

OPERATION STREAMLINE: COSTS AND CONSEQUENCES

GRASSROOTS LEADERSHIP

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Executive Summary

In 2005, the Del Rio sector of the Border Patrol, an agency within the federal Department of Homeland Security's Customs and Border Protection, faced a peculiar issue. With civil detention facilities at capacity and voluntary return to Mexico available only to Mexican citizens, non-Mexican migrants were given a notice to appear in front of an immigration judge and released in the United States.ⁱ In 2004, Border Patrol apprehended approximately 10,000 non-Mexican migrants in the Del Rio sector; just one year later, the figure spiked to 15,000.ⁱⁱ The solution to this enforcement issue, Border Patrol decided, was to circumvent the civil immigration system by turning non-Mexican migrants over for criminal prosecution, a practice until then relegated almost exclusively to cases of violent criminal history or numerous re-entries.ⁱⁱⁱ Upon considering the proposition, the U.S. Attorney's Office for the Western District of Texas responded with one caveat: in order to avoid an equal protection violation, the courts would have to criminally prosecute all migrants within a designated area, not just those from countries other than Mexico.^{iv}

With the signature of Secretary of Homeland Security Michael Chertoff, it was decided to do just that. Starting in December of 2005, "Operation Streamline" required all undocumented border-crossers in the Eagle Pass area of the Del Rio Border Patrol sector to be funneled into the criminal justice system and charged with unlawful entry or re-entry (8 U.S.C. § 1325 or 1326).^v Those charged with improper entry usually face a sentence of up to 180 days, and a judge may impose a sentence of over ten years dependent upon criminal history.^{vi} Re-entry offenders also face tough sentences, including a felony charge that places up to a ten-year bar on legal immigration.^{vii}

The Department of Homeland Security since has drastically expanded the criminal referral model through similar programs in the Yuma sector in 2006, the Laredo sector in 2007, and the Tucson sector in 2008.^{viii} By 2010, every U.S.-Mexico border sector except California had implemented a "zero-tolerance"

program of some sort, the whole of which are commonly referred to by the moniker of the original program— Operation Streamline.^{ix} Depending upon the sector, the degree of implementation may vary significantly. For example, according to Federal Public Defenders in the Yuma and Del Rio sectors, Border Patrol refers nearly 100% of apprehended immigrants in those areas for criminal prosecution.^x In the Tucson sector, where greater migrant volume renders such high referral rates logistically unfeasible, the percentage on immigrants "Streamlined" may be closer to 10%, or about 70 of the 800 migrants apprehended each day.^{xi,xii}

The resulting prisoner volume has led the Bureau of Prisons in the Department of Justice to depend upon private prison corporations like Corrections Corporation of America (CCA) and GEO Group. Through increased facility use and contracts for other services, CCA and GEO have enjoyed a combined \$780 million increase in annual federal revenues since 2005.^{xiii} In FY2011, the federal government paid immense sums of taxpayer money to private prison companies, \$744 million and \$640 million to CCA and GEO Group, respectively.^{xiv} Much of this revenue derives from contracts for Criminal Alien Requirement (CAR) prisons, where federal immigrant prisoners are segregated in privately owned, privately operated prisons contracted by the Bureau of Prisons. The terms of CAR contracts include incentives (and sometimes guarantees) to fill facilities near capacity with immigrant prisoners.^{xv} Each year, these companies dedicate millions of dollars to lobbying and campaign contributions.^{xv}

The federal dollars behind immigrant incarceration come at a significant cost to the taxpayer, climbing in 2011 to an estimated \$1.02 billion annually.^{xvi} Before the announcement of Operation Streamline in 2005, the federal government annually committed about 58% of that total, or \$591 million toward incarcerating immigrants. In 1994, the amount was about \$72 million, 7% of its current level.^{xvii} Recent budget proposals indicate that federal spending on

prosecution and incarceration will likely increase, as Congress recently stated an ambition to “expand Operation Streamline to additional Border Patrol sectors” alongside a record-setting DHS budget request of \$45.2 billion.^{xix}

The sheer volume of immigration cases has also severely burdened the courts in border districts, which have been forced to handle a near 350% increase of petty immigration cases from 12,411 in 2002 to 55,604 in 2010.^{xx} In Tucson, courts may see as many as 200 immigrants lined up for prosecution in a single morning.^{xx} To handle the expanded caseload, the Department of Justice has pursued a combination of resource-intensive options, including privately contracting with defense attorneys, deputizing Border Patrol agents as special Assistant U.S. Attorneys, and bringing several magistrate judges out of retirement.^{xxi} Furthermore, Operation Streamline strips Assistant U.S. Attorneys of the power to prosecute the crimes they deem pressing. Immigration cases made up 36% of all criminal prosecutions nationwide in 2011, surpassing drug and fraud prosecutions combined.^{xxii}

Even in Austin—236 miles from the border—Federal Public Defenders, housed under the Administrative Office of the U.S. Courts, reported spending 95% of their time on unauthorized re-entry cases in November of 2011 as opposed to roughly 50% in 2006, before the office added two additional attorneys.^{xxiii} The trending development of immigrant criminalization beyond the border threatens to create similar predicaments throughout the United States. According to the Federal Public Defenders, identification programs like Secure Communities have made federal criminal immigration prosecutions increasingly common. From 2008 to 2011, non-Southwest-border districts have seen more than double the increase of unauthorized re-entry (8

U.S.C. § 1326) convictions than occurred from 2005 to 2008.^{xxiii}

In addition to draining resources and burdening the courts system, Operation Streamline imposes a devastating human cost, especially upon the Latino community. Latinos now represent more than half of all individuals sentenced to federal prison despite making up only 16% of the total U.S. population.^{xxiv} Increased enforcement measures also drive migrants to employ the services of professional smugglers and to attempt crossings in more obscure and dangerous areas.^{xxv} As a result, immigrant fatalities along the border have become increasingly common, reaching totals more than four times those in 1995.^{xxvi}

Still, considerable support for Operation Streamline persists behind a belief in the efficacy of a deterrence mindset. The Senate Appropriations Committee, for example, points to “a notable reduction in attempted illegal crossings” in the districts in which Operation Streamline is “robustly in effect.”^{xxvii} Indeed, border apprehensions have fallen by a dramatic 725,649 from 2005 through 2010, but decades of research indicate that economic forces—particularly shifts in employment and real wages—are the actual drivers of immigration trends, and the recently weakened condition of the U.S. economy is no exception.^{xxviii} Many within the judicial community agree. U.S. District Judge Lee Yeakel pointed out in a November 21st sentencing hearing that, “This court has yet to find an adequate sentence that will act as a deterrent for those reentering the country illegally.”^{xxix} Unfortunately, the struggling U.S. economy allows for the misrepresentation of border enforcement “success” at a time when shrewd allocation of federal resources is most crucial.

Key Findings

- Since the announcement of Operation Streamline in 2005, the federal government has spent an estimated **\$5.5 billion incarcerating undocumented immigrants in the criminal justice system for unauthorized entry and re-entry, above and beyond the civil immigration system.**^{xxxii} In 2011, the federal government committed to spend an estimated **\$1.02 billion on the incarceration costs for simple migration crimes.** This is the first time in history that figure has topped \$1 billion.^{xxxii}
- From 2008 to 2011, unauthorized re-entry convictions (8 U.S.C. § 1326) in court districts not on the Southwest border increased by the **greatest margin of any four-year period in history,** more than double that of the previous four years.^{xxxii}
- In Laredo, Operation Streamline client volumes are such that a Federal Public Defender must provide counsel to 20 to 75 clients in a span of just two hours. On Mondays, that number is regularly at 75, **leaving each defendant less than two minutes to meet with an attorney.**^{xxxiii}
- Criminal prosecutions for unauthorized re-entry have spread from border districts to the internal United States. The number of unauthorized re-entry cases brought before Texas non-border district courthouses increased by 26% between 2004 and 2011.^{xxvi} In Austin—236 miles from the border—the Office of the Federal Public Defender has added two additional attorneys since the implementation of Operation Streamline and reports spending **95% of their time on unauthorized re-entry cases** as of November of 2011 as opposed to roughly 50% in 2006.^{xxvii}
- Criminal prosecutions do not serve as a deterrent to unauthorized migration. A range of academic and policy research indicates that prosecutions have not significantly contributed to decreased unauthorized migration. At a November 21st sentencing hearing, The Honorable Judge Lee Yeakel of the United States District Court for the Western District of Texas declared, **“This court has yet to find an adequate sentence that will act as a deterrent for those reentering the country illegally.”**^{xxxviii}

Recommendations

1. **End the practice of prosecuting immigration offenses in criminal court.** The administration should end the widespread practice of prosecuting the immigration offenses of unauthorized entry and re-entry in the criminal justice system. Instead, officials should rely on the civil immigration system to process those apprehended on immigration charges, whether at the border or in the nation's interior
2. **Balance criminal prosecutions for immigration with priorities for reducing non-violent incarcerated population.** The Obama administration has identified a goal of reducing the federal prison population, particularly people convicted of non-violent offenses, by expanding re-entry programs and through a "smarter allocation of resources for crime prevention and public safety."^{xxxix} The increasing numbers of immigrants incarcerated solely for entering the country without documentation directly counters that stated goal.
3. **Use discretion to mitigate impact of immigration prosecutions.** Short of ending prosecutions for unauthorized entry and re-entry entirely, the administration can reduce criminal immigration prosecutions by restoring prosecutorial discretion along the border.
4. **Stop expansion of private prisons and federal detention centers.** The Bureau of Prisons (BOP) should immediately halt plans to expand Criminal Alien Requirement (CAR) contracted prison facilities. The Department of Justice should institute a review of all BOP and U.S. Marshals Service (USMS) - contracted private prisons.

A Lucrative Deal for the Private Prison Industry

PROFITS: GEO GROUP AND CCA

Operation Streamline has been hugely profitable to the private prison industry. Since the announcement of Operation Streamline, the United States federal government has spent an estimated \$5.5 billion incarcerating undocumented immigrants outside the civil immigration system, exceeding an annual commitment of more than \$1 billion for the first time in history this past year.^{xl} According to 2011 per-diem profit margins, incarcerated immigrants (not including those in civil detention) provide prison companies with an estimated \$246,561 in daily profits, or roughly \$90 million per year.^{xli} Revenues provided by the federal government to just two private prison companies in 2011 exceeded \$1.4 billion, more than double the corresponding figure from 2005.^{xlii}

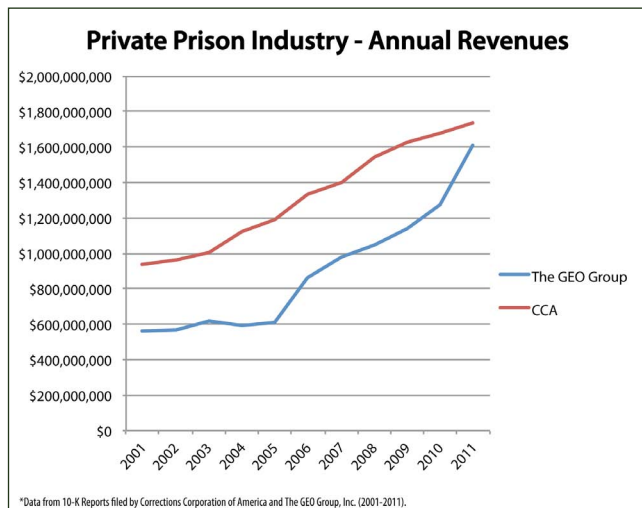


Figure 1. Private prison industry annual revenues, 2001-2011.

