



**Customs and Border Protection
Field Operations
Program Analysis and Measures**



Arizona Operations Plan Enforcement Activity

Purpose: Identify and analyze enforcement activity results in support of the Arizona Operations Plan (AOP). Data was utilized weekly from 9/5/09 through 10/4/09 which represented the first four weeks of the AOP.

Bottom Line Up Front:

- (b) (7)(E) [Redacted]

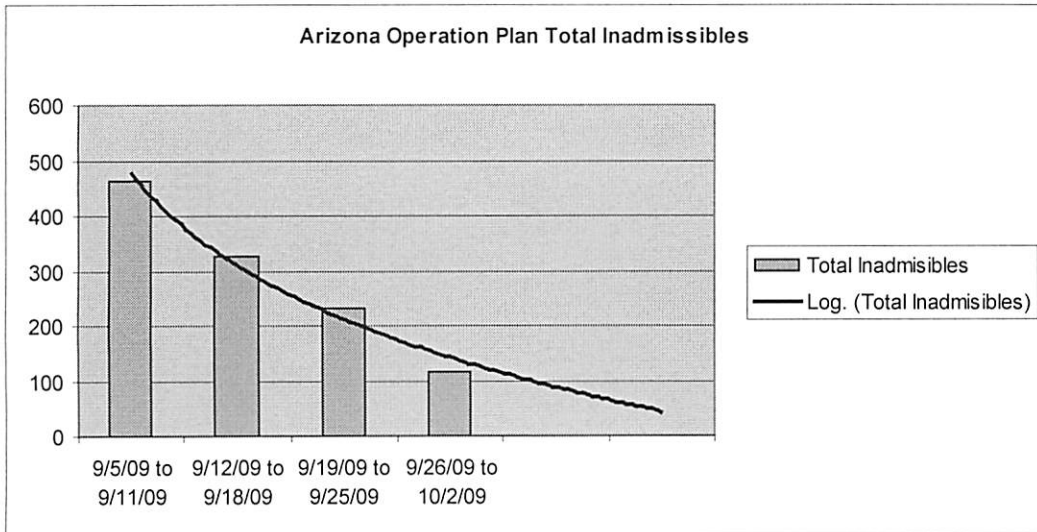
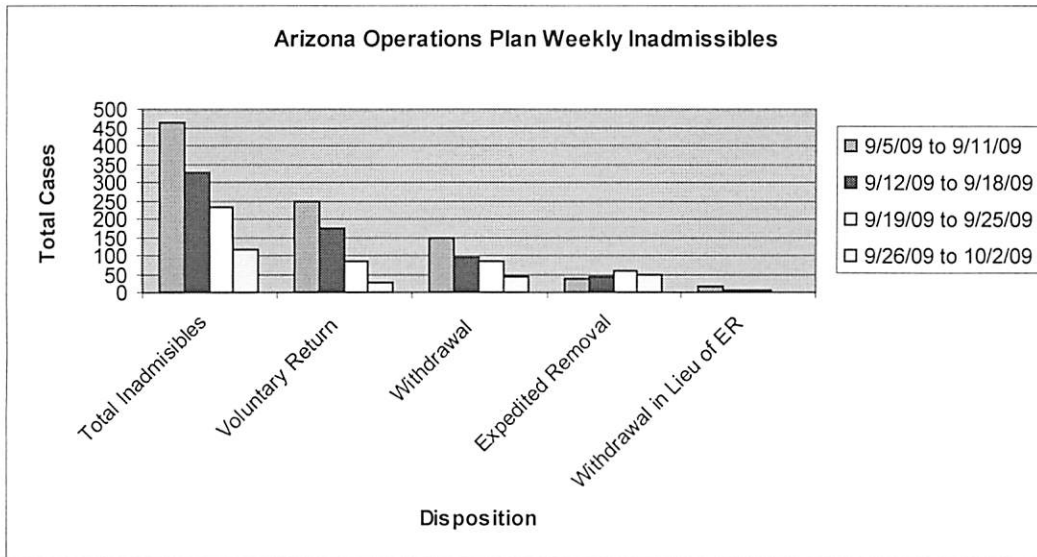
Executive Summary:

