



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

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April 14, 2015

VIA E-MAIL

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Re: ACLU Found. of Ariz. v. DHS, No. 14-2052 (D. Ariz.)

Counsel:

Enclosed are additional records that U.S. Customs and Border Protection has determined to release in response to the FOIA requests submitted on January 23, 2014, by Plaintiffs in the above-referenced case.

If you have any questions about these materials, please contact me at (202) 514-3338.

Sincerely,

Eric B. Beckenhauer

## BORDER PATROL HANDBOOK

## CHAPTER 9

## HIGHWAY TRAFFIC INSPECTION

Traffic check is a border patrol operation that consists of the examination of occupants of vehicles on roads and highways as to their right to be or remain in the United States. It includes the search of such vehicles if necessary to locate illegal aliens.

PURPOSE

The primary purpose of a traffic check operation is to apprehend illegal aliens who have managed to evade apprehension at the border and are attempting to travel to interior locations. Although the inspection of vehicular traffic for illegal aliens is the Service's main concern, patrol agents assigned to this operation often encounter violators of other state and federal laws. Any assistance rendered to other agencies is incidental to their duties.

AUTHORITY

Section 287 of the Immigration and Nationality Act provides that "any officer . . . of the Service . . . shall have the power without warrant . . . within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicles." "Within a reasonable distance" is defined in 8 C.F.R. 287.1(a) as within 100 air miles of any external boundary, or a shorter distance fixed by the district director. Upon recommendation of the district director, the Commissioner may declare a distance of more than 100 air miles to be reasonable.

Section 235(a) also provides authority to search, when there is reason "to believe that aliens are being brought into the United States" in the conveyance. b7E

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The broad powers specified in the Act have been defined by various Courts of Appeal and the Supreme Court of the United States. Patrol agents must be very familiar with--and strictly adhere to--the controlling decisions that apply to their area of operations. b7E

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(REV. 4/1/85)

