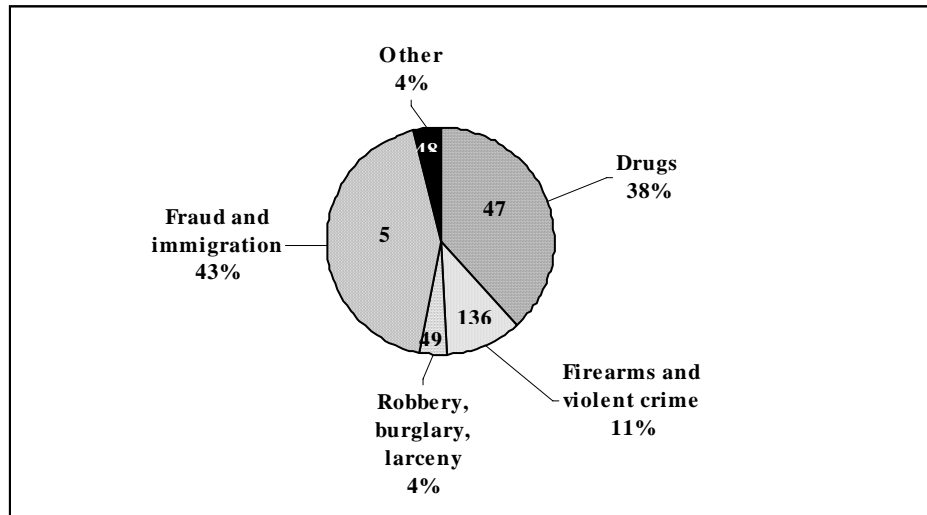
Source: Social and Economic Survey of Jamaica, various years.

¹⁰ According to National Criminal Intelligence Service of the United Kingdom, “Hitherto, criminal groups of West Indian origin, mostly Jamaican, were seen to be most prominent in distributing crack cocaine within the U.K. ... However, as [cocaine use] has grown, there have been opportunities for others to become involved... [Today,] most of the detected movements of cocaine trafficked from the Caribbean to the U.K. are smuggled by couriers, many under the control of Jamaican and Trinidadian groups.”

¹¹ Headley’s research, cited below, found that about half those Jamaicans deported for drug offenses between 1997 and 2003 were convicted of drug sales and half for drug possession.

6.18. Thus, the vast majority of the offenders deported (81 percent) were convicted of non-violent crimes. Of course, those deported on the basis of non-violent offenses could be violent criminals, and drug dealers in particular may be more likely than other expatriates to commit violence. It is often easier for police to deport suspected gang members for immigration violations or drug possession, for example, than to bring them to trial for other offenses.

Figure 6.7: Breakdown of Criminal Deportees by Crime Type, All Three Source Countries, 2001-2004

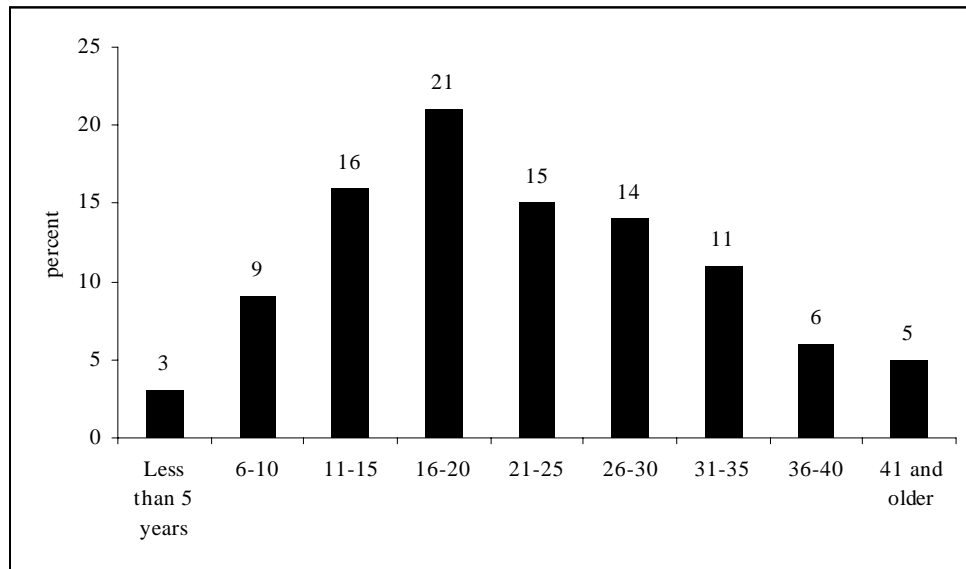


Source: Elaborated from Social and Economic Survey of Jamaica, various years.

6.19. The Ministry of National Security and Justice study cited by the CARICOM Regional Task Force report (2002) found that a majority of deportees had been away for more than five years and that 14 percent of the 1,730 persons deported in 2001 had been away for more than 20 years. The report suggests that deportees who have been away for a long period of time are at higher risk for recidivism because they are likely to be without a social support system in Jamaica.