- Inadmissible cases have declined each week since the beginning of the AOP.
- AOP had significant volumes of Voluntary Returns during the first four weeks. AOP had 532 voluntary returns in four weeks (423 within the first two weeks) whereas previous to that, the entire Tucson field office only had 66. However, it should be noted that after the initial surge, there has been a steady decline.
- (b)(5) (b)(7)(E) [Redacted]
- (b) (7)(E) [Redacted]
- (b)(5) (b)(7)(E) [Redacted]
- (b)(5) (b)(7)(E) [Redacted]

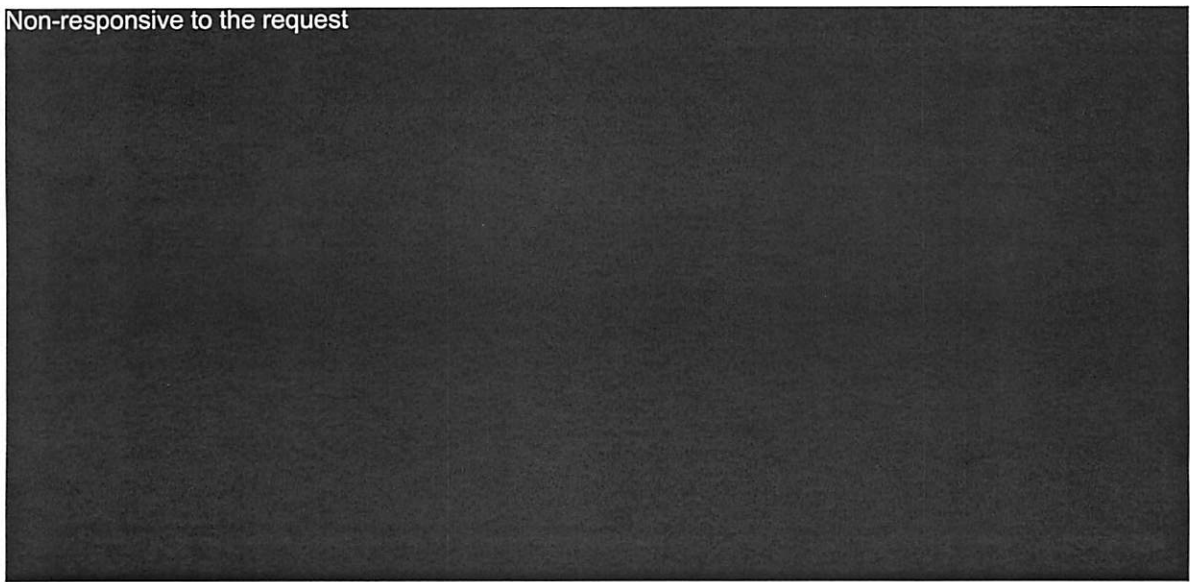
Results:

Inadmissible Alien Cases

- Total inadmissible cases within the AOP focus area have declined steadily since the beginning of the operation.
- (b)(5) (b)(7)(E) [Redacted]
- Voluntary return, withdrawal, and withdrawal in lieu of ER cases have also declined steadily.
- Expedited removal cases have remained fairly constant throughout the first four weeks of the AOP.
- (b)(5) (b)(7)(E) [Redacted]
- (b)(5) (b)(7)(E) [Redacted]
- (b)(5) (b)(7)(E) [Redacted]



Non-responsive to the request



**Geographic Expansion of Border Card Crossers (BCC) in New Mexico (NM)
29 January 2012 – Office of Policy and Planning, CBP**

