

UNIVERSAL BORDER ENFORCEMENT OPTIONS

ISSUE

This paper provides an analysis of the current border operational environment, a description of the process and procedures related to U.S. Customs and Border Protection (CBP) encounters with illegal aliens and options for future enforcement efforts.

SUMMARY

U.S. Border Patrol (USBP) enforcement activities include, but are not limited to, patrolling the border, transportation checks, checkpoints and roving patrols. Border Patrol agents act Under Section 287(a)(1) and Under Section 287(a)(2) of the Immigration and Naturalization Act. Each option describes a different course of action a Border Patrol Agent may take when he/she encounters an individual they believe is not lawfully present in the United States. Many factors were considered in the analysis, but special attention was paid to threat, enforcement and policy implications. (b) (7)(E)

ANALYSIS

Option 1 – Identify and Release

- (b) (7)(E)

Option 2 – Warrant of Arrest / Notice to Appear

- (b) (7)(E)

Option 3 – Notice to Appear / Release on Own Recognizance

- (b) (7)(E)

Option 4 – Voluntary Departure and Verification of Departure, I-210

- **IMPACT:** *Threat: Medium -- Enforcement/Operational: Medium -- Policy Implication: Medium*
- **PROS:** *Threat Vulnerability; Biographic and Biometrics checks and Alien Experience*
- **CONS:** *Alien Experience; High Priority Aliens; Lesser Consequence and Resources*

DRAFT Arizona Operations Plan

The Arizona Operations Plan is a campaign strategy that concentrates resources in “Focus Areas” to incrementally gain operational control of the Arizona/ Sonora border in an all threats environment.

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This strategy is being developed in response to the continued high level of multiple threats on the U.S./Mexico border and ancillary illegal activity in Arizona.

The gaining of operational control will be accomplished through:

- Breaking the smuggling cycle
 - Providing a consequence- By sending a strong message to the criminal element (individuals and/or organizations involved in criminal activity) that there are **consequences** for engaging in illegal cross border activities.
- (b)(5) (b)(7)(E)

➤ **Break Smuggling Cycle through consequence** - (b)(5) (b)(7)(E)

- (b)(5) (b)(7)(E)

- Alien Transfer Exit Program (ATEP)
 - ATEP is a remote voluntary return program that targets illegal aliens who are arrested in designated priority areas within the Tucson Sector. (b) (7)(E) daily transport (b) (7) aliens to be voluntarily returned through the Ports of Entry at San Ysidro and or Calexico, CA.
- Immigration Quick Court (QC)
 - QC is program in which an Immigration Judge holds court at the Border Patrol Tucson Sector Processing Center. The Judge will hear (b) (7) non-contested deportation cases for Mexican citizens per court day.
- Operation Against Smugglers Initiative on Safety and Security (OASISS)
 - OASISS is a bi-national prosecutorial program with the Mexico Attorney General (PGR) that is focused on combating human smuggling across the Southwest Border, by identifying and prosecuting Mexican nationals arrested for alien smuggling in the U.S. Select alien smuggling cases which are declined by the Assistant United States Attorney’s Office and are amenable to OASISS are subsequently turned over to the GOM for prosecution under Mexico’s legal and judicial system. (b)(5) (b)(7)(E)

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CONSEQUENCE MANAGEMENT

The purpose of providing consequences to all those that break United States Immigration Laws is punitive in nature. These consequence programs serve as a punitive measure to dissuade those that would otherwise flaunt immigration laws by attempting to repeatedly illegally enter the United States.

List of all current consequence programs in use by CBP, costs provided by each CBP component.