Two major prison companies—the GEO Group Inc. and Corrections Corporation of America—dominate the private corrections market, and in each year since the implementation of Operation Streamline, both have enjoyed record profits. In 2011, GEO Group made \$1.61 billion in revenue, a figure that has grown at an average rate of 18% over the past six years.^{xliii} GEO Group revenue derived from federal contracts

also increased rapidly over this period, skyrocketing from \$138.8 million in 2005 to \$640 million in 2011, an increase of about 364%.^{xliv}

Corrections Corporation of America (CCA) has seen similarly dramatic rises in its bottom line. In 2011, CCA recorded annual revenue of \$1.74 billion, 43% of which came from the federal government.^{xlv} Using 2005 figures as the benchmark, annual revenue has increased 46% (from \$1.19 billion) and funds from federal contracting have increased by 60% (from \$465 million).^{xlvi} CCA also provides investors a per-diem margin on its prisoners. The figures show that with each passing year, CCA finds a way to squeeze more profits out of each prisoner. Since 2005, the payout for each prisoner’s day in a CCA facility has climbed 50% (from \$12.80) to its current level at \$18.23.^{xlvii}

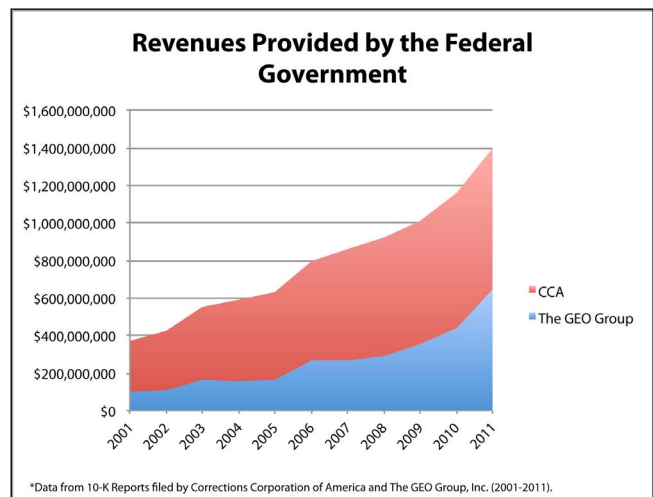


Figure 2. Revenues provided by the federal government, 2001-2011.

Federal facilities incarcerating non-citizens do not match a prisoner’s security levels nor attend to family and medical considerations, forcing immigrants into conditions more severe than could be expected of citizens with a similar-level offense. Whereas U.S. citizens committing low-level offenses may be considered for minimum-security facilities, the

Bureau of Prisons denies non-citizens the possibility of minimum-security incarceration as a matter of general policy.^{xlviii} Non-citizens are also excluded from drug rehabilitation programming offered to US citizens.^{xlix} Due to the high volume of apprehended immigrants funneled through this system, many must wait for a hearing in pretrial detention centers that lack social services.^l

Immigrants entering the criminal justice system through Operation Streamline proceedings are generally housed in the custody of either U.S. Marshals or Bureau of Prisons (BOP), both of which rely heavily on private prisons for contract bed space. In the case of U.S. Marshals, which holds immigrants in pre-trial detention, privately contracted facilities account for 18,464 (29.3%) of its total 63,112 detained population.^{li} Since 2005, the number of private facilities contracted by U.S. Marshals has nearly tripled, in large part due to Operation Streamline. As explained by Tucson defense attorney Richard Bacal,

“Typically, if [the sentence] is less than six months, they stay at a privately run prison.”^{lii}

For longer sentences, many immigrants convicted of unauthorized re-entry are sent to BOP-operated Criminal Alien Requirement (CAR) facilities, which currently hold approximately 25,000 incarcerated.^{liii} Without exception, the contracts that fund these facilities include terms that either incentivize or guarantee that the prison be filled near maximum capacity. A CAR Contract granted to CCA in October of 2011, for example, stipulates that the “Government will be required to order and the contractor required to furnish at least the established minimum quantity of 90% of the accepted number of contract beds for each contract year.”^{liiv} That contract, the twelfth of its kind, commits to pay CCA \$400.9 million over the next ten years. Previous CAR contracts opt instead for incentive structures, providing an additional fixed incremental unit price paid to the contractor when prison capacity exceeds 90%.^{liv}

INCREASED DEMAND FOR PRISON BEDS

GEO Group, CCA, and other private prison companies supply management and buildings for correctional purposes, and because of the current policy there is increasing demand for their services. Ultimately, these corporations will not profit from true immigration reform but stand to gain a great deal from harsher immigration laws and stronger sentencing, even at the expense of tax dollars and immigrant health and safety. For private prison companies like CCA and GEO Group, policies like Operation Streamline brought the increased demand needed to fill overbuilt speculative prisons, and the threat of a 100% criminal referral rate at the border presents an enormous opportunity to expand.^{lii} By one estimate in 2009, federal prisons in Arizona would need to add 51,000 prison beds (over four times the current bed-count) in order to handle the criminal conviction of every immigrant apprehended at the border.^{liii}

According to the BOP, the federal prisoner population currently exceeds the combined capacities of the 116 BOP facilities.^{liiii} It is expected that the prisoner population will continue to grow as a result of programs and policies implemented by the U.S. Department of Homeland Security and the U.S. Department of Justice regarding the criminal prosecution of immigrants, both sentenced and unsentenced. As stated by George Zoley, Chairman, CEO and founder of GEO Group, “The main driver for the growth of new beds at the federal level continues to be the detention and incarceration of criminal aliens.”^{lix} In May of 2011, then-BOP Director Harley Lappin—a former CCA executive who returned to the company in June 2011^{lx}—hinted at a continuation of the lucrative deal for private prison companies. As a potential remedy for overcrowding, Lappin suggested to “contract with private prisons for additional bedspace for low-security criminal aliens.”^{lxi} Until limitations are put in place with regard to the millions of dollars prison companies dedicate to lobbying each year, politicians will likely continue to respond in kind, supporting policies that benefit the private prison industry’s bottom line.^{lxii}

“The main driver for the growth of new beds at the federal level continues to be the detention and incarceration of criminal aliens.”

-George Zoley, Chairman, Founder and CEO of GEO Group, Inc.

A “Mind Boggling” Waste of Taxpayer Dollars

OVERVIEW

The criminalization of undocumented immigrants requires a vast amount of federal resources, spread across numerous government agencies. Grassroots Leadership determined that the United States government currently commits over \$1.02 billion per year towards the criminal incarceration of undocumented immigrants, an amount nearly \$430 million larger than when Operation Streamline was first announced.^{lxiii}

As the initial step in the process, the Department of Homeland Security (DHS), Customs and Border Protection, devotes manpower and other resources towards apprehending migrants and referring them for prosecution, and holding them in pre-trial detention. The pre-detention housing and trial of each defendant then passes the costs over to the Department of Justice, which includes the U.S. Marshals, and pays for prosecuting attorneys, federal district and magistrate judges, courtroom staff, the courthouse, and other incidental expenses. After sentencing, those immigrants who have not fulfilled their sentence in pre-trial detention move on to become federal prisoners, making up the policy’s largest budgetary burden and a hefty profit for private prison companies.

In February of 2011, these astronomical expenses elicited a written rebuke from Federal District Judge Sam Sparks, who regularly presides over a Texas

“The expenses of prosecuting illegal entry and re-entry cases (rather than deportation) on aliens without any significant criminal record is simply mind boggling. The U.S. Attorney’s policy of prosecuting all aliens presents a cost to the American taxpayer that is neither meritorious nor reasonable.”

-Judge Sam Sparks of the United States District Court for the Western District of Texas

courtroom full of non-violent immigrant offenders. “The expenses of prosecuting illegal entry and re-entry cases (rather than deportation) on aliens without any significant criminal record is simply mind boggling,” wrote Judge Sparks, “The U.S. Attorney’s policy of prosecuting all aliens presents a cost to the American taxpayer that is neither meritorious nor reasonable.”^{lxiv} The sentiment mirrors that of policy analysts like Joanna Lydgate from The Chief Justice Earl Warren Institute on Law and Social Policy, who writes, “Operation Streamline’s questionable effectiveness, the strain it has put on border district courts, and its constitutional problems add up to a wasteful expenditure of our law enforcement resources along the border.”^{lxv} Indeed, the policy’s costs exhibit frustrating challenges, not only by pouring funds into a questionable deterrence effect, but also by creating a web of wasted resources nearly impossible to pinpoint with a single dollar amount.

INCARCERATION COSTS

Incarceration is perhaps the easiest part of the cost web to decipher. Since the announcement of Operation Streamline in 2005, the U.S. government has spent or committed to spend approximately \$5.5 billion turning undocumented immigrants into federal prison inmates.^{lxvi} Each year since 2005,

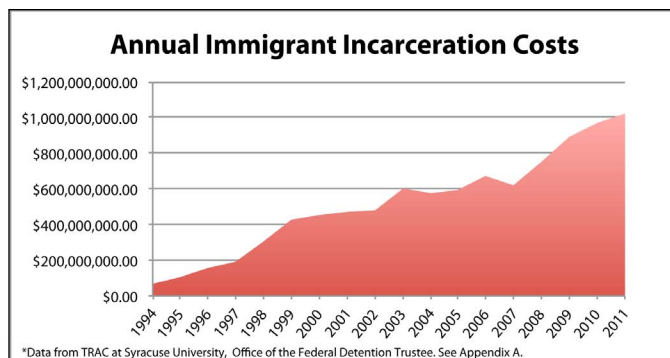


Figure 3. Annual immigrant incarceration costs, 1994-2011.

that annual outlay has risen by an average of nearly 10%, breaking the billion-dollar mark for the first time in history last year.^{lxvii} It is important to note that these figures represent conservative estimates, considering that the actual Bureau of Prison per-diem costs likely lie somewhere between those utilized in these calculations (U.S. Marshals per-diem paid ranging from \$54.08 in 1994 to \$77.28 in 2011) and those paid by Department of Homeland Security (at roughly \$122 per-diem^{lxviii}). Regardless of the cost-multiplier ambiguity, the fact remains that a 159% increase in immigration convictions since 2005 translates to a concurrently alarming increase in federal expenditures.^{lxix} Zero-tolerance border prosecution programs, however, did not initiate this trend, nor do they

account for 100% of its recent persistence. Convictions for unlawful entry jumped by an unprecedented margin from 2003 to 2004, spiking approximately 386% from 3,580 to 17,386.^{lxx} A staggering 97.7% of this conviction increase occurred in the Texas Southern District, amounting to a 4,424% expansion of its caseload for 8 U.S.C. § 1325 (See Table 1).

Year	1325 Convictions by District	
	All	TX-Southern
2003	3,580	305
2004	17,386	13,797

Table 1. 1325 Convictions by District, 2003 and 2004.

