

Illegal re-entry topped all other charges in country's federal courts

Tuesday, Aug. 2
By Cristina Rayas
Cronkite News

WASHINGTON – Illegal re-entry became the most-frequent federal criminal charge in the United States during the first six months of fiscal 2011, a pattern that was mirrored in Arizona during that period.

From October through March, federal prosecutors filed 18,552 illegal re-entry cases nationally, more than any other charge, according to data compiled by the [Transactional Records Access Clearinghouse](#).

First-time immigration prosecutions edged back into the lead in April, but TRAC attributed that to seasonal fluctuations. It said that illegal re-entry cases this year will be 3.5 percent higher than 2010 if prosecutions continue at the current pace.

[TRAC said Arizona](#) had 8,968 illegal re-entry cases filed through the end of April. At that pace, it estimated that re-entry cases would be 12.8 percent higher in Arizona than last year and a stunning 214 percent higher than five years ago.

The increase in re-entry prosecutions comes as the number of immigration apprehensions is falling. That means the odds of being criminally prosecuted, once caught, have increased, according to TRAC, a nonprofit center based at Syracuse University that analyzes Justice Department data.

The rise in re-entry cases is attributed to a combination of things, including a change in the factors driving immigration, new prosecutorial tools and a decision to use those tools aggressively, experts say.

Daniel Griswold, director of the Herbert A. Stiefel Center for Trade Policy Studies at the Cato Institute, said that fewer people are crossing the border because “the bottom fell out of the economy” here. Those that do cross the border are more likely to be coming back, he said.

“People re-entering may already have strong ties here, an employment record, family,” he said. “The impulse of them to re-enter the United States may be stronger.”

Law enforcement officials said another factor is Operation Streamline, a federal initiative launched in 2005. Under the initiative, immigrants who used to face civil penalties are now prosecuted criminally before being deported the first time.

If they are caught re-entering the United States illegally a second time, they can then be prosecuted on felony charges. Those carry a maximum 20-year sentence, but TRAC said the average sentence for illegal re-entry cases is 14 months.

Operation Streamline processes 70 to 100 immigrants a day through federal courtrooms in Tucson, said Victoria Brambl, attorney supervisor at the Tucson Public Defenders office. And those numbers are in addition to the non-immigration cases in Tucson.

“Everybody is straining under the numbers,” Brambl said. “And judges have been inundated.”

Since almost all defendants in immigration cases need public defenders, she said, her attorneys are doing the best they can but are “left to react to policy decisions they have no say in.”

Brambl said most Americans would be shocked if they saw the treatment of those defendants, who often spend days in the same clothes they were apprehended in.

“We are the ones that deal with the human end of it,” she said. “It’s not what you expect from our country.”

But federal officials said efforts like Operation Streamline are paying off.

“We want to make it harder for criminal enterprises to operate and send a message to the illegal entrants that it is dangerous to cross in the desert with an increased possibility of being apprehended,” said Agent Mario Escalante, spokesman for the border patrol in the Tucson sector.

TRAC estimates that 98 percent of all illegal-entry prosecutions — re-entry and first time — are a result of border patrol investigations.

The U.S. Attorney’s office in Tucson could not say whether there are more re-entries than before, but it did confirm that there are more illegal re-entry prosecutions.

“We do what we can with the resources that we have,” said Sandy Raynor, a spokeswoman for the U.S. Attorney’s office.

Griswold said that enforcement alone will not solve illegal immigration problems, as long as the benefits of getting a job here exceed the risks for workers coming to the United States.

He argued that harsh re-entry prosecutions will just “drive these workers deeper underground. And I don’t think that’s in anyone’s interest.”

But Escalante said that “consequence-delivery systems” like Operation Streamline have helped reduce the flow of traffic across the border.

Both Arizona border patrol districts, Tucson and Yuma, participate in Operation Streamline and both show steady declines in apprehensions.

“Word gets down south real quick when they learn there are consequences,” said Kenneth Quillin, supervisory border patrol agent in Yuma.