Office of Border Patrol	Cost per alien
1. Alien Transfer Exit Program (ATEP)	\$ (b)(5) (b)(7)(E)
2. Mexican Interior Repatriation Program (MIRP)	\$ (b)(5) (b)(7)(E)
3. Operation Against Smugglers Initiative on Safety and Security (OASISS)	\$ (b)(5) (b)(7)(E)
4. Quick Court	\$ (b)(5) (b)(7)(E)
5. Operation Streamline	\$ (b)(5) (b)(7)(E)
6. Standard Prosecutions	\$ (b)(5) (b)(7)(E)

(b)(5) (b)(7)(E)

Office of Field Operations	Cost per alien
1. Alien Transfer Exit Program (ATEP)	\$ (b)(5) (b)(7)(E)
2. Outbound Voluntary Returns (VR)	\$ (b)(5) (b)(7)(E)
3. Outbound Expedited Removals (ER)	\$ (b)(5) (b)(7)(E)
4. Outbound Notices to Appear (NTA)	\$ (b)(5) (b)(7)(E)
5. Outbound Reinstatements	\$ (b)(5) (b)(7)(E)
6. Outbound Administrative Removals	\$ (b)(5) (b)(7)(E)
7. Visa Waiver Program (VWP) Removals	\$ (b)(5) (b)(7)(E)
8. Immigration Prosecutions	\$ (b)(5) (b)(7)(E)
9. Controlled Substance Program (CSP)	\$ (b)(5) (b)(7)(E)
10. Inbound Expedited Removals (ER)	\$ (b)(5) (b)(7)(E)
11. Inbound Notices to Appear (NTA)	\$ (b)(5) (b)(7)(E)
12. Inbound Withdrawals	\$ (b)(5) (b)(7)(E)
13. Inbound Visa Waiver Program Refusals	\$ (b)(5) (b)(7)(E)

(b)(5) (b)(7)(E)

OFFICE OF BORDER PATROL:

The **Alien Transfer Exit Program (ATEP)** is designed to break the cycle of smuggling that sees deported aliens reuniting with their hired smugglers immediately after repatriation and subsequently attempting another illegal entry. This cycle leads to multiple illegal entries by the same alien until they successfully reach the U.S. interior or give up and return home. ATEP repatriates aliens into regions further east or west of their entry location and, thus, prevents them from immediately coordinating with smugglers for re-entry. (b)(5) (b)(7)(E)

The **Mexican Interior Repatriation Program (MIRP)** is a joint Customs and Border Protection (CBP) and ICE endeavor designed to support the Border Safety Initiative. The program removes Mexican nationals on a voluntary basis from high risk areas of the Sonora Desert to the interior of Mexico during summer months where temperatures spike and exposure related deaths peak. The objective of the program is to save lives and, secondarily, disrupt the cycle of human smuggling. Illegal aliens convicted of known violent crimes are not eligible for the program. Those aliens identified as being at risk due to factors including age, physical condition, travel status, etc. are prioritized for participation. (b)(5) (b)(7)(E)

(b)(5) (b)(7)(E)

In March of 2005, the United States and Mexico agreed to establish a bilateral, standardized prosecution program known as **OASISS (Operation Against Smugglers Initiative on Safety and Security)**. This program allows for alien smugglers apprehended in the United States to be prosecuted by the Government of Mexico. OASISS addresses the prosecution difficulties encountered on the Southwest Border as rampant alien smuggling compounded by limited attorney man-hours necessitates stringent guidelines that prohibit the prosecution of all subjects amenable to alien smuggling charges. OASISS is an invaluable tool that provides consequence to those criminals who have in the past been able to skate under the prosecution threshold limits and thus avoid serious legal repercussions. (b)(5) (b)(7)(E)

Quick Court is an initiative that works to ease the dockets of immigration judges. The process expedites the formal removal proceedings of illegal aliens arrested within the Tucson Sector. Quick Court provides a means to help maintain effective levels of prosecution, independent of the cases handled by the United States Attorney's Office. (b)(5) (b)(7)(E)

The intent of **Operation Streamline** is to criminally prosecute for illegal entry (8 USC 1325) undocumented immigrants who enter into the U.S. through any designated target enforcement zone in order to reduce illegal border crossing activity and achieve operational control of the