*Data from TRAC at Syracuse University

COURT COSTS

Court costs, while likely of considerable magnitude, are much more difficult to calculate. Part of this difficulty derives from a rather unapologetic lack of transparency in the court system requiring formal request letters to obtain dockets and billable hours for attorneys and staff. Grassroots Leadership sent several such requests for the purposes of this publication and did not receive a single approval. However, even if these requests had been granted, another obstacle lies in determining the differential costs specifically attributable to the expanded immigrant docket. Each district court handles the defense of its immigrant caseload with a different attorney-client ratio and proportion of privately contracted attorneys to Assistant Federal Public Defenders (AFPDs), making for an extremely complex cost calculation formula.

Still, a few data points hint at the big picture. According to Heather Williams, an AFPD in Tucson, a total of sixty-three Criminal Justice Act (CJA) panel attorneys

and seven AFPDs split up the Tucson undocumented immigrant caseload. With each privately contracted CJA panel attorney receiving \$125/hour for six billable hours per day, Williams estimates a FY2011 expense of \$2.4 million in Tucson on these attorneys alone.^{lxxi} In other courts, the CJA panel shoulders an even larger portion of the Streamline burden. In El Paso, for example, CJA attorneys represent 100% of the 8 U.S.C. § 1325 cases and are paid at the same \$125/hour rate.^{lxxii} In addition to wages, travel compensation tacks on an extra expense, which represents an estimated \$1.2 million per year for court-appointed counsel traveling between Tucson and Florence alone.^{lxxiii} Where more cost effective measures are taken, due process issues abound. Though due process problems will be addressed in greater depth later in this report, it suffices to say here that the assignment of one attorney to represent up to eighty clients per day in Laredo and Del Rio comes at the cost of proper justice.^{lxxiv, lxxv}

IMMIGRANT CRIMINALIZATION AS A NATIONWIDE TREND

In addition, the steadily rising tide of unauthorized re-entry (8 U.S.C. § 1326) convictions in U.S. court districts not bordering Mexico has contributed a significant portion to nationwide immigrant criminalization costs. Since 1995, over 18% of the increase in unauthorized re-entry convictions has come from non-Southwest-border districts.^{lxxvi} As a result of recently implemented immigrant-crackdown programs like Secure Communities,

referral for unauthorized re-entry prosecution in interior districts is becoming increasingly common. From 2008 to 2011, non-Southwest-border districts have seen more than double the increase of §1326 convictions than occurred from 2005 to 2008.^{lxxvii} If this trend persists and lengthy re-entry sentences continue to be the norm, immigrant incarceration costs in interior states could soon rival those on the border.

FUNDING

As with any expenditure of federal money, the financial spigot can be turned on or off by Congress. After his retirement in December of 2010, Federal District Judge Ruben Castillo rhetorically posed the political rationale which keeps the money flowing: “Are we just running numbers so it appears we’re doing more on immigration [...] offenses or are we doing anything worthwhile? My question would be are we spending the money the right way, and there I would have a lot of concerns.”^{lxxviii} As Judge Castillo suggests, the immigrant criminalization effort allows presidential administrations, from Clinton to Bush to Obama, to point to a specific and concerted response. As an added advantage, the policy’s fiscally crosscutting nature allows politicians to escape budgetary scrutiny.

Although no single piece of legislation encompasses the full cost of Operation Streamline, references to the program may be found embedded in recent, major budget increases for both Department of Homeland Security (DHS) and Department of Justice (DOJ). The record-setting \$45.1 billion FY2011 Senate Appropriations Bill for Homeland Security, for example, includes the following statement: “The Committee supports Operation Streamline, a program in which individuals apprehended crossing the Southwest border are sentenced by a judge to serve a period of time in jail.”^{lxxix} DHS received an extra \$1.8 billion budget bump the following year to \$46.9 billion, and the fact that Secretary of Homeland Security Janet

Napolitano publicly declared Operation Streamline to be “a very expensive program” points to the role of immigrant criminalization in this increase.^{lxxx, lxxxi}

The Department of Justice has secured Streamline funding through various mechanisms. In the DOJ budget for FY2008, Congress commended “Operation Streamline [as] a highly effective law enforcement operation,” provided an extra \$7 million for U.S. Attorneys due to “increased immigration enforcement actions,” and requested that DOJ report back with the costs of implementing programs “identical to Operation Streamline in all districts along the U.S.-Mexico border.”^{lxxxii} Two years later in August of 2010, a border security bill passed awarding \$196 million to pay for Assistant U.S. Attorneys, legal expenses, and immigrant prison facilities.^{lxxxiii} In 2011, Judge Julia Gibbons of the United States Court of Appeals for the Sixth Circuit thanked the House Appropriations Committee for “\$20 million in emergency funding [...] provided over the last two years,” as necessary for “address[ing], in the short-term, our most urgent workload needs, particularly along the Southwest Border.”^{lxxxiv}

“Are we just running numbers so it appears we’re doing more on immigration [...] offenses or are we doing anything worthwhile? My question would be are we spending the money the right way, and there I would have a lot of concerns.”

-Retired Federal District Judge Ruben Castillo

THE FUTURE OF IMMIGRANT CRIMINALIZATION

If tough-on-immigration politicians have their way, the cost of criminalizing people convicted of largely non-violent immigration offenses could soon reach even more alarming levels. In April of last year, Arizona Senators McCain and Kyl introduced the “Border Enforcement Act of 2011,” which lays out a five-year plan to spend a total of \$250 million to expand Operation Streamline and another \$20 million to construct new federal courthouses to handle an increased caseload driven by more immigrant prosecutions.^{lxxxv} A similar but more ambitious bill in 2008 proposed to allocate \$5 billion for full implementation of Operation Streamline along the Southwest border through 2018.^{lxxxvi} In 2010, Senators McCain and Kyl also attempted to include \$200 million for the expansion of Streamline in an emergency appropriations bill, but the Senate rejected the amendment.^{lxxxvii}

“[If Operation Streamline were fully implemented], you would take the resources now, for the entire country, and just double it, and put that in Arizona.”

-Judge John Roll of the United States District Court for the District of Arizona (1947-2011)

The stated objective of zero-tolerance immigrant criminalization policies, to achieve a 100% criminal referral rate of undocumented immigrants, comes at an excessive and unsustainable cost to the American taxpayer. Before the tragic death of Arizona Federal Judge John Roll, he explained that such a development would lead to an outrageous reallocation of resources such that, “You would take the resources now, for the entire country, and just double it, and put that in Arizona.”^{lxxxviii} With annual immigrant incarceration costs climbing by over fourteen times their 1994 levels to in excess of \$1 billion, the current trend already depletes federal resources at an astounding rate.^{lxxxix} Further measures in support of immigrant criminalization, whether aimed at the border or at nation’s interior, would exacerbate these expenses and thereby deepen the federal deficit. Given the illusory nature of the deterrence effect used to justify policies like Operation Streamline (an aspect that will be explored later in this report), any immigrant criminalization effort in fact represents a waste of resources, especially at the colossal and unprecedented levels that the U.S. government is pursuing today.

Overwhelming the Courts

OVERVIEW

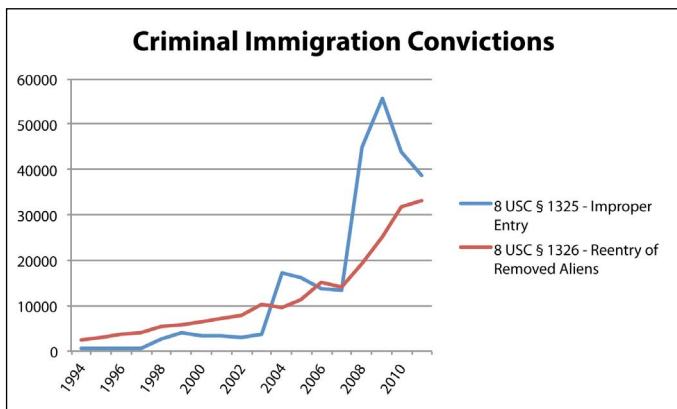


Figure 3. Criminal immigration convictions, 1994-2010.

Operation Streamline has left an indelible mark and heavy burden on the U.S. federal court system—specifically border district courthouses—and the future promises to bring more of the same. Since its implementation in 2005, the number of unauthorized entry and unauthorized re-entry convictions has jumped a remarkable 159%, an increase that has significantly impacted and overwhelmed Texas’ and Arizona’s border district courthouses.^{xc} As the figures suggest, the ramping up of Operation Streamline has continued under the Obama administration. In fact, unauthorized re-entry cases have grown in number by more than two-thirds since 2008.^{xc1} The U.S. Bureau of Justice announced that immigration violations were the fastest growing federal offenses, noting that the number of cases increased an average rate of 23% annually nationally between 2005 and 2009.^{xc2} Another source estimated that immigration offenses made up approximately 54% of the total federal prosecutions nationwide in 2009.^{xc3}

Ultimately, federal courthouses in two states – Arizona and Texas - serve as the primary implementers of this zero-tolerance immigration policy. Since 2009, Texas’ and Arizona’s federal courthouses have singularly borne the burden of prosecuting more than half of the nation’s annual federal prosecutions.^{xc4} Between

2004 and 2010, federal magistrate judges presiding over border district courts in both these states witnessed their misdemeanor immigration caseloads swell to more than double their size, from 26,092 to 55,604.^{xc5}

In Arizona, an increasingly popular site for immigrant crossings within the last decade and half, federal courthouses have been flooded with these petty immigration cases. Approximately one out of every five prosecutions filed nationwide in 2011 were brought before an Arizona judge; and of these federal cases 84.5% were immigration related.^{xc6} Such drastic changes become all the more evident when examining Tucson’s U.S. district courthouse. Before 2008, this particular sector prosecuted 40 unauthorized entry and re-entry cases per day.^{xc7} Now the number of immigration cases on the court’s dockets is almost double. At least 70 individuals currently line up daily before one of Tucson’s federal magistrate judges, and there are aspirations to increase this number to 100 per day.^{xc8}

The number of unauthorized entry and re-entry cases presented before Texas’ Western and Southern U.S. district courts has grown similarly. Re-entry cases in the two Texas border districts grew from 2,842 in 2004 to a peak of more than 9,000 in 2010.^{xc9} Entry cases in the two districts similarly rose from 15,463 in 2004 to more than 26,000 in 2011. The peak of entry prosecutions was in 2009 when the two districts

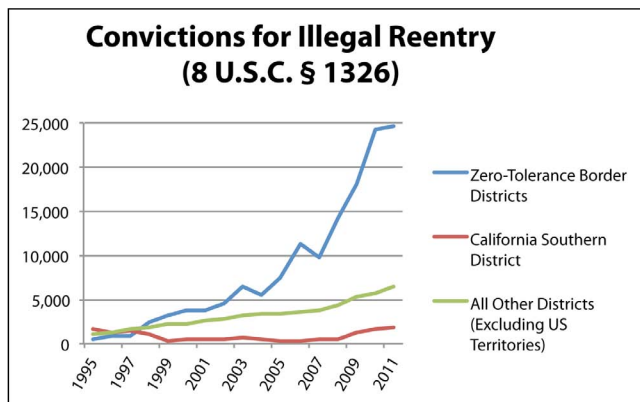


Figure 4. Convictions for Illegal Reentry, 1995-2011.

combined to prosecute more than nearly 38,000 migrants for unauthorized entry.^c

Recent data also suggests that the Operation Streamline approach to immigrant prosecution is creeping beyond the Texas, Arizona, and New Mexico border districts. From 2008 to 2011, unauthorized re-entry convictions (8 U.S.C. § 1326) in court districts not on the Southwest border increased by the greatest margin of any four-year period in history.

