



**U. S. CUSTOMS AND BORDER PROTECTION  
UNITED STATES BORDER PATROL**

**El Paso Sector Family Unit Initiative**

Date: November 29, 2017  
From: LEOD Ops West Sectors  
To: Chief Brian S. Hastings  
Subject: El Paso Sector FMUA Initiative

**BRIEFING TOPIC:**

El Paso Sector (EPT) experienced a significant increase in apprehensions of family units (FMUAs) through its area of responsibility during the beginning of FY2017. EPT apprehended 11,929 through the end of May 2017, with most apprehensions by New Mexico Stations. As a result, it caused FMUA/UAC holding facilities in the El Paso AOR to reach capacity quickly and EPT having to convert Expedited Removals (ERs) to Warrants of Arrests/Notice to Appear (WA/NTA) to meet ICE ERO's placement/custody redetermination requirements and to alleviate overcrowding and time in custody constraints. EPT quickly adjusted their operations and launched a prosecution initiative (July 07, 2017 to November 18, 2017). The initiative was not intended to separate families, but to maintain operational control of their AOR prosecuting criminal adults who attempt to exploit the FMUA/UAC crisis in order to avoid prosecution.

EPT expects an increase in the apprehension of family units (FMUA) for FY 18 claiming credible fear as a consequence of ending the aforementioned prosecution initiative. As of FY 18, ninety-two (92) individuals claiming credible fear have been converted.

**BACKGROUND:**

As stated in CBPs Transport, Escort, Detention Standards, "Generally, family units with juveniles should not be separated. When it is necessary to separate juveniles from the parent(s) and/or legal guardian(s), officers/agents must follow their operational office's policies and procedures and appropriate legal requirements. In circumstances where family units must be separated due to different immigration dispositions, such separation must be documented in the appropriate electronic system(s) of record." Aside from different processing dispositions as mentioned in the Policy, other considerations that may warrant separation would be the welfare and safety of the juvenile. Processing individuals in EPT's custody varied on a case by case basis.

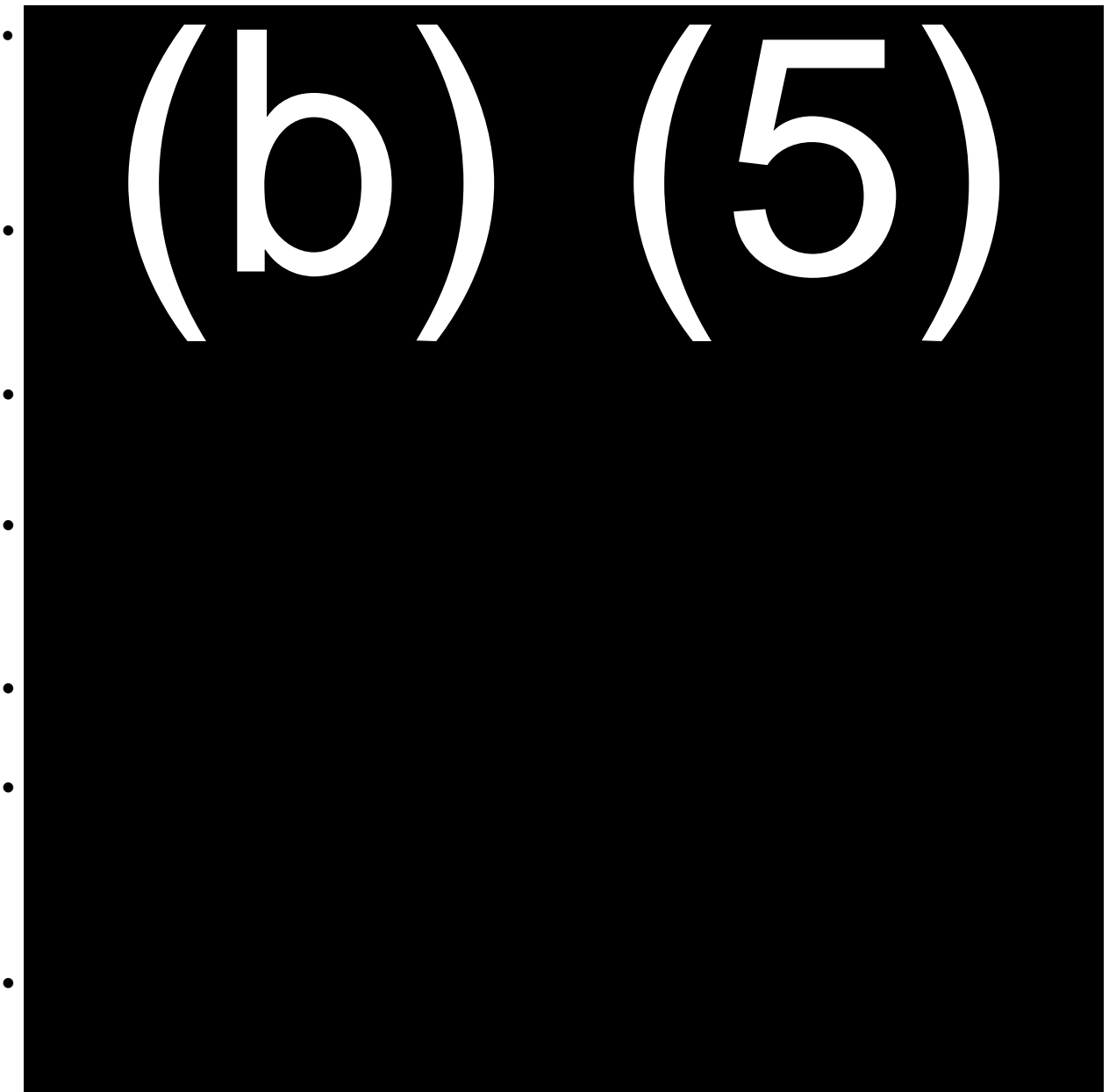
- In the April 11, 2017, memo from the United States Attorney General, all Federal Prosecutors were directed to renew their commitment to criminal immigration enforcement.

