

SDC (b) (7)(E)



**U.S. Customs and
Border Protection**

MAY 09 2018

MEMORANDUM FOR: All Personnel
San Diego Sector (b)(6);(b)(7)(C)

FROM: Rodney S. Scott *RS*
Chief Patrol Agent *CPA*
San Diego Sector

SUBJECT: Zero Tolerance
RE: Implementation of Phased Prosecutorial Priorities

In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are implementing the President's new zero-tolerance order and delivering appropriate judicial 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 federal prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in criminal activity, including those who choose to put their children in harm's way by crossing the border between the ports of entry.

Effective immediately, San Diego Sector (SDC) is phasing-in new prosecutorial priorities and will prosecute all illegal entry apprehensions in the sector. This effort will increase contingent upon collateral and external support and logistical functions, such as detention space, Federal prosecutors, and the cooperation of the courts, as well as the internal constraints on operational and administrative capabilities, limitations, and impacts.

Contingent on the items listed above, below is the phased schedule for achieving zero tolerance (100 percent) prosecution. During all phases, all stations will continue to call SDC Prosecutions (PROS) to notify and coordinate Federal prosecution cases. Stations will continue their routine processing and presentment of 8 U.S.C. § 1324 alien smuggling cases and 8 U.S.C. § 1326.

PHASE 1: 05/06/2018 – 05/19/2018

- Increase prosecutions in SDC to 25 percent of all amenable adults.
 - Incrementally increase prosecutions, with an emphasis on activity occurring in the Campo (CAO) and Boulevard (BLV) stations' area of responsibilities (AORs), as well as all maritime apprehensions.
 - All CAO, BLV, and any maritime apprehensions will be processed for criminal prosecution in coordination with SDC PROS notifications.

PHASE 2: 05/20/2018 – 06/02/2018

- Increase prosecutions in SDC to 50 percent of all apprehensions.

Zero Tolerance RE: Implementation of Phased Prosecutorial Priorities

Page 2

- Incrementally increase prosecutions to 50 percent of all SDC apprehensions, expanding focus to the Imperial Beach (IMB) and Chula Vista (CHU) stations' AORs.
 - All CAO, BLV, IMB, CHU, as well as all maritime apprehensions, will be processed for criminal prosecution in coordination with SDC PROS notifications.

PHASE 3: 06/03/2018 – 06/16/2018

- Increase prosecutions in SDC to 75 percent of all apprehensions
 - Incrementally increase prosecutions to 75 percent of all SDC apprehensions, expanding focus to the Brown Field (BRF) and El Cajon (ECJ) stations' AORs.
 - All CAO, BLV, IMB, CHU, BRF, and ECJ, as well as all maritime apprehensions, will be processed for criminal prosecution in coordination with SDC PROS notifications.

PHASE 4: 06/17/2018 – 06/30/2018

- All amenable aliens arrested within SDC AOR will be processed for criminal prosecution in coordination with SDC PROS notifications.

Prosecution Priorities in the following order:

1. All adult aliens (with criminal history)
2. All adult aliens (with smuggling activity)
3. Single adult aliens and adults aliens accompanying children (non-contiguous country/Other Than Mexican (OTM))
4. Single adult aliens (contiguous country/Mexico and Canada)
5. Adult aliens accompanying children (contiguous country/Mexico and Canada)

Phased implementation prosecutorial coordination and guidance:

Agents are reminded that all criminal case prosecutorial requirements remain in place, including but not limited to: arresting agent narratives; Miranda requirements; video, audio and other evidence collection and preservation; procedures and time windows for Metropolitan Correction Center Intake.

All e3 processing, custodial actions, consequence delivery, narrative and enforcement systems documentation, and related sector and national guidance remain in effect. All material witness coordination will remain in effect. All prosecutions involving adult aliens with accompanying children will be properly documented in official systems of record to include all separations as a result of presentment for Federal prosecution.

While implementing the phased plan of 100 percent prosecution of all amenable subjects, customary procedures for calling and notifying SDC PROS of a potential criminal case remains in effect. SDC will continue with routine processing and presentment of 8 U.S.C. § 1324 alien smuggling cases, and 8 U.S.C. § 1326 cases involving criminal and aggravated felon aliens during the phased implementation of 100 percent prosecution.

If you have any questions or require additional information, please contact SDC PROS Program Manager (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C) or Assistant Chief Patrol Agent (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C).