^{ci} Non-border district courthouses, such as the one located in Austin, have reported increased numbers of immigration cases since 2006. The number of unauthorized re-entry cases brought before Texas non-border district courthouses increased by 26% between 2004 and 2011.^{cii} Programs like Secure

Communities that have resulted in more immigration holds placed on immigrants in county jails have contributed to this trend.

Although Latinos make up only 16% of the overall U.S. population, they now represent more than half of all individuals sentenced to federal prison.^{ciii} Immigration crimes are now the highest prosecuted offense in the country, and over the past decade, felony immigration crimes such as unauthorized entry or re-entry led to an 87% increase in Latinos sent to prison.^{civ} The majority of these prisoners are migrants coming from Mexico or Central America to look for work or reunite with family, and they have no prior criminal conviction.^{cv}

THE EXPANSION OF JUDICIAL RESOURCES FAILS TO KEEP UP

For the judges, lawyers, and other staff embroiled in the implementation of this policy, the sheer number of cases flooding dockets in border district courts presents a tremendous challenge. U.S. district courthouses lack the resources to handle the prosecution of these immigration offenses. This is despite the fact that, as explored earlier in this report, the Department of Homeland Security and the Department of Justice have been funneling an impressive amount of money each year into this policy. Since its inception, Operation Streamline has led to the creation of new magistrate judge positions all along the border. The need for judges to preside over these cases has become so dire that individual judiciaries have called on formally retired magistrate judges to become active again.^{cvi}

Yet, in spite of these efforts to obtain more judges, a shortage persists. As the United States Sixth Circuit Court of Appeals Judge Julia Gibbons explained in a 2011 statement, “five out of 94 federal judicial districts nationwide are handling 41 percent of all federal criminal cases.”^{cvii} The expectation that five courthouses could handle 41% of all the nation’s federal criminal cases at an acceptable standard of justice is unrealistic. The number of Assistant Federal Public Defenders in U.S. border districts has also swelled over the years as a result of Operation Streamline, and still, the unauthorized entry and re-

entry deluge begs a greater devotion of resources. In November of 2011, the Office of the Federal Public Defender in Austin estimated spending 95% of its time working unauthorized re-entry cases, despite adding two additional federal defenders.^{cviii} Five years prior, reentry cases represented only 50% of the Public Defender caseload in Austin. Another Assistant Federal Public Defender in Laredo determined that unauthorized reentry cases made up approximately 75% of his total felony suits.^{cix}

The overwhelming numbers of immigration cases flooding border district courthouses have exhausted many of the individuals working in these districts. The Administrative Office of the U.S. Courts echoed this reality in an official statement in July of 2008. According to officials, recruitment and retention of court employees had become increasingly challenging because “many employees at border locations are experiencing burnout due to the nature and sheer volume of the work.”^{cx} In Laredo, the Federal Public Defenders’ office attempts to combat burnout by rotating the attorneys assigned to Operation Streamline cases on a monthly basis.^{cxii} Prosecuting attorneys also struggle with the tedious and defeating nature of Streamline. “A lot of the guys I work with,” explains one federal prosecutor, “did nothing but the most complex cases — taking down multi generational crime families, international crime,

drug trafficking syndicates — you know, big fish. Now these folks are dealing with these improper entry and illegal reentry cases.” He continues, “It’s demoralizing for them, and us.”^{cxii} Many public defenders, judges,

pretrial and probation officers share these same sentiments, claiming that Operation Streamline restricts them to working these relatively banal cases.

DE-PRIORITIZING MORE SERIOUS SECURITY THREATS

Federal resources have been redirected into supporting and funding Operation Streamline since 2005. Since that time, the number of serious drug and gun charges along the border has significantly declined. Between 2005 and 2009, the rate of weapons prosecutions declined 15%.^{cxiii} As the Assistant U.S. Attorney Clint Johnson of Las Cruces explains, “Because of the [immigration] caseload, we can’t always be as proactive as we’d like to be because we’re so busy being reactive. [Drug and human trafficking] cases do exist. [...] Would I like to spend a lot more time trying to work up the ladder

to [drug and human trafficking] organizations? Most definitely.”^{cxiv} Unfortunately, Operation Streamline strips Assistant U.S. Attorneys of the power to prosecute the crimes they deem pressing. Instead of targeting drug cartel activity, human smuggling, and violent crimes, the policies of the U.S. Department of Justice and Homeland Security oblige the federal courts to focus on unauthorized entry and reentry cases.^{cxv} Immigration cases made up 36% of all criminal prosecutions nationwide in 2011, surpassing drug and fraud prosecutions combined.^{cxvi}

PUSHING THE LIMITS OF DUE PROCESS

In order to process the thousands of immigration cases filed on a weekly basis, southwest border district courts apply an inferior standard of due process to those charged with immigration offenses. The enormous case volume and limited resources yields a deficient system of justice that undermines the legitimacy of the U.S. court system and fails to guarantee defendants their fundamental rights.

The expedited procedure combines arraignment, plea, and sentencing hearings into one court appearance, churning out groups of ten or more immigrants at a time.^{cxvii} In Tucson, Magistrate Judge Bernardo Velasco regularly processes seventy Operation Streamline defendants in roughly forty minutes.^{cxviii} Due to the mechanical nature of the proceedings, several magistrate judges have casually referred to Streamline hearings as “assembly-line justice.”^{cxix}

In December of 2009, the Ninth Circuit Court of Appeals addressed one of the most obvious due process violations that had been standard Operation

Streamline procedure up until that point. Prior to the ruling, groups of up to fifty defendants entered pleas simultaneously by saying the word “guilty” all at once.^{cx} In the opinion, Senior Ninth District Judge John T. Noonan aptly pointed out that “no judge, however alert, could tell whether every single person in a group of 47 or 50 affirmatively answered their questions” and that consequently, en-masse guilty pleas violated the Federal Rules of Criminal Procedure.^{cxxi} In light of the decision, the Tucson court now requires all defendants to enter pleas individually, but many important due process concerns remain.

One such concern involves the right to counsel. The Sixth Amendment of the U.S. Constitution guarantees the assistance of counsel to the accused in all criminal prosecutions, and *Strickland v. Washington* (1986) expounds upon this right by declaring that the performance of counsel meet an objective standard of adequacy. Due to the swiftness with which these cases are moved through courts, legal representation for defendants often falls short of this standard. In most cases, Operation Streamline defendants are

only privy to brief meetings with attorneys, and the volume of clients for Assistant Federal Public Defenders (AFPDs) is such that representation unfortunately becomes a matter of routine rather than personalized defense.

Many public defenders recognize this due process issue but are forced to handle the immense caseload as adequately as possible with limited staff. For the Office of the Federal Public Defender in Laredo, that means meeting with anywhere from 20 to 75 clients in a span of just two hours.^{cxxii} On Mondays, that number is regularly at 75, leaving each defendant less than two minutes to meet with a public defender.^{cxxiii} In border district courts where privately contracted Criminal Justice Act (CJA) panel attorneys share the burden alongside AFPDs, the length of time that attorneys have to meet with clients is only marginally better. In Del Rio, attorneys usually meet with about 80 clients over eight hours, leaving only ten minutes to meet with each Streamline defendant.^{cxxiv} At most, as in El Paso and Tucson, defendants receive about thirty minutes with an attorney.^{cxxv}

As a result of the remarkable attorney-client imbalance, lawyers are not always able to counsel

clients individually, resulting in violations of attorney-client confidentiality.^{cxxvi} In addition, clients that may have legitimate claims to citizenship or asylum are easily overlooked because of the time constraints. The complex process of determining a citizenship claim can take considerable time, and often defendants with citizenship are unaware of their status.^{cxxvii} Despite these and several other viable defenses, 99% of Operation Streamline defendants plead guilty.^{cxxviii}

Violations of the Fourth Amendment, which guards against unreasonable searches and seizures and requires that warrants be sanctioned by judges and supported by probable cause, also abound. Many defendants are arrested and held in detention for longer than 48 hours without a probable cause determination or initial court appearance. In a 2010 investigation by the Warren Institute, several defendants in Del Rio waited as many as 12 days before receiving probable cause determinations and 14 days before appearing in court.^{cxxix} In other cases, defense attorneys discover clients to be juveniles after sentencing has already occurred.^{cxxx}

Addressing the Arguments for Operation Streamline

Proponents of Operation Streamline, including politicians and those representing agencies involved, have argued that the program deters immigrants from re-entering the country once they have a criminal conviction. According to its supporters, the program serves as an important part amongst a host of tough-on-immigration provisions that would create a climate so inhospitable that undocumented migrants will not attempt to enter the country and will leave if already here. Secure Communities, an already implemented program, uses a fingerprint-

sharing database to identify non-citizens with civil immigration violations or criminal histories. Secure Communities often leads to the placement of detainees on immigrants in county jails. Proposed policies include revoking automatic citizenship for children of undocumented immigrants and seizing assets of deported immigrants to reduce incentives to return. In addition to the deterrence argument, proponents also argue that Streamline frees up government resources that may be aimed at more serious criminal activity.

STREAMLINE AS DETERRENT TO UNAUTHORIZED MIGRATION

In Congress, proponents on both sides of the political aisle have backed Streamline. Congressman Henry Cuellar, a Democrat from Texas and a veteran member of the House Committee on Homeland Security, recently expressed his approval for the policy, saying, "I think people coming across should understand that there are some repercussions rather than just getting slapped on the hand and sent back right away."^{cxix} Andrew Wilder, Communications Director for Senator Jon Kyl, has even gone as far as leading an initiative to achieve 100% criminal referral rates, which he has stated "would have drastic and immediate effects for decreasing the flow of traffic in the Tucson sector."^{cxixii} Officials within the Department of Homeland Security have made similar claims. In the words of Deputy Chief Border Patrol Agent Dean Sinclair, "Operation

Streamline was developed [...] using existing laws, policies and procedures — to put a deterrence effect into the mindset of the economic aliens coming across, hoping to deter those crossings."^{cxixiii}

Despite the aforementioned claims, decades of research and testimony from immigrants indicate that enforcement measures play a minimal role in deterring future crossings. Instead, data and testimony suggest that 1) flow of migration is largely dictated by economic climate in the United States, 2) enforcement measures including incarceration do not act as a deterrent, and 3) immigration enforcement programs like Streamline often become their own end and can be counter-productive.