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border. Areas of priority focus are identified based on statistical data and gathered intelligence. The Chief Patrol Agent then designates those priority areas as target enforcement zones. Operation Streamline is a multi-agency effort that relies heavily upon the collaborative efforts of the U.S. Magistrate, Federal Judiciary, U.S. Attorney's Office, U.S. Marshals Service, Office of Chief Council, Immigration and Customs Enforcement (ICE) Office of Detention and Removal, and Executive Office of Immigration Review (EOIR). (b)(5) (b)(7)(E)

Standard Prosecutions are the traditional means by which criminal aliens are administered repercussions for their illegal actions. Standard Prosecutions are essential in border enforcement as criminal prosecution is the avenue through which criminals can be administered punishment to the full extent of the law. (b)(5) (b)(7)(E)

RECIDIVISM:

Office of Border Patrol:

For the purpose of this analysis, recidivists will be defined as the total number of unique individuals apprehended by the Border Patrol after their primary program apprehension.

The data set used for the ATEP analysis consists of Tucson Sector data for the period 05/01/2008 through 10/05/2010.

The data set used for the MIRP analysis consists of Tucson Sector data for the period 10/01/2003 through 10/05/2010.

The data set used for the OASISS analysis consists of Tucson Sector data for the period 10/01/2006 through 09/30/2009.

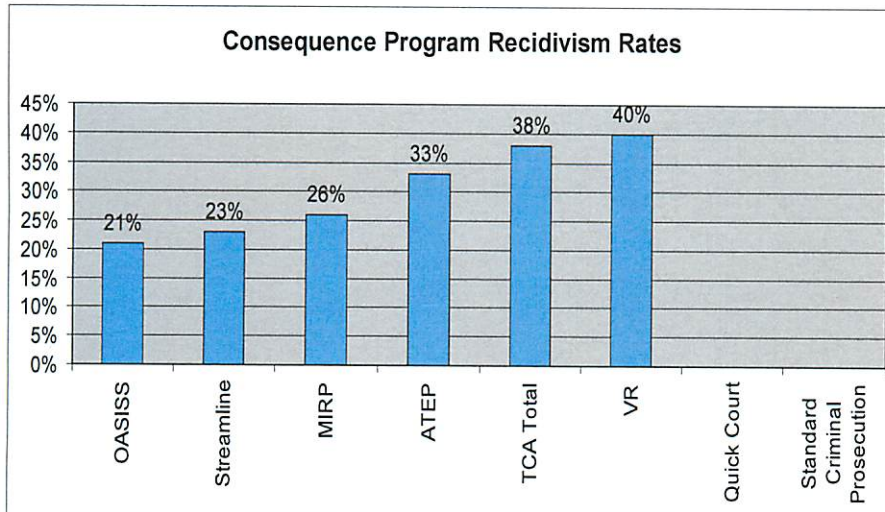
The data set used for the Streamline analysis consists of Tucson Sector data for the period 01/01/2008 through 10/05/2010.

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(b)(5) (b)(7)(E)

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Final Edit POC: Associate Chief (b)(6) (b)(7)(C), Office of Border Patrol/OBP, (b)(6) (b)(7)(C)@dhs.gov, (202) 344-(b)(6) (b)(7)(C)
Date: Friday October 15, 2010
Time: 1600 hours



Preliminary evaluation of this data shows that Streamline is by far the most cost effective and impacting program of the consequences evaluated. ATEP and OASISS also display strong cost efficiency and impact numbers. MIRP is a costly program but has strong impact on recidivism. MIRP has added value in that it is a life saving effort and promotes bilateral cooperation between Mexico and the United States.

Comment [AU1]:(b)(5) (b)(7)(E)

OFFICE OF FIELD OPERATIONS:

On September 05, 2009, Arizona ACTT operations stood up -- with the arrival of TDY staff.

