

Reaffirmation of Prosecutorial Priorities
May 2, 2018

Objective:

- Achieve increased level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

Key Messages: This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those who choose to put their children in harm's way by crossing the border between the ports of entry.

Execution:

The southwest border sectors, under the direction of their Chief Patrol Agents (CPAs), will implement (b) (7)(E)

- (b) (7)(E)
- Within 48 hours of issuance of this guidance, Sectors will provide a concept of operations to the Deputy Chief of Operational Programs within the Law Enforcement Operations Directorate (LEOD), United States Border Patrol Headquarters, identifying targeted (b) (7)(E) within their area of responsibility with the highest concentration of potential prosecutions consistent with the below listed priorities.
- Sectors will provide localized, phased plans to reach 100% referrals of all amenable adults based on capacities of their U.S. Attorney offices (USAOs) and the federal courts. The goal is to initiate increased prosecutions immediately, while recognizing that our partners will need time to adjust resources to achieve shared DHS and DOJ goals.
- CPAs will expand and maintain this prosecution initiative according to traffic patterns to achieve maximum effect until 100% prosecutions of all amenable aliens is achieved.
- CPAs will consider DOJ request for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- CPAs will maintain current operations (b) (7)(E) with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the (b) (7)(E) module, with reasons for declinations recorded accurately.

- (b) (7)(E)

Prosecution Priorities in the following order:

1. (b) (7)(E)
2. (b) (7)(E)

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3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

Reporting Requirements: (weekly statistics)

- Report requests from U.S. Attorney or U.S. Marshal offices for CBP resources to assist with implementation.
- Report the number of apprehensions in targeted and non-targeted [REDACTED], by sector.
- Report the total number of prosecution referrals by sector for each priority in targeted and non-targeted [REDACTED] by sector.
- Report the percentage of referred prosecutions for each priority in targeted and non-targeted [REDACTED]
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.

Metrics:

- Total number of prosecutions – increase or decrease
- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
 - Number of OTMs entering illegally
 - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

Execution Timeline:

[REDACTED]