MIGRATION DICTATED BY ECONOMICS

Most data and qualitative research demonstrates that migration is largely dictated by economic climate, not enforcement mechanisms. Even the Department of Homeland Security admits, "the decrease in apprehensions between 2005 and 2010

may be due to a number of factors including changes in U.S. economic conditions."^{cxixiv} Economists recognize that the strongest correlation with flows of Mexican migration is demand from the U.S. labor market. They point to the slowing of migration that

began in 2006, at the beginning of the housing downturn, which particularly affected the availability of construction jobs.^{cxxxv} Economist Scott Berger found that the disparity in economic health between Mexico and the United States was the primary driver of migration. Previous studies found immigration flows to be largely responsive to the real wage in the United States.^{cxxxvi} Quantitative researchers find similar results. When researchers at the University of California, San Diego interviewed Mexican migrants between 2005 and 2009, they found the primary factors deterring border crossings were the increased cost of crossing the border along with the current state of the U.S. economy.^{cxxxvii}

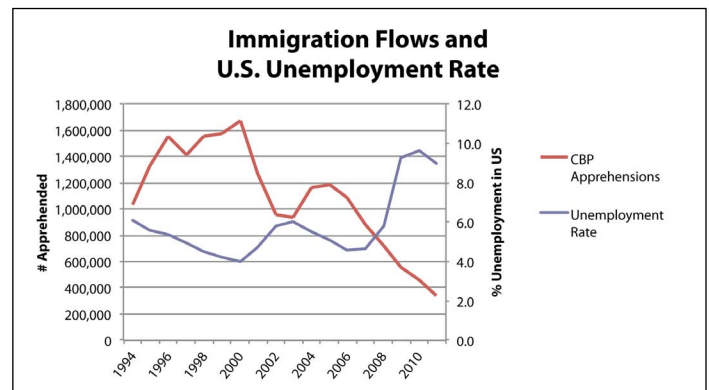


Figure 4. Annual immigration flows and U.S. unemployment rate, 1994-2011.

CRIMINAL PROSECUTIONS AND INCARCERATION NOT A DETERRENT

Government proponents of Streamline argue that the program serves as a deterrent to unauthorized entry, claiming that few of those convicted try to cross the border again and pointing to the decrease in the total number of people being apprehended crossing without authorization.^{cxxxviii} Yet a majority of immigrants point to factors other than criminal prosecution or serving time in prison as factors in determining whether to cross. In one study, immigrants reported that “extreme climate,” “border patrol,” “gangs,” and “not find(ing) work” were far more likely than “being incarcerated” as a concern about clandestine entry.^{cxxxix}

In fact, many migrants caught in Streamline proceedings may not understand the impact of criminal proceedings versus civil immigration proceedings. According to Federal Public Defenders, many unauthorized migrants “cannot begin to grasp how it will affect them in the longer term because they do not understand the concept of bars to reentry or what it means to be charged with a misdemeanor or a felony in the United States.”^{cxl} Furthermore, incarceration does not seem to deter migrants from attempting re-entry. In one empirical study conducted by National Public Radio for its series on Streamline, 85% of prosecuted migrants said they would cross again. This is a much higher percentage

than the government’s claim of 20% recidivism.^{cxli}

Legal professionals agree, arguing that if migrants are prepared to risk death crossing remote desert regions, federal prison time is probably little deterrent.^{cxlii} At a sentencing hearing in November 2011, U.S. Federal District Judge Lee Yeakel of the Western District of Texas proclaimed, “This court has yet to find an adequate sentence that will act as a deterrent for those reentering the country illegally.”^{cxliii} El Paso’s U.S. Magistrate Judge Norbert Garney expressed this notion with even stronger language: “Does it (Streamline) discourage people from crossing the border? Of course it doesn’t. Ten to 14 days [in jail] is a small price to pay for the opportunity to double, triple or even quadruple your income and start a better life for your family.”^{cxliv}

“This court has yet to find an adequate sentence that will act as a deterrent for those reentering the country illegally.”

-Judge Lee Yeakel of the United States District Court for the Western District of Texas

STREAMLINE DETRACTS FROM MORE SERIOUS CRIMINAL PROSECUTIONS

Operation Streamline supporters also argued that the program allows government agents to concentrate on more serious crime. Homeland Security spokesperson Matt Chandler made the case that, “Streamline frees up our officers and agents at the border to focus on interdicting transnational criminal operations [that] are attempting to smuggle illicit goods across the southwest border.”^{cxlv}

However, evidence shows that Operation Streamline may actually achieve the opposite effect, draining resources from programs dedicated to detecting and prosecuting more serious crimes. As demonstrated in a previous section of this report, prosecutions of more serious drug and gun crimes have declined in border regions where immigration prosecutions have surged.^{cxlvi} The National Immigration Forum found that between 2003 and 2008 prosecutions of white-collar crime, weapons, organized crime, public corruption, and drug prosecutions all fell between 14% and 20% as federal immigration charges surged.^{cxlvii} In Arizona, per capita prosecutions for unauthorized entry skyrocketed from 2005 to 2010 while drug trafficking and alien smuggling

prosecutions declined.^{cxlviii} In contrast the U.S. Attorney’s Office in the Southern District of California has retained a discretionary approach to immigration offenses and the opposite trend is occurring. There, low-level immigration convictions have fallen since 2008 alongside increases in drug trafficking and alien smuggling cases.^{cxlix}

Many within the judicial community publicly have called into question the policy’s effectiveness. Among them is Arizona’s Federal Defender Heather Williams who has called the program “one of the least successful, but most costly and time consuming ways of discouraging [illegal] entries and reentries.”^{cl} In fact, several federal public defenders went so far as to argue that Border Patrol has boosted its apprehension numbers by arresting departing immigrants heading back to Mexico.^{cli} Former U.S. Attorney for the Southern California District, Carol Lam argued that Streamline prosecutions “drove the statistics” but that diverting prosecutorial resources away from more serious crimes involving wiretaps and money laundering statutes was “not good law enforcement.”^{clii}

Recommendations

Operation Streamline and related programs have dramatically expanded the criminal prosecutions of immigrants charged with unlawful entry or reentry into the United States, offenses generally handled within the civil immigration system before the program's inception. The program has swelled federal prisons and been devastating on immigrant communities. Latinos now represent more than half of all individuals sentenced to federal prison despite making up only 16% of the total U.S. population.

The result has greatly benefited private prison corporations including Corrections Corporation of America (CCA) and GEO Group. Despite its human and financial cost considerable support for Operation Streamline persists behind a belief in the efficacy of a deterrence mindset. However, decades of research indicate that economic conditions, not harsher criminal penalties, have led to recent declines in migration.

The following are recommendations derived from the findings of this report:

1) End the practice of prosecuting immigration offenses in criminal court.

The administration should end the widespread practice of prosecuting the immigration offenses of unauthorized entry and re-entry in the criminal justice system. Instead, officials should rely on the civil immigration system to process those apprehended on immigration charges, whether at the border or in the nation's interior.

2) Balance criminal prosecutions for immigration with priorities for reducing non-violent incarcerated population.

The Obama administration has identified a goal of reducing the federal prison population, particularly non-violent offenders, by expanding re-entry programs and through a "smarter allocation of resources for crime prevention and public safety."^{ciii} The increasing numbers of immigrants incarcerated solely for entering the country without documentation directly counters that stated goal.

3) Use discretion to mitigate impact of immigration prosecutions.

Short of ending prosecutions for unauthorized entry and re-entry entirely, the Obama administration can use discretion to reduce the number of migrants criminally prosecuted for immigration offenses. The administration could restore the U.S. Attorney's discretion in border districts to initiate prosecutions for entry cases as they see fit, rather than the current policy of across-the-board prosecutions. In the Southern District of California for example, the U.S. Attorney's Office has retained discretion and does not prosecute every border crosser, leading to dramatically fewer prosecutions than in Streamline districts.^{civ} Furthermore, the administration should stop the increasingly widespread practice of referring those apprehended internally for re-entry prosecutions.

4) Stop expansion of private prisons and federal detention centers.

The Bureau of Prisons (BOP) should immediately halt plans to expand Criminal Alien Requirement (CAR) contracted prison facilities. The Department of Justice should institute a review of all BOP and U.S. Marshals Service (USMS) - contracted private prisons.

References

- i. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." *California Law Review*: Vol. 98, No. 2. April 2010. Page 492. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>.
- ii. "Aarti Kohli – Operation Streamline: Assembly-Line Justice at the Border." University of California, San Diego: Center for Comparative Immigration Studies. May 18, 2010. <<http://ccis.ucsd.edu/2010/05/aarti-kohli/>>.
- iii. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." *California Law Review*: Vol. 98, No. 2. April 2010. Page 492. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>.
- iv. "Aarti Kohli – Operation Streamline: Assembly-Line Justice at the Border." University of California, San Diego: Center for Comparative Immigration Studies. May 18, 2010. <<http://ccis.ucsd.edu/2010/05/aarti-kohli/>>.
- v. CBP Headquarters, Office of Public Affairs. (2005, December 16). "DHS Launches 'Operation Streamline II.'" <http://www.cbp.gov/xp/cgov/newsroom/news_releases/archives/2005_press_releases/122005/12162005.xml>.
- vi. United States Sentencing Commission. "2011 Federal Sentencing Guidelines Manual." <http://www.ussc.gov/Guidelines/2011_Guidelines/Manual_PDF/index.cfm>.
- vii. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." *California Law Review*: Vol. 98, No. 2. April 2010. Page 489. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>.
- viii. Lemons, Stephen. Phoenix New Times: "Grinding Justice: Operation Streamline Costs Millions, Tramples the Constitution, Treats Migrants Like Cattle, and Doesn't Work." October 21, 2010. <<http://www.phoenixnewtimes.com/2010-10-21/news/grinding-justice-operation-streamline-costs-millions-tramples-the-constitution-treats-migrants-like-cattle-and-doesn-t-work/>>.
- ix. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. Page 3. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>.
- x. Lemons, Stephen. Phoenix New Times: "Grinding Justice: Operation Streamline Costs Millions, Tramples the Constitution, Treats Migrants Like Cattle, and Doesn't Work." October 21, 2010. <<http://www.phoenixnewtimes.com/2010-10-21/news/grinding-justice-operation-streamline-costs-millions-tramples-the-constitution-treats-migrants-like-cattle-and-doesn-t-work/>>.
- xi. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- xii. "Aarti Kohli – Operation Streamline: Assembly-Line Justice at the Border." University of California, San Diego: Center for Comparative Immigration Studies. May 18, 2010. <<http://ccis.ucsd.edu/2010/05/aarti-kohli/>>.
- xiii. GEO Group, Inc. "2005 Annual Report." <<http://library.corporate-ir.net/library/913/91331/items/197898/GGlar2005.pdf>>; GEO Group, Inc. "Form 10-K: Annual report pursuant to section 15 and 13(d)." Filed on March 1, 2012. <<http://phx.corporate-ir.net/phoenix.zhtml?c=91331&p=irol-sec#8044051>>; Corrections Corporation of America. "2005 Annual Report." <<http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTg3MDV8Q2hpbGRJR0t0tMXxUeXBIPtM=&t=1>>; Corrections Corporation of America. "Form 10-K: Annual report pursuant to section 15 and 13(d) of the Securities Exchange Act of 1934." <<http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-SECText&TEXT=aHR0cDovL2lyLmludC53ZXN0bGF3YnVzaW5lc3MuY29tL2RvY3VtZW50L3YxLzAwMDExOTMxMjU0MTItMDEgMTYlL3htbA%3d%3d>>.
- xiv. See Appendix D.
- xv. Criminal Alien Requirement 12. Federal Business Opportunities, Solicitation Number: RFP-PCC-0017 <https://www.fbo.gov/index?s=opportunity&mode=form&id=0422f16890af0ef708c5067abe7cf6b8&tab=core&_cview=1>. Also: Raheer v. Federal Bureau of Prisons, 09-CV-536-ST (D. Or., filed May 13, 2009). Page 227-28.
- xvi. Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies. Justice Policy Institute. June 2011. <http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf>.
- xvii. Transactional Records Access Clearinghouse, Syracuse University. Appendix A.
- xviii. Appendix A.
- xix. Senate Bill S. 3607 (S.Rpt. 111-222): "Department of Homeland Security Appropriations Bill, 2011." July 19, 2010. <<http://www.gpo.gov/fdsys/pkg/CRPT-111srpt222/pdf/CRPT-111srpt222.pdf>>.
- xx. United States Courts. Judicial Business of the U.S. Courts. "Supplemental Table M-2: Petty Offense Defendants Disposed of by U.S. Magistrate Judges." <<http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2010/appendices/M02Sep10.pdf>>; <<http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2002/appendices/m02sep02.pdf>>.
- xxi. Robbins, Ted. NPR: "Border Convictions: High Stakes, Unknown Price." September 14, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129829950>>.
- xxii. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." *California Law Review*: Vol. 98, No. 2. April 2010. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>. Page 494. Also: Judicial Council of the Ninth Circuit. In Re: Approval of the Judicial Emergency Declared in the District of Arizona. March 2, 2011. <<http://caselaw.findlaw.com/9th-circuit-judicial-council/1557944.html>>.
- xxiii. U.S. Courts. "Statement of the Honorable Julia S. Gibbons, Chair Committee on the Budget of the Judicial Conference of the United States Before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States House of Representatives." April 6, 2011. <<http://www.uscourts.gov/uscourts/News/2011/docs/JudgeGibbons2011-04.pdf>>.
- xxiv. Aldridge, Horatio, David Peterson, and José Gonzalez-Falla. Personal Interview. November 17, 2011.
- xxv. Appendix B.
- xxvi. Associated Press. "More Hispanics go to federal prison." June 4, 2011. <http://www.usatoday.com/news/nation/2011-06-04-immigration-hispanic-offenders-federal-prison_n.htm>. And: United States Sentencing Commission. "U.S. Sentencing Commission Preliminary Quarterly Data Report: 4th Quarter Release, Preliminary Fiscal Year 2011 Data Through October 31, 2011." <http://www.ussc.gov/Data_and_Statistics/Federal_Sentencing_Statistics/Quarterly_Sentencing_Updates/USSC_2011_4th_Quarter_Report.pdf>.
- xxvii. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. Page 10. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>.
- xxviii. Hicken, Jonathan, Mollie Cohen, and Jorge Narvaez. "Double Jeopardy: How U.S. Enforcement Policies Shape Tunkaseño Migration." In *Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective*, edited by Wayne Cornelius et al., p 47-92. San Diego: Center For Comparative Immigration Studies, 2010. Page 63. Also: United States Border Patrol. "U.S. Border Patrol Fiscal Year Apprehension Statistics." December, 2011. <http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf>.
- xxix. Ibid.