The Tucson Field Office has utilized the following consequence programs since the beginning of ACTT (Sept. 05, 2009); although, the numbers below are from FY2010 only:

Consequence Program	Incidents	Cost (CBPO hours)	Salary & Benefit Costs ¹
Alien Transfer and Exit Program (ATEP)	2,231	(b)(5) (b)(7)(E)	
Outbound Voluntary Returns (VR)	2,196	(b)(5) (b)(7)(E)	
Outbound Expedited Removals (ER)	15	(b)(5) (b)(7)(E)	
Outbound Notice to Appear (NTA)	59	(b)(5) (b)(7)(E)	
Outbound Reinstatements	1,328	(b)(5) (b)(7)(E)	
Outbound Administrative Removals	48	(b)(5) (b)(7)(E)	
Visa Waiver Program (VWP) Removals	27	(b)(5) (b)(7)(E)	
Immigration Prosecutions	1,725	(b)(5) (b)(7)(E)	
Controlled Substance Program (CSP)	28	(b)(5) (b)(7)(E)	

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Total	7,657	(b)(5) (b)(7)(E)	(b)(5) (b)(7)(E)
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OBP generally includes all removal/VR numbers when describing consequences, whereas OFO generally only includes outbound removal/VR numbers. If all numbers will be used by OBP for this tasking, then the following inbound numbers should be included for OFO:

Comment [AU2]: (b)(5) (b)(7)(E)

Consequence Program	Incidents	Cost (CBPO hours)	Salary & Benefit Costs ¹
Inbound ERs/NTAs	3,829	(b)(5) (b)(7)(E)	(b)(5) (b)(7)(E)
Inbound Withdrawals/VWP Refusals	1,223	(b)(5) (b)(7)(E)	(b)(5) (b)(7)(E)
Total	5,052	(b)(5) (b)(7)(E)	(b)(5) (b)(7)(E)

The only consequence program described above that OBP may not be familiar with is the Controlled Substance Program (CSP). CSP is very similar to the OASISS Program utilized for alien smugglers except that CSP is for narcotics smugglers. If the smuggler is a Mexican national non-immigrant and the AUSA declines prosecution, CBP and ICE turn the alien over to the Government of Mexico (PGR) for prosecution in Mexico.

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RECIDIVISM:

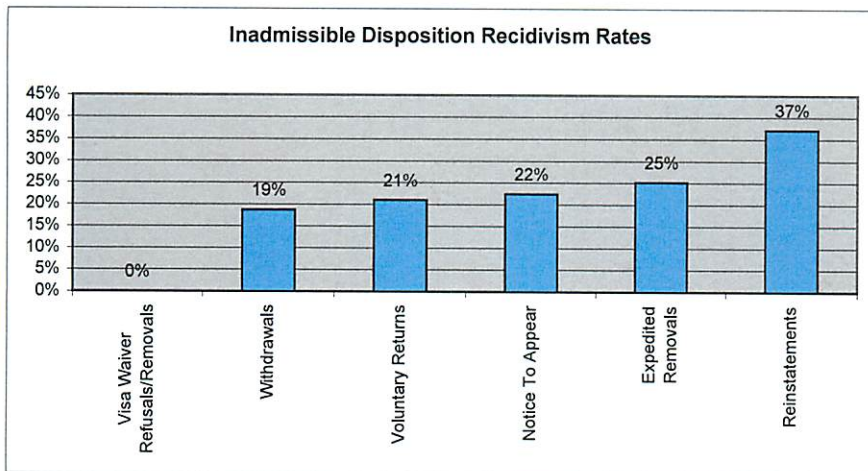
Office of Field Operations

Comment [AU3]:(b)(5) (b)(7)(E)
[Redacted]

For the purpose of this analysis, recidivists will be defined as the unique individuals' encountered one or more times after being found inadmissible or illegally present by CBPO's in the Tucson Field Office subsequent to October 1st 2009.

The chart below represents a combination of inbound and outbound inadmissible activities performed by the OFO Tucson Field Office. All subsequent encounters are included regardless of agency based on the agency indicator in ENFORCE/EIDsnap

All data sets were provided by the Office of Field Operations, Program Planning Analysis and Evaluation. This data represent the best data available as of October 8, 2010.