ISSUE

On October 18, 2011, New Mexico Senators Jeff Bingaman and Tom Udall introduced the New Mexico Economic Development Act (S.1730), which seeks to extend the Border Crossing Card (BCC) geographic limit from 25 to 75 miles. This mirrors the current BCC limits in Arizona, which were extended in December 1999 for the same reasons. While CBP would gain some savings from I-94 filing reduction, the rule change to 75 miles would impact five of six permanent Border Patrol checkpoints within the state (b)(5) (b)(7)(E)

SUMMARY

Instead of immediately matching the Arizona geographic limit, CBP recommends discussion of two alternative options in New Mexico to provide a reciprocal economic benefit:

1. Extend the BCC zone 75 miles in New Mexico. This would impact five of six permanent Border Patrol checkpoints, while extending economic benefits to New Mexico's border communities.
2. Extend the BCC zone 55 miles in New Mexico. This would only impact one of six Border Patrol checkpoints, while also extending economic benefits to New Mexico's border communities.

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

Bottom line: CBP is prepared to put forth three options for a potential proposal. (b)(5) (b)(7)(E)

ANALYSIS

History

On November 12, 1953, an agreement between the United States and Mexico requiring the exchange of notes or a visa, entered into force. *See*, 5 U.S.T. 174, 177. Article 12. This agreement included a provision that allowed Mexican citizens who resided in or near the "border area" to be issued border crossing-identification cards. These cards could be used for multiple applications for admission during the validity of the card.

In November 1982, the former Immigration and Naturalization Service (INS) outlined in regulation a 25-mile zone within which Mexican BCC holders could travel without obtaining a Form I-94.¹ *See* 47 Fed. Reg. 49953 (1982). Prior to implementation of this regulation, Mexican BCC holders were able

¹ As discussed in more detail below, the INS subsequently extended the geographical limitation from 25 to 75 miles for border crossing card holders entering the United States at certain ports of entry in Arizona.

to travel as far as 150 miles of the Mexican border², or within the continental United States³ without the issuance of a Form I-94.

In December 1999, the INS extended the border crossing zone from 25 miles to 75 miles at certain ports of entry in Arizona. Mexican nationals with a valid BCC who applied for entry at Sasabe, Nogales, Mariposa, Naco, or Douglas ports of entry were not required to obtain Form I-94 if they intended to stay within 75 miles of the border for less than 72 hours⁴. This rule was implemented to help stimulate the economy in Arizona.

The INS recognized that the socioeconomic situation found in the Arizona - Sonora, Mexico border area had been less conducive to trade, and less than ideal, when compared to situations found in other border communities such as El Paso, Laredo, Brownsville, and San Diego. This socioeconomic reality was that southern Arizona had little to offer to stimulate trade and promote economic growth in the border towns. The extension of the geographic limitation expanded commercial activity in Tucson and smaller towns between Tucson and the United States - Mexico border without the need to obtain a Form I-94.

Risk Posture - Minimal

In Calendar Year 2011, there were approximately 30,435,033 crossings into the United States by citizens of Mexico using a BCC. During that same time period, over 16 million land border Form I-94's were issued to Mexican citizens intending to go beyond the border zone. (b)(5) (b)(7)(E)

During FY2011, a total of 179 BCC holders were apprehended at Border Patrol checkpoints for having violated the terms of admission according to the Border Patrol's statistics. Border Patrol uses immigration checkpoints usually within 100 miles of the border as a second tier of enforcement. (b)(5) (b)(7)(E)

Document Security and Department of State Vetting – High level of Confidence

Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) requires that BCCs issued after April 1, 1998, contain a biometric identifier such as a fingerprint, and be machine-readable. The currently issued BCC is a laminated, credit card-style document with many security features and ten-year validity period. Applicants must demonstrate that they have ties to Mexico that would compel them to return after a temporary stay in the United States. U.S. Department of State (DOS) consular officers look for evidence of strong family, business, or social ties. Applicants undergo a DOS interview; submit fingerprints, photographs, query law enforcement databases and information regarding residence, employment and reason for frequent border crossing are validated. In a multi layer approach to law enforcement, upon arrival to the United States, CBP will perform similar steps before admission of a BCC holder as the DOS – interview and biographic and biometric queries.