- xxx. Borger, Scott. Center for Comparative Immigration Studies at UCSD: "Estimates of the Cyclical Inflow of Undocumented Migrants to the United States." August 2009. <<http://ccis.ucsd.edu/2009/10/estimates-of-the-cyclical-inflow-of-undocumented-migrants-to-the-united-states-working-paper-181/>>. See also: Passel, Jeffrey and Roberto Suro. "Rise, Peak, and Decline: Trends in U.S. Immigration: 1992—2004." Washington, DC: Pew Hispanic Research Center, 2005. <<http://www.ilw.com/articles/2005,1205-passel.pdf>>.
- xxxi. Federal Sentencing Hearing. November 21, 2011. Austin U.S. Courthouse, Austin, TX.
- xxxii. Appendix A.
- xxxiii. Appendix A.
- xxxiv. Appendix B
- xxxv. Paul, John. Assistant Federal Public Defender. Personal Interview. January 30, 2012.
- xxxvi. Syracuse University Transactional Records Access Clearinghouse
- xxxvii. Aldridge, Horatio, David Peterson, and José Gonzalez-Falla. Personal Interview. November 17, 2011.
- xxxviii. Federal Sentencing Hearing. November 21, 2011. Austin U.S. Courthouse, Austin, TX.
- xxxix. Office of Management and Budget. "Budget of the United States Government, Fiscal Year 2013: Department of Justice." February 13, 2012. <<http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/justice.pdf>>.
- xl. Appendix A.
- xli. Taken from CCA per-diem profit margin in 2011 (available at Corrections Corporation of America. "Form 10-K: Annual report pursuant to section 15 and 13(d) of the Securities Exchange Act of 1934." Filed on February 27, 2012. <<http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-SECText&TEXT=aHR0cDovL2lyLmludC53ZXN0bGF3YnVzaW5lc3MuY29tL2RvY3VtZW50L3YxLzAwMDEwOTMxMjU0MTItMDgxMTIyL3htbA%3d%3d>>) and current BOP Weekly Population Report (available at <http://www.bop.gov/locations/weekly_report.jsp>.)
- xl.ii. Appendix D
- xl.iii. Ibid.
- xl.iv. Ibid.
- xl.v. Ibid.
- xl.vi. Ibid.
- xl.vii. Corrections Corporation of America. "2005 Annual Report." <<http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTg3MDV8Q2hpbGRJR00tMxUeXBIPtM=&t=1>>. And: Corrections Corporation of America. "Form 10-K: Annual report pursuant to section 15 and 13(d) of the Securities Exchange Act of 1934." Filed on February 27, 2012. <<http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-SECText&TEXT=aHR0cDovL2lyLmludC53ZXN0bGF3YnVzaW5lc3MuY29tL2RvY3VtZW50L3YxLzAwMDEwOTMxMjU0MTItMDgxMTIyL3htbA%3d%3d>>.
- xl.viii. BOP PS 5100.08, Ch. 5, p. 9 (2006) ("Inmate Security Designation and Custody Classification").
- xl.ix. Nora V. Demleitner, "Terms of Imprisonment: Treating the Noncitizen Offender Equally," Fed. Sentencing Reporter Vol. 21 No. 3, 174 (February 2009)
- I. Aldridge, Horatio, David Peterson, and José Gonzalez-Falla. Assistant Federal Public Defenders. Personal Interview. November 17, 2011.
- li. Average Daily Population. The United States Department of Justice: Office of the Federal Detention Trustee. <
- lii. "Another Day in Operation Streamline." The Sonoran Chronicle. September 23, 2011. <<http://sonoranchronicle.com/2011/09/23/another-day-in-operation-streamline/>>.
- liii. BOP Weekly Population Report. <http://www.bop.gov/locations/weekly_report.jsp>.
- liv. Criminal Alien Requirement 12. Federal Business Opportunities, Solicitation Number: RFP-PCC-0017 <<https://www.fbo.gov/index?s=opportunity&mode=form&id=0422f16890af0ef708c5067abe7cf6b8&tab=core&cview=1>>.
- lv. *Raher v. Federal Bureau of Prisons*, 09-CV-536-ST (D. Or., filed May 13, 2009). Page 227-28.
- lvi. Tom Barry, A Death in Texas: Profits, Poverty, and Immigration Converge, THE BOSTON REVIEW, Nov.-Dec.
- lvii. 2009, available at <http://bostonreview.net/BR34.6/barry.php>.
- lviii. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- lix. Federal Register. Notice of Intent To Prepare a Draft Environmental Impact Statement. December 29, 2010. < <http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/html/2010-32317.htm>>/
- lx. GEO Group, 2009 Q2 Conference Call (2009), transcript available at <http://yahoo.brand.edgar-online.com/EFX_dll/EDGARpro.dll?FetchFilingHtmlSection1?SectionID=6739202-51403-101292&SessionID=YBcHjnBP1BPPs7>.
- lxi. Corrections Corporation of America Press Release, June 1, 2011. <<http://www.cca.com/newsroom/news-releases/256/>>
- lxii. Lappin, Harely G., Director of the Federal Bureau of Prisons, Statement before the U.S. Sentencing Comm. (Mar. 17, 2011) <http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110317/Testimony_BOP_Lappin.pdf>. See also: Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies. Justice Policy Institute. June 2011. <http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf>.
- lxiii. See Appendix A. This figure and other incarceration costs mentioned in this publication were obtained using the Transactional Records Access Clearinghouse at Syracuse University. Annual costs were calculated by multiplying unlawful entry and re-entry convictions by average sentence lengths for each of those offenses by lead charge, then multiplying that figure by the U.S. Marshals per-diem paid, available at <<http://www.justice.gov/ofdt/perdiem-paid.htm>>. It is assumed that the U.S. Marshals per-diem paid closely resembles that of the Bureau of Prisons.
- lxiv. *Order, U.S. v. Ordonez-Soto*, No. A-09-CR-590-SS (W.D. Tex. Feb. 5, 2010). <<http://alt.coxnewsweb.com/statesman/pdf/02/0206sparks.pdf>>.
- lxv. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 16.
- lxvi. Ibid.
- lxvii. Appendix A
- lxviii. National Immigration Forum. "The Math of Immigration Detention." August 2011. <<http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>>
- lxix. Appendix A
- lxx. Ibid.
- lxxi. Williams, Heather. "Operation Streamline Estimated Costs - FY 2011." Obtained via email on December 26, 2011.
- lxxii. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." California Law Review: Vol. 98, No. 2. April 2010. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>. Page 505.
- lxxiii. Judicial Council of the Ninth Circuit. In Re: Approval of the Judicial Emergency Declared in the District of Arizona. March 2, 2011. <<http://caselaw.findlaw.com/9th-circuit-judicial-council/1557944.html>>.

