

other side of the aisle as inconsequential, removes from the State nearly a quarter of a billion dollars. This 4.3 cents takes \$168 million out of the checking accounts of the working families and businesses in motor fuel. It takes \$28.5 million out of the State in new taxes for diesel fuel. It takes \$27.5 million out of the State in jet fuel. It takes it out of those local accounts and moves it to the Treasury for an expanding Federal Government.

It was wrong when it was imposed. It is a regressive tax, uniquely hard on the elderly and the poor. It was appropriated from users to expand Federal spending. It was not even used to make better highways and safer highways for the people who use them. It was used to expand Federal spending. It hurts the working family, it hurts the economy, and it raises costs of all goods, because energy is built into the cost of all goods.

So, Mr. President, as I said, the American family cannot keep their first check until May 8. Maybe we can save them a day and give them 1 more day's pay by getting this money back into their checking accounts where it belongs.

#### OBSERVANCE OF 1 MINUTE OF SILENCE

Mr. COVERDELL. Mr. President, on behalf of, I know, public officials throughout the country, but particularly those from Georgia where ValuJet is headquartered, I ask unanimous consent that the Senate fall into silence for 1 minute in acknowledgment of the deaths of the people from across our land as a result of this very tragic airplane crash in the Everglades coming out of Miami.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will observe 1 minute of silence in accordance with the wishes of the Senator from Georgia.

[A minute of silence was observed.]

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. As with all of these occurrences, you never really can appreciate the far reach that it has. My young press assistant's fiancée, in Atlanta, is an honor graduate at Emory University. Her grandparents were on the flight, on their way to attend her graduation. I am sure, of course, that story is repeated 109 times, multiplied to all the families of these 104 passengers and 5 crewmembers.

Atlanta is an airline town. Any time anything like this happens, it is a grief felt very widely throughout our city and State. I, on behalf of all in our State, extend our condolences to the families wherever they are that were affected by this tragic crash.

Mr. President, I ask unanimous consent that I be given up to 5 minutes to speak to an issue that has occurred on the borders between our country and Mexico with regard to drug smuggling.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DRUG SMUGGLING

Mr. COVERDELL. Mr. President, the Los Angeles Times ran an article today, May 13, 1996, and it is just a stunning article.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 13, 1996]

DRUG RUNNERS ARRESTED AT BORDER OFTEN GO FREE

(By H.G. Reza)

SAN DIEGO.—During the federal government's yearlong narcotics crackdown along the Southwest border; hundreds of suspected smugglers have been allowed to go free after U.S. authorities arrested them with substantial quantities of drugs at ports of entry in California.

In the past year, about 2,300 suspected traffickers were taken into custody for bringing drugs across the border but, according to records and interviews, more than one in four were simply sent home to Mexico because of jail overcrowding and prosecutorial discretion.

Two suspects with 32 pounds of methamphetamine, and another with 37,000 Quaalude tablets, were simply "excluded" from the United States after their drugs and vehicles were confiscated.

The handling of drug cases at the border, most involving at least 50 pounds of marijuana, reflects shifting and sometimes conflicting pressures on the federal law enforcement community.

The threshold for prosecutions, drug agents say, has risen as the government has stepped up narcotics interdiction at border crossings and made more seizures. In addition, they say there often is no room for drug suspects at the federal jail here because it is overflowing with people awaiting trial on immigration law violations and other charges.

After a seizure of 158 pounds of cocaine, one defendant was cited and released because there was no room at the federal jail, said the woman's attorney. The charges against her were dropped, the attorney added.

Officials at the U.S. attorney's office confirm that under a program quietly adopted two years ago, an increasing number of suspected traffickers have been sent back to Mexico without arrest or prosecution in either federal or state court. Instead, they are prohibited from returning to this country pending an immigration hearing.

Government figures show that more than 1,000 smuggling suspects have been processed this way since 1994 after seizures by the U.S. Customs Service and the Border Patrol.

The number of such cases rose from 215 in 1994 to 636 last year at San Ysidro, Tecate and Otay Mesa. There were 288 cases in the first four months of 1996—and officials project that the total will reach more than 800 for the year.

"This is, in our opinion, a powerful prosecutorial tool," Assistant U.S. Atty. John Kramer said in an interview, "Immigration exclusion cases principally involve first-time offenders who face the sanction of losing permanent residency in the United States or their border crossing cards."

Justice Department and U.S. Customs Service officials have reported unprecedented drug seizures in the first year of Op-

eration Hard Line, an anti-drug program along the entire border with Mexico. Last year, they said, total drug seizures from vehicles, cargo containers and pedestrians at all ports were up 25% over the previous year.