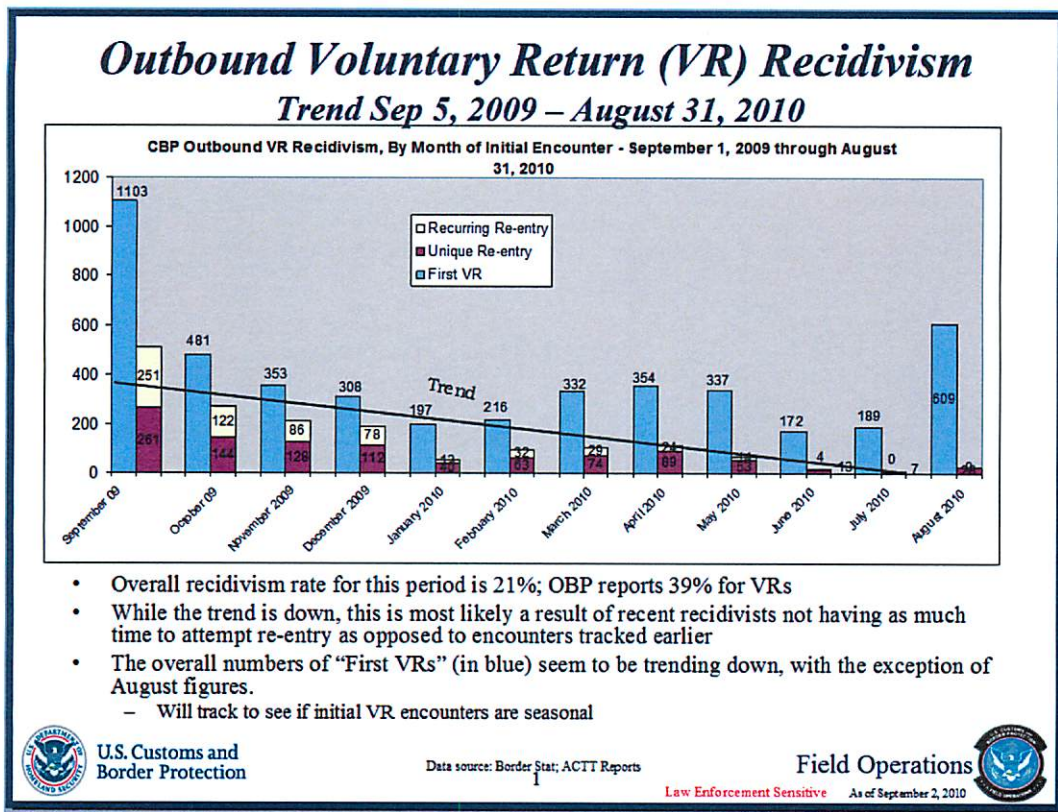
(b)(5) (b)(7)(E)
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During the time period of October 1, 2009 through September 30, 2010 in the Tucson Field Office there were initial events reported covering over 3,500 unique individuals subjected to inbound expedited removals (ER), and nearly 4,700 unique individuals allowed to voluntary return (VR). (b)(5) (b)(7)(E)

Due to the volume of initial

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unique encounters of ERs and VRs dispositions during October 1, 2009 through September 30, 2010, inbound expedited removals were the most costly disposition (b)(5) (b)(7)(E)



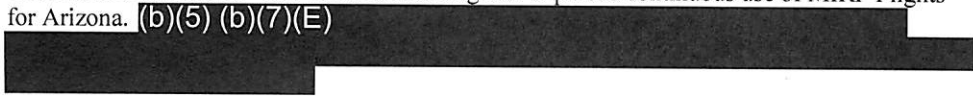
STATUS OF INTERIOR REPATRIATION PROPOSED AGREEMENT:

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The Interior Repatriation Program agreement is currently being reviewed for concurrence by the Government of Mexico. CBP and ICE have agreed to pursue continuous use of MIRP Flights for Arizona. (b)(5) (b)(7)(E)



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