² 8 CFR 235.1(f)(1) (1969).

³ 8 CFR 212.11(c), 221.3(b)(2) (1952).

⁴ The 72-hour time limitation was subsequently extended to 30 days. *See* Fed. Reg. 50051 (2004)

Secure Document

The DOS has transitioned to a new BCC, based on the passport card with an entirely new design that incorporates the same Radio Frequency Identification (RFID) technology and enhanced security features as the U.S. passport card.

CBP Visa Vetting: Recurrent Validation/Verification

(b)(5) (b)(7)(E) [Redacted]

[Redacted]

Enforcement Issues – Minimal ^{(b)(5)(b)(7)(E)} Concern

(b)(5) (b)(7)(E) [Redacted] BCC entrant overstays may be placed in formal removal proceedings but could also be afforded voluntary departure in lieu of proceedings, either by ICE or by CBP, pursuant to 8 C.F.R. § 240.25. If a BCC entrant were convicted of an aggravated felony after entry, administrative removal under INA § 238(b) should also be a valid option. (b)(5) (b)(7)(E) [Redacted]

[Redacted]

) (b)(7)(E) [Redacted]

If voluntary departure, possibly under safeguards, is to be considered, it will be useful to have a form of consequence to go along with it (b)(5) (b)(7)(E) [Redacted]

MEMORANDUM FOR: See Distribution List

FROM: Alan Bersin
Commissioner

SUBJECT: U.S. Customs and Border Protection Civil Immigration
Enforcement Priorities

On February 1, 2010, the Department of Homeland Security (DHS) submitted its inaugural Quadrennial Homeland Security Review (QHSR) report to Congress. The QHSR report provides specific key mission priorities and outlines goals and objectives for each. U.S. Customs and Border Protection's (CBP) all threat focus in support of our goal to secure the borders of the United States while facilitating legitimate trade and travel directly supports the first three priorities outlined in the QHSR:

1. Preventing Terrorism and Enhancing Security,
2. Securing and Managing Our Borders, and
3. Enforcing and Administering Our Immigration Laws

This memo outlines the civil immigration enforcement priorities of CBP as they relate to these QHSR priorities and shall apply across CBP programs, resources and activities as they relate to the apprehension, detention, and removal of those individuals in violation of immigration law.

Nothing in this memorandum shall be construed to prohibit or discourage the apprehension of other aliens seeking to enter the United States unlawfully. CBP will continue to arrest and process aliens found unlawfully in the United States who do not fall into the two priority categories mentioned above, in accordance with established laws, regulations, and policies.

Priorities

In enforcing and administering our immigration laws, aliens who pose national security or public safety threats continue to be our highest priority. Such aliens include terrorists, suspected terrorists, those involved in espionage, those convicted of violent crimes, aggravated felons, smugglers, repeat offenders, criminal gang members, wanted persons, and those who threaten the safety of our agents and officers.

Recent illegal entrants encountered at or near the border, as well as those attempting to be admitted to a port of entry through fraudulent means, remain an enforcement priority in our effort to secure the border and reinforce the practice of sanctioning those who would circumvent our immigration controls.

Other enforcement

Unless otherwise required, release of an alien on his or her own recognizance following the issuance of a "Notice to Appear" (NTA) should only be used for those individuals that are believed to pose a low risk of absconding and do not present a threat to public safety or national security. (b)(5) (b)(7)(E)

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

Chief Patrol Agents and Directors of Field Operations will determine the appropriate level of supervisory approval required prior to releasing an illegal alien on his or her own recognizance.