- lxiv. Visit to United States Federal Courthouse, Fifth District. Federal Magistrate Judge Diana Song Quiroga, Laredo, Texas. January 30, 2012.
- lxv. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." *California Law Review*: Vol. 98, No. 2. April 2010. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>. Page 505.
- lxvi. Appendix B.
- lxvii. Ibid.
- lxviii. Associated Press. "More Hispanics go to federal prison." June 4, 2011. <http://www.usatoday.com/news/nation/2011-06-04-immigration-hispanic-offenders-federal-prison_n.htm>.
- lxix. Senate Bill S. 3607 (S.Rpt. 111-222): "Department of Homeland Security Appropriations Bill, 2011." July 19, 2010. <<http://www.gpo.gov/fdsys/pkg/CRPT-111srpt222/pdf/CRPT-111srpt222.pdf>>.
- lxxx. S. Rept. 112-74 - DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, 2012. <<http://www.gpo.gov/fdsys/pkg/CRPT-112srpt74/html/CRPT-112srpt74.htm>>.
- lxxxi. Robbins, Ted. NPR: "Border Convictions: High Stakes, Unknown Price." September 14, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129829950>>.
- lxxxii. 153 Cong. Rec. H15741 - House of Representatives. <<http://www.gpo.gov/fdsys/pkg/CREC-2007-12-17/html/CREC-2007-12-17-pt2-PgH15741.htm>>.
- lxxxiii. Huey-Burns, Caitlin. US News & World Report: "Senate Passes \$600 million dollar border security package." August 12, 2010. <<http://www.usnews.com/news/articles/2010/08/12/senate-passes-600-million-border-security-package>>.
- lxxxiv. U.S. Courts. "Statement of the Honorable Julia S. Gibbons, Chair Committee on the Budget of the Judicial Conference of the United States Before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States House of Representatives." April 6, 2011. <<http://www.uscourts.gov/uscourts/News/2011/docs/JudgeGibbons2011-04.pdf>>.
- lxxxv. H.R. 1507 (ih) - Border Security Enforcement Act of 2011. April 13, 2011. <<http://www.gpo.gov/fdsys/pkg/BILLS-112hr1507ih/html/BILLS-112hr1507ih.htm>>.
- lxxxvi. S. 2709 (PCS) - Border Crossing Deterrence Act of 2008. March 5, 2008. <<http://www.gpo.gov/fdsys/pkg/BILLS-110s2709pcs/html/BILLS-110s2709pcs.htm>>.
- lxxxvii. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- lxxxviii. Robbins, Ted. NPR: "Border Convictions: High Stakes, Unknown Price." September 14, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129829950>>.
- lxxxix. Appendix A
- xc. See Appendix A. Since 1994, 8 U.S.C. § 1325 or 1326 convictions have risen by an astounding 2366%.
- xc. Cave, Damien. New York Times: "Crossing Over and Over." October 3, 2011. <http://www.nytimes.com/2011/10/03/world/americas/mexican-immigrants-repeatedly-brave-risks-to-resume-lives-in-united-states.html?_r=1&ref=americas>.
- xcii. "Federal Total Immigration Arrests Increased Between 2005 and 2009" Bureau of Justice Statistics. December 21, 2011. <<http://bjs.gov/content/pub/press/fjs09pr.cfm>>.
- xciii. Syracuse University: Transactional Records Access Clearinghouse. "FY 2009 Federal Prosecutions Sharply Higher:
- xciv. Surge Driven by Steep Jump in Immigration Filings." December 21, 2009. <<http://trac.syr.edu/tracreports/crim/223/>>.
- xcv. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 2.
- xcvi. Syracuse University Transactional Records Access Clearinghouse. "Arizona Federal Prosecutions Driven to Record Highs." August 17, 2010. <<http://trac.syr.edu/tracreports/crim/236/>>.
- xcvii. Hsu, Spencer S. "Immigration Prosecutions Hit New High." Washington Post. June 2, 2008. <<http://www.washingtonpost.com/wp-dyn/content/article/2008/06/01/AR2008060102192.html?referrer=emailarticle&sid=ST2008060102603>>.
- xcviii. Ibid.
- xcix. Syracuse University: Transactional Records Access Clearinghouse. "Illegal Reentry Becomes Top Criminal Charge." <<http://trac.syr.edu/immigration/reports/251/>>. The number of re-entry cases in the two Texas border districts actually declined in 2010 to 8,388.
- c. Ibid.
- ci. Appendix B.
- cii. Syracuse University Transactional Records Access Clearinghouse
- ciii. Associated Press. Garance Burke, "Hispanics new majority sentenced to federal prison," September 6, 2011
- civ. Syracuse University: Transactional Records Access Clearinghouse. "Illegal Reentry Becomes Top Criminal Charge." <<http://trac.syr.edu/immigration/reports/251/>>. Also: Associated Press. "More Hispanics go to federal prison." June 4, 2011. <http://www.usatoday.com/news/nation/2011-06-04-immigration-hispanic-offenders-federal-prison_n.htm>.
- cv. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>.
- cvi. Judicial Council of the Ninth Circuit. In Re: Approval of the Judicial Emergency Declared in the District of Arizona. March 2, 2011. <<http://caselaw.findlaw.com/9th-circuit-judicial-council/1557944.html>>.
- cvii. U.S. Courts. "Statement of the Honorable Julia S. Gibbons, Chair Committee on the Budget of the Judicial Conference of the United States Before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States House of Representatives." April 6, 2011. <<http://www.uscourts.gov/uscourts/News/2011/docs/JudgeGibbons2011-04.pdf>>.
- cviii. Aldridge, Horatio, David Peterson, and José Gonzalez-Falla. Assistant Federal Public Defenders. Personal Interview. November 17, 2011.
- cix. Paul, John. Assistant Federal Public Defender. Personal Interview. January 30, 2012.
- cx. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 9.
- cx. Paul, John. Assistant Federal Public Defender. Personal Interview. January 30, 2012.
- cxii. Moore, Solomon. New York Times: "Push on Immigration Crimes is Said to Shift Focus." January 11, 2009. <<http://www.nytimes.com/2009/01/12/us/12prosecute.html?pagewanted=all>>.
- cxiii. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- cxiv. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 8.
- cxv. Ibid.

- cxvi. U.S. Courts. "Statement of the Honorable Julia S. Gibbons, Chair Committee on the Budget of the Judicial Conference of the United States Before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States House of Representatives." April 6, 2011. <<http://www.uscourts.gov/uscourts/News/2011/docs/JudgeGibbons2011-04.pdf>>.
- cxvii. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 13.
- cxviii. United States Federal Courthouse, Ninth District. Federal Magistrate Judge Bernardo P. Velasco. Tucson, Arizona. April 9, 2012.
- cxix. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 12.
- cxx. Robbins, Ted. NPR: "Border Patrol Program Raises Due Process Concerns." September 13, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129780261>>.
- cxxi. Lemons, Stephen. Phoenix New Times: "Grinding Justice: Operation Streamline Costs Millions, Tramples the Constitution, Treats Migrants Like Cattle, and Doesn't Work." October 21, 2010. <<http://www.phoenixnewtimes.com/2010-10-21/news/grinding-justice-operation-streamline-costs-millions-tramples-the-constitution-treats-migrants-like-cattle-and-doesn-t-work/>>.
- cxxii. Paul, John. Assistant Federal Public Defender. Personal Interview. January 30, 2012.
- cxxiii. Ibid.
- cxxiv. Lydgate, Joanna Jaccobi. "Assembly-Line Justice: A Review of Operation Streamline." California Law Review: Vol. 98, No. 2. April 2010. <http://www.californialawreview.org/assets/pdfs/98-2/Lydgate_FINAL.pdf>. Page 505.
- cxxv. Ibid.
- cxxvi. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 14.
- cxxvii. Paul, John. Assistant Federal Public Defender. Personal Interview. January 30, 2012.
- cxxviii. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 3.
- cxxix. Ibid. Page 15.
- cxxxx. Lemons, Stephen. Phoenix New Times: "Grinding Justice: Operation Streamline Costs Millions, Tramples the Constitution, Treats Migrants Like Cattle, and Doesn't Work." October 21, 2010. <<http://www.phoenixnewtimes.com/2010-10-21/news/grinding-justice-operation-streamline-costs-millions-tramples-the-constitution-treats-migrants-like-cattle-and-doesn-t-work/>>.
- cxxxi. Spagat, Elliot. "Border Patrol to get tough on repeat offenders." Associated Press. January 17, 2012. <<http://www.statesman.com/news/nation/border-patrol-to-get-tough-on-repeat-offenders-2108120.html>>.
- cxxxii. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- cxxxiii. Robbins, Ted. NPR: "Border Patrol Program Raises Due Process Concerns." September 13, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129780261>>.
- cxxxiv. Sapp, Lesley. "Apprehensions by the U.S. Border Patrol: 2005-2010," Department of Homeland Security: Office of Immigration Statistics. July 2011. <<http://www.dhs.gov/xlibrary/assets/statistics/publications/ois-apprehensions-fs-2005-2010.pdf>>.
- cxxxv. Suro, Roberto. PBS: "Obama's Immigration Conundrum." October 18, 2011. <http://www.pbs.org/wgbh/pages/frontline/race-multicultural/lost-in-detention/roberto-suro-obamas-immigration-conundrum/?utm_campaign=videoplayer&utm_medium=fullplayer&utm_source=relatedlink>.
- cxxxvi. Borger, Scott. Center for Comparative Immigration Studies at UCSD: "Estimates of the Cyclical Inflow of Undocumented Migrants to the United States." August 2009. <<http://ccis.ucsd.edu/2009/10/estimates-of-the-cyclical-inflow-of-undocumented-migrants-to-the-united-states-working-paper-181/>>.
- cxxxvii. UCSD Study (Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective) in Lydgate, J
- cxxxviii. Robbins, Ted. NPR: "Border Patrol Program Raises Due Process Concerns." September 13, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129780261>>.
- cxxxix. Hicken, Jonathan, Mollie Cohen, and Jorge Narvaez. "Double Jeopardy: How U.S. Enforcement Policies Shape Tunkaseño Migration." In Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective, edited by Wayne Cornelius et al., p 47-92. San Diego: Center For Comparative Immigration Studies, 2010.
- cxli. Lydgate, Joanna. The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity: "Assembly-Line Justice: A Review of Operation Streamline." January 2010. <www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf>. Page 7.
- cxlii. Robbins, Ted. NPR: "Claims of Border Program Success are Unproven." September 13, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129827870>>.
- cxliii. Ibid.
- cxliiii. Federal Sentencing Hearing. November 21, 2011. Austin U.S. Courthouse, Austin, TX.
- cxliv. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- cxlv. Robbins, Ted. NPR: "Claims of Border Program Success are Unproven." September 13, 2010. <<http://www.npr.org/templates/story/story.php?storyId=129827870>>.
- cxlvi. Gambino, Lauren. News21: "Program Prosecutes Illegal Immigrants Before Deporting Them." <<http://asu.news21.com/2010/prosecuting-illegal-immigrants/>>.
- cxlvii. National Immigration Forum. "The cost of Operation Streamline." December 2010 <<http://www.immigrationforum.org/images/uploads/2010/OperationStreamlineCosts.pdf>>.
- cxlviii. "Aarti Kohli – Operation Streamline: Assembly-Line Justice at the Border." University of California, San Diego: Center for Comparative Immigration Studies. May 18, 2010. <<http://ccis.ucsd.edu/2010/05/aarti-kohli/>>.
- cxlix. Ibid. and Appendix B.
- cli. Lemons, Stephen. Phoenix New Times: "Grinding Justice: Operation Streamline Costs Millions, Tramples the Constitution, Treats Migrants Like Cattle, and Doesn't Work." October 21, 2010. <<http://www.phoenixnewtimes.com/2010-10-21/news/grinding-justice-operation-streamline-costs-millions-tramples-the-constitution-treats-migrants-like-cattle-and-doesn-t-work/>>.
- clii. Ibid.
- cliii. "Push on Immigration Crimes Is Said to Shift Focus", Solomon Moore, New York Times, January 11, 2009
- cliiii. Office of Management and Budget. "Budget of the United States Government, Fiscal Year 2013: Department of Justice." February 13, 2012. <<http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/justice.pdf>>.
- cliv. "Aarti Kohli – Operation Streamline: Assembly-Line Justice at the Border." University of California, San Diego: Center for Comparative Immigration Studies. May 18, 2010. <<http://ccis.ucsd.edu/2010/05/aarti-kohli/>>. See also Appendix B.

Appendix A: Immigration Incarceration Costs

Tables 2 and 3 show estimated annual costs for incarceration for unlawful entry (1325) and re-entry (1326) convictions. The figures were calculated by multiplying the number of convictions by average sentence lengths for each of those offenses. Those figures were then multiplied by the U.S. Marshals per-diem paid. It is assumed that the U.S. Marshals per diem paid resembles that of the Bureau of Prisons.