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- AG Sessions made it a high priority for the Department of Justice to establish lawfulness in the immigration system, specifically for immigration offenses. After discussions with the local OCC, EPT management approached the New Mexico AUSAs office to discuss the possibility of lifting restrictions on prosecution cases.
- On July 6, 2017, District of New Mexico, Acting United States Attorney removed all restrictions imposed for El Paso Sector Prosecutions, which was limited to (b) (7)(E) Misdemeanor cases per month and (b) (7)(E) Felony cases of 8 USC 1326 (a)(1) cases per month for New Mexico Border Patrol Stations.
- The lifting of all restrictions allowed New Mexico Border Patrol Stations to prosecute all amenable subjects in an effort to increase the consequences of entering in NM illegally to deter first time and/or repeat offenders.
- During this same time, the Western District of Texas El Paso Division continued to maintain 100 percent prosecutions of all amenable subjects entering the United States illegally. EPT expanded the prosecution initiative of Family Units (FMUA) for all TX BP Stations in response to an internal assessment which revealed a significant increase in FMUA entries.
- The combined actions above allowed the El Paso Sector Border Patrol to apply the most appropriate post-arrest consequence to an individual to break the smuggling cycle and end the desire to attempt further illegal entry.
- All amenable subjects were generally prosecuted for criminal immigration violations such as, Misdemeanor 8 USC 1325 Illegal Entry, 8 USC 1325 (a)(1) Illegal Entry, 8 USC 1325 (a)(2) Eluding Inspection, 8 USC 1326 (a)(1) Illegal Re-Entry, 8 USC 1326 (b)(1) Illegal Re-Entry of a Felon, 8 USC 1326 (b)(2) Illegal Re-Entry of an Aggravated Felon.
- Debriefs of apprehended subjects during the initiative revealed that many of them would have chosen to illegally enter the U.S. through a different sector had they known about EPTs prosecution efforts. This further indicated that prosecution of immigration related offenses is an effective deterrence to illegal entry.
- There was a **64%** decrease in apprehensions throughout the El Paso Sector since the prosecution initiative was enacted.
- From August through November of FY 17, EPT processed **1,803** FMUAs. Only **281** (**15.58 %**) FMUAs were separated under this initiative.

**CURRENT STATUS:** As of November 18, 2017, El Paso Sector is **No** longer executing prosecutions as described above. No other USBP sectors are engaged in similar operations at this time. USBP HQ has notified the El Paso Sector to stand down on the continuation of this prosecutions initiative until further review and to revert to the previous FMUA processing procedures (attached) prior to the launch of this initiative.

**COURSE OF ACTION #1:** USBP HQ leadership will support all aspects of this program and will ensure it abides by CBP/DHS policies and procedures and provide guidance and recommendations as needed. A brief up the chain of command at the appropriate level will follow to seek concurrence to reinstate the program and allow EPT to continue with the prosecution initiative. USBP HQ will take all aspects into consideration when reinstating the initiative, such as the recent proposals from the Administration- NSC - Paper PC on Global Migration Compact:



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(b) (5)

COURSE OF ACTION #2:

(b) (5)

(b) (5)

RECOMMENDATION:

(b) (5)

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