Discretion, where appropriate and permitted by law, should be exercised when dealing with those with immediate family members who are U.S. citizens, minors, and for certain humanitarian cases. (b)(5) (b)(7)(E)

CBP shall continue to refer aliens in special circumstances, such as identified trafficking victims, crime victims, or those seeking asylum, to the appropriate agencies.

Discretion

Discretion, where appropriate and permitted by law, should be exercised when dealing with immigrants lawfully admitted for permanent residence, those with immediate family members who are U.S. citizens, those who are minors, and for certain humanitarian cases.

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

CBP shall continue to refer aliens in special circumstances, such as identified trafficking victims or those seeking asylum, to the appropriate agencies.

Implementation

CBP personnel shall follow the priorities and guidelines set forth in this memorandum immediately. CBP management and supervisory personnel shall also review and discuss these

priorities and guidelines with officers and agents in the field through the normal chain of command.

The Offices of Border Patrol and Field Operations shall develop measures and methods for recording and evaluating the impact of these priorities and guidelines on enforcement activities and processing of illegal aliens, reporting back to the Commissioner by no later than December 31, 2010. They shall also identify any significant changes in deployment patterns or activities and any operational problems as a result of the priorities and guidelines set out in the memorandum.

OPERATIONAL MESSAGING BACKGROUND:

CBP has begun targeted messaging in the five interior Mexico states where the largest numbers of apprehensions originate in order to deter people *before* they commit to crossing illegally and making the journey to the border region. Messaging is currently centered on the following:

- Border Safety Initiative – Informing potential crossers about the risks associated with the border including extreme heat, smuggling tactics, deaths, etc.
- Consequence Delivery System – Communicating penalties for crossing illegally through Arizona including criminal prosecution, jail time, repatriation hundreds of miles away from smugglers, repatriation back to hometown in Mexico, etc., all of which include a formal removal (*not a Voluntary Return*)

From May 1, 2010 through July 31, 2011, the Mexican states where the largest number of apprehensions in Arizona originated were from:

Mexican State	Apprehensions	% of Total Apprehensions in TCA
Puebla		
Guerrero		
Oaxaca		
Sonora		
Mexico		

BORDER SAFETY INITIATIVE (BSI)

- BSI is a humanitarian, bi-national initiative designed to reduce deaths and make the border region safer and more secure
- The government of Mexico has partnered with the U.S. to disseminate BSI messaging since the program began in 1998
- Since the beginning of FY11, there have been 168 border deaths in Arizona compared to 234 during the same timeframe last year – *a 31% decrease*
- Smugglers have moved migrants into more remote areas with increasingly treacherous terrain and extreme weather conditions where temperatures in the desert can reach 46 degrees Celsius
- Smugglers tell crossers they will only walk a short distance once in the United States. In reality, they are forced to walk long distances within short periods of time and those unable to keep up are left behind to die.
- In every case, crossers are found with insufficient water or no provisions at all
- It's a myth that it's easy to enter the U.S. illegally. The truth is there are more Border Patrol agents, technology, and infrastructure in history. The likelihood of getting caught – and the consequences of doing so—are higher than ever before.

CONSEQUENCE DELIVERY SYSTEM (CDS)

- Anyone crossing illegally through the Tucson Sector will, at a minimum, face an administrative penalty and potential criminal conviction
- First-time offenders will be given a removal order, **not a Voluntary Return**, and placed in the Alien Transfer and Exit Program or Mexican Interior Repatriation Program.
 - First timers are also subject to criminal prosecution under *Operation Streamline* which carries a jail sentence from 30 – 180 days
- Anyone illegally re-entering through the Tucson or Yuma Sectors after an initial consequence action will be placed in a program with a more severe and progressive consequence than the one prior.
 - Recidivists will be given a removal order and criminally prosecuted; penalty is anywhere from 30 days in jail up to 20 years in prison depending on past immigration and criminal history
- All deported aliens will be banned from the United States from five years up to a lifetime ban and are ineligible to apply for any legalization process without special approval

