

U.S. Border Enforcement Prioritizes Non-Violent Migrants Over Dangerous Criminals

Data on Federal Court Prosecutions Reveal Non-Violent Immigration Prosecutions Up, Organized Crime, Drugs and Weapons Charges Down

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Washington D.C. - The Mexican President's visit to the United States allowed both he and President Obama to address the important issues of immigration, border control and crime. Both Presidents made the important point that we address and not conflate these serious issues. This approach stands in stark contrast to the drafters of Arizona law SB1070 and those members of Congress, including Senators Kyl and McCain, who continue to equate dangerous criminals and migrant workers. These legislators share either a misguided understanding of who is really perpetrating violence at the border or a willingness to do anything to win an election.

The horrific violence which currently afflicts our southern neighbor is a complex problem that requires a multi-faceted solution. This violence is driven by the flow of guns, drugs and money across the borders. Yesterday, the President reaffirmed his administration's commitment "to stem the southbound flow of American guns and money" and to develop "new approaches to reducing the demand for drugs in our country," pledging to keep up law-enforcement pressure on the criminal gangs that "traffic in drugs, guns, and people." In practice, however, the Justice Department seems to have given in to the political rhetoric behind laws like SB1070.

Obama's pledge to focus on these serious criminal enterprises should mean that law enforcement resources are also focused there, rather than on rounding up non-criminal border crossers. However, that's simply not the case according to recent reports that show Department of Justice prosecutions of drug and weapons violations are down while low level immigration violators are being prosecuted at record levels.

A January 2010 Warren Institute [report](#) [1] highlights the impact of Operation Streamline (a program that focuses on prosecuting border crossers) on immigration enforcement and how increased attention on nonviolent border crossers has taken resources away from investigating smuggling operations. An additional [report](#) [2] from the Transactional Records Access Clearinghouse (TRAC) shows that federal immigration prosecutions rose to record levels during fiscal year 2009, and that a shift in priorities has created the largest number of federal immigration prosecutions of non-violent border crossers ever. Thus, while the federal government spends billions of dollars prosecuting non-violent immigration violators, more serious criminals involved in drugs, weapons, and organized crime face a lower probability of prosecution.

Data shows:

- **The federal government is focusing on low level immigration crimes, while prosecutions of smugglers and drug traffickers are way down.** Immigration prosecutions now account for over one half of all federal prosecutions, while federal prosecutions of non immigration-related crimes have decreased. The majority of these immigration prosecutions are for low-level crimes, mainly first time illegal entry. In contrast, smuggling and drug trafficking charges were brought less frequently. Drug prosecutions currently represent approximately 16% of the total number of federal prosecutions. Between 2003 and 2008, weapons prosecutions decreased 19% and drug prosecutions declined by 20%.

- **Border prosecutions of first time crossers take resources away from prosecuting serious violent crimes.** A May 2010 [study](#) [3] by the Warren Institute at the University of California, Berkeley Law School found that increased federal criminal prosecution of first time illegal border crossers has channeled law enforcement resources away from prosecuting more serious crimes, such as drug crimes. The Warren Institute also looked at districts that focus on more serious border crimes. In the Southern District of California, the U.S. Attorney's Office has decided to target the border crossers who have already been deported or who have substantial criminal records. This approach ensures that U.S. attorneys have the time and resources to prosecute other crimes along the border. As a result, the district leads the nation in prosecutions of alien smuggling and importing controlled substances.

Disentangling the role of immigration from these serious crimes is important, not only because we have limited resources but because confusing the issues helps to ensure that neither set of problems are solved. Immigrants will continue to be scapegoated and lumped together with dangerous criminals as long as we fail to challenge the assumptions that are reflected in programs such as Operation Streamline. Getting things right along the border won't happen solely by focusing on immigration or by focusing on crime alone, but by looking realistically at where the problems are and targeting resources accordingly. The President may need Congress in order to reach a full comprehensive solution to the broken immigration system, but bold action to disentangle immigration from crime is within his power. He has said the right words and we look forward to actions that match.

To read the IPC fact sheet highlighting data from these reports see:

- [New Data on Federal Court Prosecutions Reveal Non-Violent Immigration Prosecutions Up, Organized Crime, Drugs and Weapons Charges Down](#) [4] (IPC Fact Check, February 4, 2010)

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Links:

[1] http://www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf

[2] <http://trac.syr.edu/immigration/reports/218/>

[3] http://www.law.berkeley.edu/files/operation_streamline_snapshot_5_10.pdf

[4] http://www.immigrationpolicy.org/sites/default/files/docs/TRAC_Fact_Sheet_020410_0.pdf

[5] http://www.immigrationpolicy.org/sites/default/files/docs/Border_Violence_and_Dangerous_Criminals_052010.pdf