"To the extent that drug seizures are up, there is perhaps the perception that we're not doing more in the prosecuting area [but] more felony cases have been filed than ever before," Kramer said.

The overall number of felony drug prosecutions originating from border arrests more than doubled in San Diego County, Kramer said, with almost two-thirds prosecuted in state court.

The government's "exclusion policy" has caused frustration among some Customs inspectors, who are making increasing numbers of seizures. After two Mexican women with 32 pounds of methamphetamine and 24 pounds of marijuana were sent back across the border, one inspector wrote in an Aug. 13, 1995, report:

"Lack of enforcement is not because inspectors aren't trying. It's because of the policy coming from upstairs."

Anyone caught smuggling drugs, even a single marijuana cigarette, can be charged with a felony offense, carrying a minimum of two years in prison, or a misdemeanor, carrying up to a year in jail.

But since the early 1990s, the U.S. attorney's office has struggled with its inability to prosecute all drug cases—especially marijuana cases—because of inadequate resources. Officials previously had set loose guidelines for deciding whether to seek misdemeanor or felony charges, depending on the amount of marijuana.

Now, officials say the U.S. Customs Service is operating under guidelines limiting any prosecution—including misdemeanors—to cases involving 125 pounds of marijuana or more.

And Mexican nationals who are first-time offenders usually are taken before an immigration judge and given the option of being excluded from the country, pending an immigration appeal, or of being prosecuted. So far, officials said, no one has chosen prosecution.

"Generally prosecution is deferred if the amount is below 125 pounds, or if the defendant is a Mexican citizen, or if in the opinion of the prosecutor, it's not a strong case," said Jeff Casey, Customs deputy special agent in charge in San Diego.

However, Kramer said, suspects who escape prosecution for their first seizure will automatically be charged if they are caught a second time, regardless of the drug type or quantity.

U.S. Customs Service records reviewed by The Times show that some smugglers have been caught two or more times—even in the same week—yet still were not jailed or prosecuted. In addition, no action was taken against a number of suspected smugglers captured with more than 125 pounds of marijuana.

One 58-year-old U.S. citizen, according to seizure records, was arrested three times this year at the border—in January with 53 pounds of marijuana, in February with 51 pounds and this month with 41 pounds. Although he had a criminal history that stretched back four decades and included an alien smuggling charge, he was not prosecuted for the first two seizures, according to a law enforcement source.

In one case that exceeded the threshold, records show that two U.S. citizens arrested Oct. 22, 1995, for smuggling 151 pounds of marijuana were not prosecuted. And neither was a 21-year-old U.S. citizen arrested March 16 with 386 pounds of marijuana who had been caught a week earlier with a smaller amount.

Citing privacy concerns, the U.S. attorney's office declined to state the reasons why specific cases were not prosecuted.

"If a person is arrested at the border and a case isn't filed, sometimes there are legitimate law enforcement reasons to do that," Kramer said. "The point is, there are a number of reasons other than not wanting to go forward with the case."

Some federal law enforcement officials have complained that lack of jail space has forced them to release drug suspects outright or issue them citations, which are also promises to appear in court.

Kramer acknowledged that prosecutors and law enforcement agents are sometimes "forced to make hard decisions because of a lack of bed space" at the jail. But, he added, "If there is a belief that our emphasis on immigration prosecutions has detracted us from felony prosecutions of drug cases, that assumption is incorrect."

One cause of the overcrowding, critics say, is Operation Gatekeeper, a controversial crackdown on illegal immigration that has helped fill the local federal jail.

Last week, 49% of the 930 inmates housed at the Metropolitan Correction Center were charged with immigration law violations, while 36% were being held for drug offenses, said a spokeswoman.

Mario Conte, head of the Federal Defenders of San Diego Inc., alleged that U.S. Atty. Alan Bersin, the Clinton administration's border czar, is pursuing a tough prosecution policy on illegal immigration to score political points for the White House.

"He's created a crisis by his policy, which has led to overcrowding at [the federal jail]," said Conte, whose group of attorneys represents indigent defendants in U.S. District Court.

Bersin denied that the immigration prosecutions are politically motivated, noting that most of the defendants have previous convictions for serious crimes. "By targeting people with substantial criminal histories, we have not only helped reduce crime . . . but have stopped targeting economic migrants who were previously filling the jail," he said.

The jail has an approved capacity of 950 but until recently housed an average of 1,200 inmates each month. To ease overcrowding, officials sent 174 inmates facing immigration charges to Miramar Naval Air Station, where they rioted and burned part of the brig in March.