Source: Convictions and sentenced days from Transactional Records Access Clearinghouse (TRAC) at Syracuse University; U.S. Marshals per diem paid available at <<http://www.justice.gov/ofdt/perdiem-paid.htm>>

Year	1325s		1326s		Marshals Per-Diem Paid
	Convictions	Avg Sentence (Days)	Convictions	Avg Sentence (days)	
1994	443	180	2,462	510	\$54.08
1995	726	120	3,137	600	\$54.51
1996	525	60	3,581	780	\$55.20
1997	755	60	4,069	810	\$56.35
1998	2,574	210	5,339	900	\$56.43
1999	4,181	300	5,794	1,110	\$55.90
2000	3,464	360	6,618	1,020	\$56.53
2001	3,245	300	7,037	990	\$59.01
2002	2,940	330	7,775	900	\$60.07
2003	3,580	330	10,332	840	\$60.87
2004	17,386	90	9,556	810	\$61.92
2005	16,237	60	11,457	750	\$62.09
2006	13,634	60	15,066	660	\$62.74
2007	13,534	60	14,010	630	\$64.40
2008	44,888	30	19,186	510	\$67.38
2009	55,813	30	25,027	450	\$69.01
2010	43,852	30	31,802	390	\$70.56
2011	38,602	30	33,044	390	\$72.88

Table 2. Immigration incarceration costs, 1994-2011.

Year	Incarceration Costs			Percent Increase			
	1325s	1326s	Total	1325s	1326s	1325+1326s	Cost
1994	\$4,312,339.20	\$67,903,929.60	\$72,216,268.80	--	--	--	--
1995	\$4,748,911.20	\$102,598,722.00	\$107,347,633.20	63.88%	27.42%	32.98%	48.65%
1996	\$1,738,800.00	\$154,183,536.00	\$155,922,336.00	-27.69%	14.15%	6.29%	45.25%
1997	\$2,552,655.00	\$185,723,401.50	\$188,276,056.50	43.81%	13.63%	17.49%	20.75%
1998	\$30,502,672.20	\$271,151,793.00	\$301,654,465.20	240.93%	31.21%	64.03%	60.22%
1999	\$70,115,370.00	\$359,511,906.00	\$429,627,276.00	62.43%	8.52%	26.06%	42.42%
2000	\$70,495,171.20	\$381,597,850.80	\$452,093,022.00	-17.15%	14.22%	1.07%	5.23%
2001	\$57,446,235.00	\$411,100,836.30	\$468,547,071.30	-6.32%	6.33%	1.98%	3.64%
2002	\$58,279,914.00	\$420,339,825.00	\$478,619,739.00	-9.40%	10.49%	4.21%	2.15%
2003	\$71,911,818.00	\$528,283,425.60	\$600,195,243.60	21.77%	32.89%	29.84%	25.40%
2004	\$96,888,700.80	\$479,283,091.20	\$576,171,792.00	385.64%	-7.51%	93.66%	-4.00%
2005	\$60,489,319.80	\$533,523,847.50	\$594,013,167.30	-6.61%	19.89%	2.79%	3.10%
2006	\$51,323,829.60	\$623,858,954.40	\$675,182,784.00	-16.03%	31.50%	3.63%	13.66%
2007	\$52,295,376.00	\$568,413,720.00	\$620,709,096.00	-0.73%	-7.01%	-4.03%	-8.07%
2008	\$90,736,603.20	\$659,303,866.80	\$750,040,470.00	231.67%	36.95%	132.62%	20.84%
2009	\$115,549,653.90	\$777,200,971.50	\$892,750,625.40	24.34%	30.44%	26.17%	19.03%
2010	\$92,825,913.60	\$875,140,156.80	\$967,966,070.40	-21.43%	27.07%	-6.42%	8.43%
2011	\$84,399,412.80	\$939,216,220.80	\$1,023,615,633.60	-11.97%	3.91%	-5.30%	5.75%

Table 3. Annual immigrant incarceration costs and percent increase, 1994-2011.

Appendix B: 1325 and 1326 Convictions by Court District

Year	1325 Convictions			1326 Convictions				
	Zero-Tolerance Border Districts	California Southern District	All Other Districts (Excluding US Territories)	Zero-Tolerance Border Districts	California Southern District	All Other Districts (Excluding US Territories)	% Increase of Non-SW-Border 1326 Convictions	% Increase of SW-Border District 1326 Convictions
2011	37,429	639	464	24,561	1,948	6,479	13.57%	2.04%
2010	42,378	921	472	24,272	1,708	5,705	6.80%	33.61%
2009	54,141	1,089	245	18,101	1,344	5,342	22.61%	31.45%
2008	42,068	2,150	642	14,232	561	4,357	17.00%	45.23%
2007	11,420	1,570	477	9,687	499	3,724	5.83%	-11.23%
2006	12,488	388	733	11,229	246	3,519	1.73%	44.94%
2005	14,801	487	902	7,527	390	3,459	2.76%	29.53%
2004	15,517	867	852	5,509	603	3,366	5.15%	-13.13%
2003	1,761	751	869	6,430	606	3,201	17.34%	41.12%
2002	1348	560	772	4,508	478	2,728	5.49%	14.20%
2001	1,496	490	803	3,764	602	2,586	11.75%	3.04%
2000	1,485	777	753	3,703	534	2,314	3.72%	20.68%
1999	2,062	857	870	3,115	396	2,231	18.86%	2.45%
1998	1414	303	552	2389	1,038	1,877	16.66%	40.97%
1997	396	64	191	946	1,485	1,609	23.01%	13.76%
1996	56	39	230	889	1,248	1,308	20.66%	6.00%
1995	58	265	112	428	1,588	1,084	--	--

Table 4. 1325 (unlawful entry) and 1326 convictions (re-entry) convictions in zero-tolerance districts vs California Southern District vs non-border districts, 1995-2011

*Source: Transactional Records Access Clearinghouse (TRAC) at Syracuse University.

Appendix C: Border Patrol Apprehensions and Unemployment Rate

Year	U.S. Unemployment Rate													CBP Apprehensions
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Avg	
1994	6.6	6.6	6.5	6.4	6.1	6.1	6.1	6.0	5.9	5.8	5.6	5.5	6.1	1,031,668
1995	5.6	5.4	5.4	5.8	5.6	5.6	5.7	5.7	5.6	5.5	5.6	5.6	5.6	1,324,202
1996	5.6	5.5	5.5	5.6	5.6	5.3	5.5	5.1	5.2	5.2	5.4	5.4	5.4	1,549,876
1997	5.3	5.2	5.2	5.1	4.9	5.0	4.9	4.8	4.9	4.7	4.6	4.7	4.9	1,412,953
1998	4.6	4.6	4.7	4.3	4.4	4.5	4.5	4.5	4.6	4.5	4.4	4.4	4.5	1,555,776
1999	4.3	4.4	4.2	4.3	4.2	4.3	4.3	4.2	4.2	4.1	4.1	4.0	4.2	1,579,010
2000	4.0	4.1	4.0	3.8	4.0	4.0	4.0	4.1	3.9	3.9	3.9	3.9	4.0	1,676,438
2001	4.2	4.2	4.3	4.4	4.3	4.5	4.6	4.9	5.0	5.3	5.5	5.7	4.7	1,266,214
2002	5.7	5.7	5.7	5.9	5.8	5.8	5.8	5.7	5.7	5.7	5.9	6.0	5.8	955,310
2003	5.8	5.9	5.9	6.0	6.1	6.3	6.2	6.1	6.1	6.0	5.8	5.7	6.0	931,557
2004	5.7	5.6	5.8	5.6	5.6	5.6	5.5	5.4	5.4	5.5	5.4	5.4	5.5	1,160,395
2005	5.3	5.4	5.2	5.2	5.1	5.0	5.0	4.9	5.0	5.0	5.0	4.9	5.1	1,189,075
2006	4.7	4.8	4.7	4.7	4.6	4.6	4.7	4.7	4.5	4.4	4.5	4.4	4.6	1,089,092
2007	4.6	4.5	4.4	4.5	4.4	4.6	4.7	4.6	4.7	4.7	4.7	5.0	4.6	876,704
2008	5.0	4.9	5.1	5.0	5.4	5.6	5.8	6.1	6.1	6.5	6.8	7.3	5.8	723,825
2009	7.8	8.3	8.7	8.9	9.4	9.5	9.5	9.6	9.8	10.0	9.9	9.9	9.3	556,041
2010	9.7	9.8	9.8	9.9	9.6	9.4	9.5	9.6	9.5	9.5	9.8	9.4	9.6	463,382
2011	9.1	9.0	8.9	9.0	9.0	9.1	9.1	9.1	9.0	8.9	8.7	8.5	9.0	340,252

Table 5. U.S. unemployment rate vs. Border Patrol apprehensions, 1994-2011

*Source: Border Patrol apprehensions from "United States Border Patrol Nationwide Illegal Alien Apprehensions Fiscal Years 1925 -2011" available at <http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf>; Unemployment rate from the Bureau of Labor Statistics available at <<http://data.bls.gov/timeseries/LNS14000000>>

Appendix D: CCA and GEO Group Revenues

The GEO Group, Inc.				
Year	Annual Revenue	% Increase of Annual Revenue	Annual Federal Revenues	% Increase Federal Revenues
2001	\$562,073,000		\$101,173,140	--
2002	\$568,612,000	1.16%	\$108,036,280	6.78%
2003	\$617,490,000	8.60%	\$166,722,300	54.32%
2004	\$593,994,000	-3.81%	\$160,378,380	-3.81%
2005	\$612,900,000	3.18%	\$165,483,000	3.18%
2006	\$860,882,000	40.46%	\$266,873,420	61.27%
2007	\$976,299,000	13.41%	\$263,600,730	-1.23%
2008	\$1,043,006,000	6.83%	\$292,041,680	10.79%
2009	\$1,141,090,000	9.40%	\$353,737,900	21.13%
2010	\$1,269,968,000	11.29%	\$444,488,800	25.65%
2011	\$1,612,899,000	27.00%	\$645,159,600	45.15%

Table 6. The GEO Group, Inc revenues, 2001-2011

*Source: The GEO Group 10-K Reports, 2001-2001

Corrections Corporation of America				
Year	Annual Revenue	% Increase of Annual Revenue	Annual Federal Revenues	% Increase Federal Revenues
2001	\$936,353,000		\$271,542,370	--
2002	\$962,838,000	2.83%	\$317,736,540	17.01%
2003	\$1,007,607,000	4.65%	\$382,890,660	20.51%
2004	\$1,126,387,000	11.79%	\$428,027,060	11.79%
2005	\$1,192,640,000	5.88%	\$465,129,600	8.67%
2006	\$1,331,088,000	11.61%	\$526,000,000	13.09%
2007	\$1,403,252,000	5.42%	\$593,600,000	12.85%
2008	\$1,541,194,000	9.83%	\$628,900,000	5.95%
2009	\$1,628,893,000	5.69%	\$656,200,000	4.34%
2010	\$1,675,031,000	2.83%	\$717,800,000	9.39%
2011	\$1,735,613,000	3.62%	\$749,300,000	4.39%

Table 6. Corrections Corporation of America revenues, 2001-2011

*Source: Corrections Corporation of America 10-K Reports, 2001-2001

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