

Border arrests cram courts, fill cells in neighbor states

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A zero-tolerance approach to illegal border crossings has produced a record number of immigration prosecutions in Texas and other border states, swamping federal courthouses with misdemeanor cases and landing many immigrants in local jails, according to interviews and new federal data.

Analysts attribute the surge in prosecutions to Operation Streamline, a Bush administration program that began in Del Rio and now includes virtually every mile of the border except near Big Bend National Park. The program expanded last month to three counties in the Rio Grande Valley.

New immigration cases, many of them stemming from misdemeanor arrests, represented 58 percent of all new federal prosecutions in April, dwarfing the number of drug and white-collar crime cases, according to the data.

In Texas, immigration prosecutions surged the most in Texas' western district, which includes El Paso and Del Rio. The most common charge was a misdemeanor that landed migrants in jail for several months or weeks.

The U.S. Department of Homeland Security credits Operation Streamline with interrupting the flow of illegal immigrants and reducing the number of migrants who try to enter the U.S. again after being caught.

"These illegal migrants come to realize that violating the law will not simply send them back to try over again, but will require them to actually serve some short period of time in a jail or prison setting – and will brand them as having been violators of the law," Homeland Security Secretary Michael Chertoff said in a speech last month.

Federal officials argue that the campaign should result in fewer illegal migrants making their way to cities such as Dallas.

But critics of the strategy say it has criminalized immigration – traditionally handled by administrative courts – without focusing on employers who hire illegal migrants. Some lawyers call the policy "crimmigration," adding that it has packed the courtrooms and burdened public defenders with more cases.

"We are seeing 100 misdemeanors per day," said Marissa Perez-García, chief of the Laredo branch of the federal public defender's office. "That started in the past year, and apparently there is no end."

Immigration advocates called the campaign a major switch in government policy, saying that it has caught many migrants off guard.

"Facing criminal sentencing and going to prison is new for them," said Vanna Slaughter, head of immigration legal services for Catholic Charities of Dallas. "For so many years, even if they were apprehended, they were returned to the other side of the border and never went to prison."

The increase in immigration prosecutions has coincided with fewer arrests made in recent months along the border. The number of immigration arrests between October 2007 and June 2008 dropped 58 percent in the El Paso zone compared with the same period during the previous fiscal year, according to Border Patrol figures.

Nationally, the number of apprehensions in 2008 – about 577,100 – is down about 17 percent compared with the same period in 2007. Some critics of Operation Streamline cautioned against reading too much into those numbers, saying that migrants have been discouraged from crossing the border by the weakened U.S. economy.

"The numbers are somewhat off this year, not due to Streamline but to our sagging economy," said T.J. Bonner, president of the National Border Patrol Council. "If jobs are tough to come by, word spreads quickly, and people don't cross in the same volume as during healthy economic times."

But the surge of activity produced during the lifetime of Operation Streamline is unquestionable. In the Western District, immigration-related prosecutions numbered 10,100 from October through April, according to the Transactional Records Access Clearinghouse at Syracuse University, an independent research outfit that collected the data. If that trend continues, the total for fiscal 2008 would be almost nine times that of fiscal 2007.

In Texas' Southern District, which includes the Rio Grande Valley and Laredo, the number of prosecutions was 9,255 from October through April, according to TRAC. If that pace continues, prosecutions for fiscal 2008 will be 28 percent higher than the previous year's total, according to TRAC.

"In the last three months, it has just gone off the charts," said David Burnham, co-director of TRAC. "This has surged all along the border."

Operation Streamline has its advocates in Congress, including Rep. John Culberson, R-Houston, and Rep. Ciro Rodriguez, D-San Antonio. Mr. Culberson has said that crime has dropped 76 percent in Del Rio since implementation of the program.

Some groups that urge immigration controls are similarly encouraged by the operation.

Jean Towell, head of Citizens for Immigration Reform of Dallas, said the effort could deter migrants from trying to return.

"There is a lot of networking done between illegal immigrants and people in the U.S.," Mrs. Towell said. "If they hear it is a criminal offense, rather than a civil offense, it might keep them from coming in or trying to risk their lives."

Whether its reach expands depends on the willingness of congressional Democrats to increase the budget for the U.S. Department of Justice, which must prosecute the cases.

"The question is whether it's worthwhile to expend so many resources for prosecuting crimes of that nature when you have a lot of other crimes going on – both at the border and beyond," Mr. Bonner said.