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Federal Criminal Immigration Cases Reach Record High

Federal prosecution for immigration violations reached a record high of 169,612 in 2009. According to the study out of Syracuse University, this number represents more than ½ of all criminal cases brought by the federal government.

Prosecution of immigration violations is up by almost 16% and reflects the Bush era policies of strict and speedy enforcement of the immigration laws. Many of the cases represent illegal reentry cases. Others related relate to crime related bases for removal and deportation. The Bush administration greatly increased the number of I.C.E (Immigration and Customs Enforcement) agents, Border Patrol agents, and federal prosecutors for purposes of enforcement.

Much of the increase is also, according the New York Times, related to the Department of Justice program Operation Streamline which relies on speedy and large-scale processing of plea bargains in immigration cases. It is suggested that the Department of Justice goes after the relatively simple immigration cases since these cases are very rapidly processed and closed compared to other cases. White-collar criminal cases take an average of 460 days for disposition. Narcotics cases take 333 days. By contrast, the immigration cases typically reach disposition in 2 days.

The success of the Operation Streamline program has now met with constitutional challenges particularly in Arizona which accounted for more than 22,000 of the federal criminal immigration cases in 2009. The 9th Circuit Court of Appeals recently ruled in *U.S. v. Roblero-Solis* that the process of mass pleadings is a violation of Rule 11 of the Federal Rules of Criminal Procedure regarding the taking of pleas in federal court. Interestingly, despite the finding by the court that the plea process was a violation of Rule 11 which fundamentally a Due Process protection, the convictions in the case were upheld since the defendants failed to show that the process affected their decisions to enter the pleas.

The growth in the number of immigration prosecutions shows that the Obama Administration is equally serious about immigration enforcement. In fact, the data from the Syracuse study indicate that the rate of prosecution has accelerated. These numbers appear to conflict with the Administration's public statements regarding immigration reform. Perhaps, the tough position on enforcement is seen as necessary for progress on future reform.

In any event, it is clear that immigration enforcement will remain a high priority at the Department of Justice for some time to come. In addition, though the mass plea process under Operation Streamline is a violation of Rule 11, it appears that the process will stand in light of the ruling in *Roblero-Solis*.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.albuquerquecriminallawyerblog.com/>