ARIZONA SNAPSHOT

Apprehensions

- (b)(5) (b)(7)(E) [REDACTED]
- Apprehensions in Arizona have steadily decreased for the past seven years

**COS MEETING
SIGNIFICANT ACTIVITY
07/08/09
~~(U//FOUO//LES)~~**

Significant Issues

Efficiency Review -- The CBP Printing Office issued two internal controls documents; a "Certificate of Need" and "Information Notice" with the aim to minimize printing and distribution of all reports and documents that can be sent electronically or posted online. Last week, CBP saved \$11,965 by not printing the FY09 Year End Financial Procedures and placing these procedures electronically on-line.

Significant Enforcement Issues

Caribbean Air and Marine Branch, Puerto Rico – Rescue – Non-responsive to the request

[REDACTED]

OFO Del Rio, TX – Significant Seizure – 1,400 Rounds of Ammunition. Non-responsive to the request

[REDACTED]

OBP Laredo, TX – 2,630.3 lbs Marijuana Seized – Non-responsive to the request

[REDACTED]

OBP Indio, CA – 2,289.2 lbs (1,038 kg) Marijuana Seized – Non-responsive to the request

OBP Falfurrias, TX – 2,033.5 lbs of Marijuana Seized – Non-responsive to the request

OFO New Orleans, LA – 451.80 kg – Cocaine Seized. Non-responsive to the request

OFO Laredo, TX - \$200,513 Outbound Currency Seizure – Non-responsive to the request

Press

Smuggler’s Gulch Ribbon Cutting Ceremony. July 7 -- Non-responsive to the request

Illegal Aliens Voluntarily Leaving the United States. The Washington Post will run a story about illegal aliens voluntarily leaving the United States. The reporter wrote the story several months ago but further developed it after he recently traveled to Guatemala.

Looking Ahead

• Non-responsive to the request

EXERCISE OF DISCRETION VS. PROSECUTORIAL DISCRETION

CBP's policy is to use discretion where appropriate and in keeping with the CBP strategy of risk management; that is, focusing our resources on those cases that pose the greatest risk. Each traveler is evaluated on a case by case basis and the decision is based on the totality of the circumstances. Differences are outlined below:

Exercise of Discretion – an affirmative act of approval – benefit decisions

- 1. Waiver (fee/ no fee)
- 2. Parole (fee/ no fee)
- 3. Deferred Inspection

1. Waivers of Documentary Requirements:

Non-responsive to the request
[Redacted]

[Redacted]

2. Paroles:

Non-responsive to the request
[Redacted]

[Redacted]

Non-responsive to the request
[Redacted]

- Non-responsive to the request
[Redacted]

Non-responsive to the request

The following are examples to parole a VWP applicant:

Non-responsive to the request

3. Deferred Inspection

A deferred inspection may be used:

- When an immediate decision concerning admissibility cannot be made at a port of entry.
- When it appears likely that the issues surrounding admissibility can be resolved favorably at the onward port of entry.
- Deferred inspections may be necessary to:
 - Review an existing file.
 - Review other documentary evidence essential to clarifying admissibility.

The following situations are examples for deferred inspection

- Non-responsive to the request

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Prosecutorial Discretion Options – applies to enforcement decisions

1. Withdrawal of Application for Admission

2. Voluntary Return

3. NTA release

1. Withdrawal of Application for Admission

Under §235(a)(4) INA, the Attorney General may, in his or her discretion, permit an alien to withdraw his or her application for admission in lieu of removal proceedings under §240 of the Act, or expedited removal under §235(b)(1) of the Act. (b)(5) (b)(7)(E)

Non-responsive to the request

• Non-responsive to the request

2. Voluntary Return

Voluntary return is used when CBP Officers encounter outbound illegal aliens.

Examples include:

- Encountered outbound after overstay of admission period.
- EWI outbound, no criminal record, traveling with minor children

3. NTA Release

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