6.20. Some commentators have argued that many deportees left their home countries at a young age and learned criminal behavior while abroad. To examine this hypothesis empirically, Bernard Headley, a Professor of Criminology at the University of the West Indies, examined 5,174 records of criminals deported from the U.S. between 1997 and 2003. He found that the mean age of entry to the United States was 23 years, nearly out of the high risk age demographic of 15-25, and less than 3 percent arrived before the age of five years (Headley et al., 2005). A fifth arrived during the formative period of 16-20, however, during which experiences in both countries could have had some effect on the course their lives would later take. Thus, while there are some cases of deportees who left Jamaica at young ages and were largely raised in the United States, they constitute a minority of total deportees.

Figure 6.8: Age on Arrival in the U.S. of Jamaican Criminal Deportees (Percent of Headley's Sample)



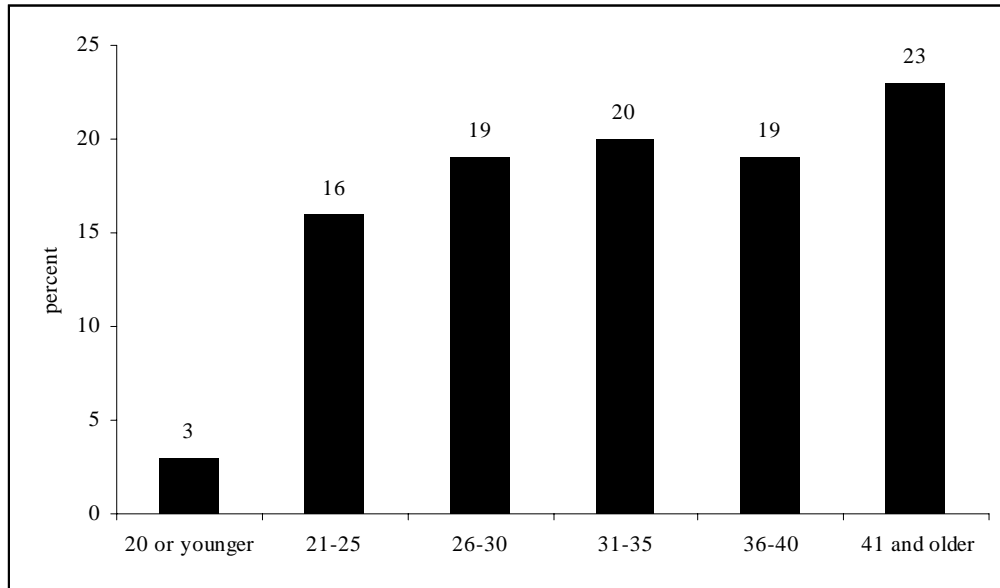
Source: Headley et al, 2005.

6.21. Headley also examined the age at deportation, finding that the vast majority of convicted deportees were no longer young on their arrival in Jamaica, with 62 percent being 31 years or older. Normally, these older men would be less likely to re-offend, particularly with regard to the sort of gang violence with which the deportees are often thought to be associated.

6.22. In summary, the data indicate that the average age of a criminal deportee entering the United States was 23, the average age on deportation was 35, and 81 percent were returned to Jamaica for non-violent offenses. While there is clearly heterogeneity in the pool of deportees, the average deportee does not fit the profile of an individual who is likely to be a violent criminal on return to Jamaica.

6.23. On the other hand, Headley's research also shows that over half (51.2 percent) of the deportees had already been convicted of a crime in the United States prior to the one for which they were deported. And even if the majority of the criminal deportees were deported for non-violent offenses, 224 convicted murderers were included in the flow between 2001 and 2004. Relative to the Jamaica's population, this is not a particularly small number.

**Figure 6.9: Age on Deportation from the U.S. of Jamaican Criminal Deportees
(Percent of Headley's Sample)**



Source: Headley et al, 2005.

6.24. With current available data, it is possible to conclude that it is unlikely that the average deportee is committing violent crime in Jamaica. At the same time, it is possible that a minority of deportees is involved in criminal activity, and a few anecdotal cases have been reported in the press. In such small countries, it does not take a large number of offenders to have a large impact, particularly if they assume a leadership role in criminal gangs on their return or provide perverse role models for youth. Specifically with regard to drug trafficking, their transnational connections and criminal experience could make criminal deportees well-suited for this role.

6.25. Are deportees contributing significantly to Jamaica's crime rate? The clearest way of answering this question would be to keep tabs on the deportees received and determine what share are later charged with an offense. Something like this has actually been done in at least two Caribbean countries: Barbados and Trinidad and Tobago. According to Griffin (2002), of 332 criminal deportees returned to Barbados between 1994 and 2000, only 43 (13 percent) had been charged with a criminal offense at the time of the study. The average length of time between arrival and being charged with a crime was 17 months, and, with the exception of one murder case, most of the deportees were charged with burglary or drug-related offenses. Similarly, in Trinidad and Tobago, of the 565 deportees received between 1999 and 2001 only 83 (15 percent) had been charged with a crime, of whom almost half (47 percent) were charged with larceny or drug offenses (Griffin, 2002).

