



July 13, 2016

For Immediate Release

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New Book Examines the Impacts and Costs of a Decade of Mass Criminalization and Incarceration of Migrants Since Operation Streamline

Austin, Texas: A retired judge, the daughter of a migrant incarcerated for re-entry, a criminal justice expert, and an immigration organizer today decried the human costs, fiscal waste and ineffectiveness of a decade of mass criminalization and incarceration for improper entry and re-entry into the United States.

The failed policies of criminal prosecutions for migrants that began with “Operation Streamline,” and have expanded to district federal courts, are documented through data analysis and dozens of interviews in the new book, [“Indefensible: a Decade of Mass Incarceration of Migrants Prosecuted for Crossing the Border.”](#) released today by Justice Strategies and Grassroots Leadership. Copies of the report are available online at: ow.ly/NlbP302bBzB

In 2015, half (49 percent) of all federal prosecutions were made up of what is essentially a crime of trespassing, in the form of misdemeanor improper entry and felony re-entry prosecutions. Almost 70,000 migrants in 2015—including some who may have valid asylum claims— were criminally prosecuted for improper entry and re-entry, and nearly three quarters of a million people have been prosecuted for just these two offenses in federal courts since 2005.

“Expanded migrant prosecutions have become the newest contributor to mass incarceration and the sentenced migrants are straining an already massively overcrowded federal prison system,” said Judith Greene, report author and director of Justice Strategies. “The mass criminalization, prosecution and incarceration of migrants is a human rights disaster – a ineffective, wasteful policy that has failed by every measure.”

Operation Streamline, which was launched as a Homeland Security secure border initiative and is known for disturbing courtroom proceedings of mass migrant prosecutions and criminal convictions, not only produced a dramatic growth of the improper entry misdemeanor prosecutions that it was designed to facilitate, but it also marked a huge increase in felony re-entry prosecutions at the same time in federal district courts along the border. Prior to Operation Streamline, few were prosecuted for improper entry or re-entry.

While the Streamline courts have been scaled back in several districts, the legacy continues in federal courts, and includes related massive immigration prosecutions for both improper entry and felony re-entry. The costs associated for just the incarceration of migrants is conservatively estimated around \$7 billion since 2005, not including the enormous drain on court resources or human lives.

The criminalization of migration has failed to deliver on its intended promise of deterrence. There is no credible evidence to suggest that incarceration deters migration, which is more strongly motivated by economic circumstances and family responsibilities. Data analysis in “Indefensible” finds no apparent correlation between apprehensions, which began falling in 2000, and prosecutions which began rising in 2004. Trend analysis suggests that these prosecutions are tied to political directives, not migration patterns.

The analysis is supported by the experience of magistrates, attorneys and other court professionals who experience the failures day in and day out. Judge Felix Recio, a retired magistrate from Brownsville, TX, describes the historic flow of migration over the board, which separates friends and families who share family, food, history and culture and who cross to be a part of each others lives.

“Throughout the years, the United States government has implemented countless programs and systems to deal with illegal immigration and those programs have not abated the flow of people entering this country,” said Judge Recio. “Nothing has worked to stem the tide. The only thing we have done is affected the lives of many people whose only crime was and is a desire to exercise their human rights to feed and care for themselves and their families. I propose the decriminalization of illegal entry into the United States. This [criminalization] is not necessary for a comprehensive immigration policy.”

The human impact of migrant criminalization was told through the story of Cecilia Equihua, a Loyola Law School graduate whose father served two years in a federal prison for improper re-entry in an attempt to see his family: **“Although we have tried to make the most of our situation, our relationship has suffered from the distance. It is not easy to arrange visits.”**

The book documents the different ways in which border states have responded to migration, with California’s focus on fewer and more serious cases in contrast to mass prosecutions in Texas and Arizona. The differences highlight the lack of coherency to the approach, and illustrate that migration criminalization policy is an entirely discretionary government initiative that has imposed huge human and fiscal costs without producing positive outcomes. The book argues that the policies can be revamped back down simply by executive action, and that immigration violations were historically treated as civil offenses and governed by immigration courts and administrative code.

“The movement to end mass incarceration must not leave migrants behind,” said Bethany Carson, report author and Grassroots Leadership immigration organizer and researcher. “Just as the Department of Justice has begun to remedy the failed war on drugs, Attorney General Loretta Lynch and the U.S. Attorneys of federal court districts at the southern border must take steps to end the inhumane and wasteful mass prosecution and incarceration of migrants.”

Grassroots Leadership fights to end for-profit incarceration and reduce reliance on criminalization and detention through direct action, organizing, research, and public education. Justice Strategies is a nonprofit research organization dedicated to providing analysis and solutions to advocates and policymakers pursuing more humane and cost-effective approaches to criminal justice and immigration reform. Learn more at: <http://www.justicestrategies.org/> and <http://grassrootsleadership.org/>.

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