In examining federal court records for 30 of the biggest seizure cases at San Ysidro, The Times found that felony charges are often plea-bargained to misdemeanors, and those convicted seldom do more than six months in jail. Many other cases are settled, with federal attorneys agreeing not to prosecute if the suspect does not commit attention offenses for a year.

Customs inspectors and federal drug agents said narcotics rings know that chances are slim that a marijuana courier will be prosecuted. So, they say, traffickers have no trouble recruiting people and paying them \$200 to drive small loads of marijuana through the port, time and again.

"There is virtually no risk [to smugglers] as long as they keep quantities down. First of all, the chances of getting caught are slim, and the chances of prosecution are almost zero if you get caught with a small quantity and if you're a Mexican national," said a veteran Drug Enforcement Administration agent who requested anonymity.

Even when smuggled in small amounts, marijuana generates huge profits for dealers, said the agent. A Jamaican drug ring recently was buying Mexican marijuana in San Diego at \$500 per pound—purchasing 20 pounds to 50 pounds at a time—and selling it

in Rhode Island for \$1,500 a pound, the agent added.

Cases are turned over to the district attorney here for prosecution when the suspect or vehicle owner lives in San Diego County, or the drugs are destined for the county. Officials said that in the last two years, 1,462 cases were referred to local prosecutors, compared to 1,030 handled by the federal government.

Deputy Dist. Atty. Joan Stein said that in almost every case the defendant pleads guilty to a single felony count. Usually, she said, defendants are first-time offenders and are given light sentences by judges.

Mr. COVERDELL. The headline reads, "Drug Runners Arrested at Border Often Go Free."

Smuggling: Crackdown leads to more seizures, but jail overcrowding and clashing priorities force suspects' release.

During the Federal Government's yearlong narcotics crackdown along the Southwest border.

I know this will be of interest to the Presiding Officer.

Hundreds of suspected smugglers have been allowed to go free after U.S. authorities arrested them with substantial quantities of drugs at ports of entry in California.

In the past year, about 2,300 suspected traffickers were taken into custody for bringing drugs across the border but, according to records and interviews, more than one in four were simply sent home to Mexico because of jail overcrowding. . . .

Two suspects with 32 pounds of methamphetamine, and another with 37,000 Quaalude tablets, were simply "excluded" from the United States after their drugs and vehicles were confiscated.

After a seizure of 158 pounds of cocaine, one defendant was cited and released because there was no room at the federal jail, said the women's attorney. The charges against her were dropped, the attorney added.

Mr. President, it is just one travesty after another.

One 58-year-old U.S. citizen, according to seizure records, was arrested three times this year at the border—in January with 53 pounds of marijuana, in February with 51 pounds and this month with 41 pounds.

Customs inspectors and federal drug agents said narcotic rings know that chances are slim that a marijuana courier will be prosecuted. So, they say, traffickers have no trouble recruiting people and paying them \$200 to drive small loads of marijuana through the port, time and again.

Mr. President, in the last 36 months drug use among our children age 8 to 13 has doubled—doubled. We are in the midst of a drug epidemic that threatens our youth from Georgia to Arizona to California. The fact that this condition is not immediately rectified is deplorable. Interdiction has been decimated, and this is the result we get from it. Interdiction is a key component, not the only one.

We need to be supporting parent and community groups and education because children today have not had a proper role model. The White House has been silent on this, and does not think drugs are a problem. We have to turn that around. But we must get this straightened out, Mr. President.

I will be entering remarks in the RECORD later today. We will immediately begin looking for amendments

and funding so that this condition simply will not be tolerated by U.S. authorities on our side of the border. I yield the floor.

---

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

---

#### WHITE HOUSE TRAVEL OFFICE LEGISLATION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2937, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2937) for the reimbursement of attorney fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that office on May 19, 1993.

The Senate resumed the consideration of the bill.

Pending:

Dole amendment No. 3952, in the nature of a substitute.

Dole amendment No. 3953 (to amendment No. 3952), to provide for an effective date for the settlement of certain claims against the United States.

Dole amendment No. 3954 (to amendment No. 3953), to provide for an effective date for the settlement of certain claims against the United States.

Dole motion to refer the bill to the Committee on the Judiciary with instructions to report back forthwith.

Dole amendment No. 3955 (to the instructions to the motion to refer), to provide for an effective date for the settlement of certain claims against the United States.

Dole amendment No. 3961 (to amendment No. 3955), to provide for the repeal of the 4.3 cent increase in fuel tax rates enacted by the Omnibus Budget Reconciliation Act of 1993.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

---

#### RECESS

Mr. KYL. Mr. President, I ask unanimous consent that the Senate stand in recess until 5 p.m.

There being no objection, the Senate, at 4:08 p.m., recessed until 5:04 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRAIG).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Idaho, notes the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.