6.26. The CARICOM Regional Task Force on Crime and Security (2002) reviews the same figures and points out that these figures suggest that crime rates among deportees in those two countries are lower than those for the local criminal population. The Task

Force argues that the reoffense rate for local criminals in both Barbados and Trinidad and Tobago, and in Jamaica as well, is greater than 50 percent.

6.27. If data is not available that allows us to follow deportees after their arrival in Jamaica, it should still be possible to determine whether deportees are more or less likely to be convicted of a crime than the local population by examining the share of the prison population that has experienced deportation. Of course, Jamaica's low conviction rates (about 25 percent) mean that a lot of suspected criminals are never convicted, so the prison population may not be a true reflection of the criminal population of the country.

POLICY IMPLICATIONS

6.28. Whether the deportees are responsible for rising crime in Jamaica is a researchable question. Much support could be brought to this contention if the share of those charged with or convicted of crime were shown to disproportionately contain deportees. The government of Jamaica is currently sponsoring research in which deportees, gathered through responses to newspaper ads soliciting interviews, are questioned about their pasts and their behavior.¹² Whatever the conclusions of this research, the question of who is responsible for these people will remain.

6.29. The United States, the United Kingdom, and Canada absorb much of Jamaica's talent, importing nurses, teachers, athletes, and skilled professionals. In fact, an estimated 85 percent of Jamaica's skilled labor emigrates, largely to these three countries (Ozden and Schiff, 2006). Legally, sovereign states are privileged to eject those parts of the migrant population that do not meet standards. Morally, though, these countries might feel some sense of responsibility for the deportees, especially for those who were raised in the ghettos of three of the richest countries in the world.

6.30. There are several possible approaches these powerful countries could take to cushion the blow of criminal deportations on the islands to the south. In the United States, for example, most convicts are released from prison into some form of community supervision. Conditions are also placed on their release, encouraging legal employment and discouraging association with former criminal associates, for example. These protections and conditions are not present when a convict is deported.

6.31. Of course, providing parole officers and halfway houses involves some costs, and a key reason for the current drive in immigration enforcement, at least in the U.S., is to reduce the country's massive corrections bill. But these costs would likely be less if the programs were conducted in Jamaica. For the convicts that left Jamaica as children, whose families may remain abroad, some form of cultural orientation and networking would be essential if a return to criminality is to be avoided.

¹² A forthcoming study conducted by Jamaica's Ministry of National Security and the Planning Institute of Jamaica, will examine the relationship between deportees and crime. The study was not available for review at the time of this writing. CARICOM is also carrying out a survey on deportees in some member countries, the results of which are expected to be available in early 2007.

6.32. The CARICOM Regional Task Force on Crime and Security (2002) recommended that member countries establish Offices for the Resettlement of Deportees modeled after a program in St. Kitts and Nevis, where the Returning Nationals Secretariat is charged with facilitating reintegration of deportees. The Secretariat provides counseling and offers assistance in finding jobs, locating housing, and using social services. In Jamaica, a church-based group known as the Land of My Birth Association has recently started to offer similar services to some deportees (Davidson, 2006).

6.33. The industrialized countries provide a variety of forms of aid to the Caribbean to support development. Subsidizing reintegration for deported offenders could be a very cost effective way of achieving such an end. It would save society the cost, as well as the trauma, of recidivism; reduce criminal justice costs involved in processing and incarcerating repeat offenders; and promote the stability essential to attracting investment and promoting tourism. The end result might be less emigration, reducing the burden of deportation for everyone.

6.34. Moral obligations aside, it is in the self-interest of the United States, the United Kingdom, and Canada to avoid returning dangerous convicts to environments where they are highly likely to offend again. The United States in particular does not benefit from having unstable states just outside its borders. Drug dealers are likely to make use of their connections in both countries to promote further trafficking, and all three countries suffer from cocaine and cannabis imported via the Caribbean or by Caribbean nationals. Exporting criminals could contribute to the building of transnational criminal networks.

6.35. Deportation thinking seems to rest on the premise that the borders are impregnable, when anyone involved in immigration enforcement knows that this is far from the case. Few countries would consider allowing early release of convicts in order to “deport” them to a neighboring city, when this is essentially what deportation accomplishes. It provides immediate relief from corrections expenses, but it releases offenders into an increasingly mobile global community. Headley’s sample included over 500 cases where the subject was being deported for at least the second time in the six years included in the study.

6.36. In short, it is not possible for these three countries to simply export their crime problems south. Coming to terms with transnational crime will require dealing with problematic migrants cooperatively.