

U.S. Attorney's Report to the District

By U.S. Attorney Benjamin B. Wagner

One important responsibility of the federal government is securing the nation's borders. The U.S. Department of Homeland Security has the leading role in this effort, but the Department of Justice is responsible for the prosecution of federal immigration crimes. Those crimes include trafficking in counterfeit immigration and citizenship documents, alien smuggling, and illegal re-entry under Section 1326 of Title 18.

National Efforts

Earlier this month, Attorney General Eric Holder, together with Secretary of Homeland Security Janet Napolitano and Secretary of Labor Hilda L. Solis, announced a national human trafficking enhanced enforcement initiative, intended to streamline federal investigations and prosecutions of human trafficking cases.

Local Efforts

Persons targeted for illegal re-entry prosecution under Section 1326 are those who pose a genuine public safety threat to our communities. Such cases are filed against defendants who have serious prior criminal records in this country, have already been deported at least once, and have returned to the U.S. without authorization. Those convicted under Section 1326 are usually sentenced to between two and six years in federal prison, and are required to serve at least 85 percent of that time before being re-deported.

Some examples of illegal re-entry cases our office has recently prosecuted include a defendant in Fresno who had been deported five times, and had numerous state and federal convictions including robbery, burglary, kidnapping, child mo-

lestation, soliciting lewd acts, failure to register as a sex offender, illegal re-entry, and falsely claiming U.S. citizenship. Another defendant prosecuted in Fresno had been deported three times, and had state and federal convictions for drug trafficking, vehicle theft, lewd and lascivious acts with a child under age 14, and alien smuggling. A defendant prosecuted in Sacramento had been deported eight times, had seven battery convictions, and had also been convicted of burglary, inflicting corporal injury on a spouse, and illegal re-entry. Each of these defendants was sentenced to over five years in prison.

A small additional commitment of resources to combat crimes related to the Southwest border has resulted in a significant increase in illegal re-entry prosecutions. Filings in the Eastern District of California during Fiscal Year 2010, which ended September 30, were at the highest level in at least 12 years. There were 432 felony prosecutions filed against 432 defendants, representing a 7 percent increase in filings over FY 2009. The FY 2009 figure of 404 defendants represented a 48 percent increase over FY 2008, when 271 defendants were charged, and a nearly 130 percent increase over FY 2007, when 173 were charged. Overall, since 2007, the number of illegal re-entry cases filed in this district has more than doubled. These figures do not include prosecutions for other immigration crimes.

Our country is a nation of immigrants, and there has been vigorous public debate over whether our current immigration system is fair and humane, and whether it effectively serves the economic and security needs of this country. There should be little debate, however, over the efficacy of prosecuting serious habitual criminals who illegally return to California after prior deportations. Those prosecutions make our communities safer for everyone.