## TWO LANE UNDIVIDED HIGHWAY

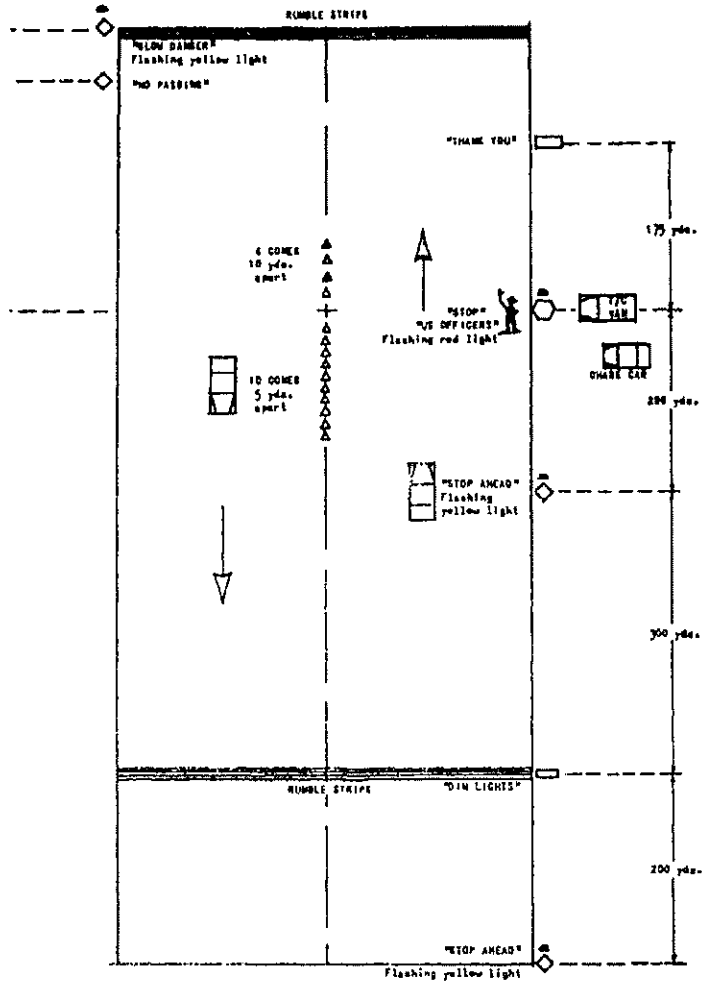


EXHIBIT NO. 3

TM-16

April 7, 1972

FOUR LANE DIVIDED HIGHWAY

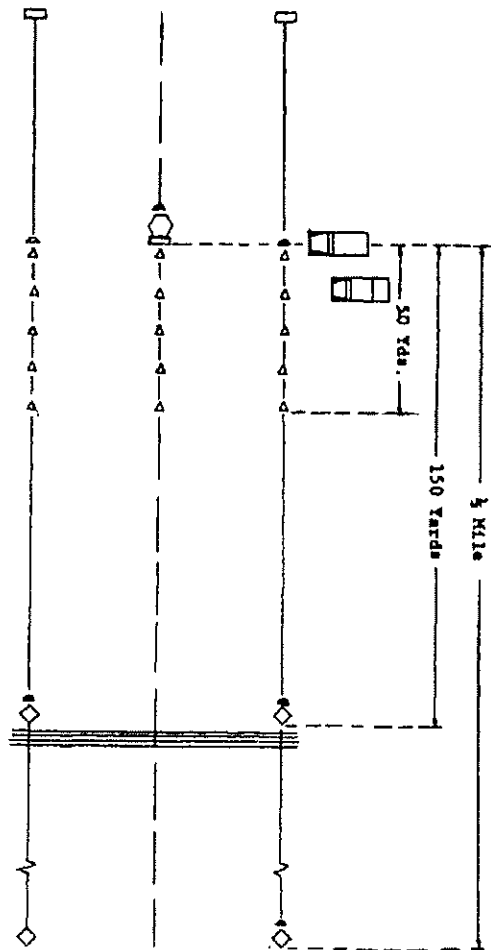


EXHIBIT NO. 1

TM-16

April 7, 1972





**Department of Homeland Security**  
**Bureau of Customs and Border Protection**  
**U.S. Border Patrol**

**b7E**

*Office of the Chief  
U.S. Border Patrol  
1300 Pennsylvania Avenue, NW  
Suite 6.5E  
Washington, DC 20229*

**JAN 22 2004**

**MEMORANDUM FOR: ALL SECTOR CHIEF PATROL AGENTS**

**FROM: Gus De La Viña**  
Chief  
U.S. Border Patrol

**b6, b7C**

**SUBJECT: Public Statements Concerning Border Patrol Checkpoints**

The following are to be used as the official position statements for operation of Border Patrol checkpoints. All Border Patrol employees publicly addressing Border Patrol checkpoint issues will ensure that all comments are in accordance with these position statements. These statements will ensure that we present a clear message and position relating to Border Patrol checkpoints.

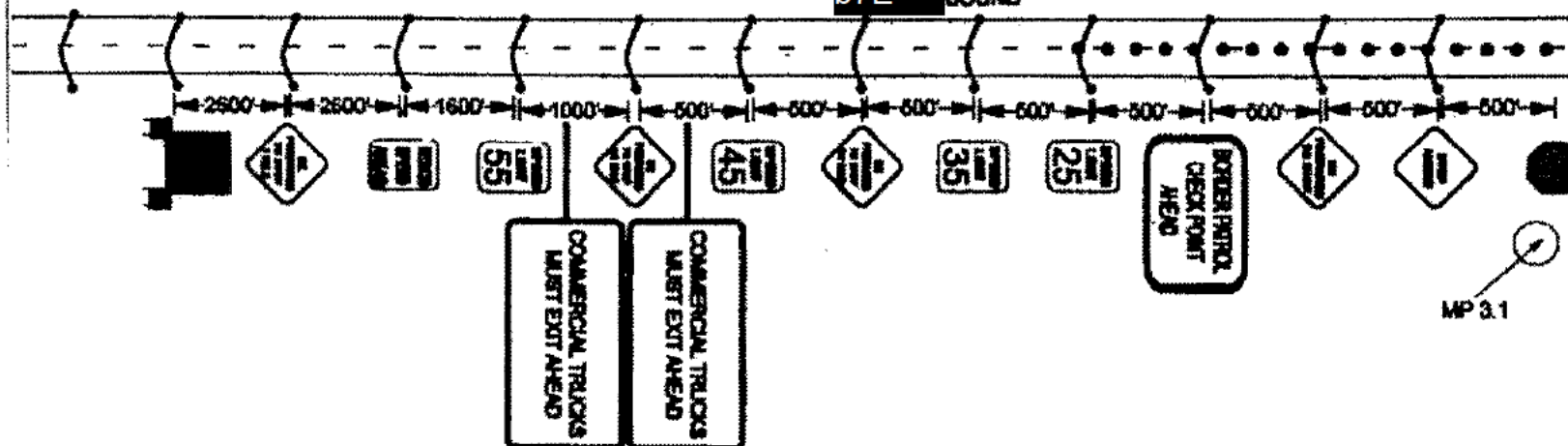
- Border Patrol traffic checkpoints are a critical enforcement tool for carrying out the mission of securing the Nation's borders against terrorists, smugglers of weapons of terrorism and other contraband, and illegal aliens and therefore must be preserved. The primary purpose of a traffic checkpoint is to restrict the routes of egress from the border area and thereby create deterrence to the initial illegal entry.
- Permanent checkpoints are paramount to the long-term effectiveness of the deterrence strategy along our southwest border. Where checkpoint operations have been maintained in conjunction with linewatch operations, illegal entries have decreased dramatically.
- CBP will continue to operate checkpoints in accordance with the Constitution of the United States and governing judicial rulings.
- CBP will continue to operate checkpoints in a safe, efficient, and cost-effective manner.

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PAGE 1	PAGE 2	PAGE 3
CHECK POINT AHEAD	ALL TRAFFIC	MUST STOP

**b7E** **BOUND**

b7E [REDACTED] BOUND

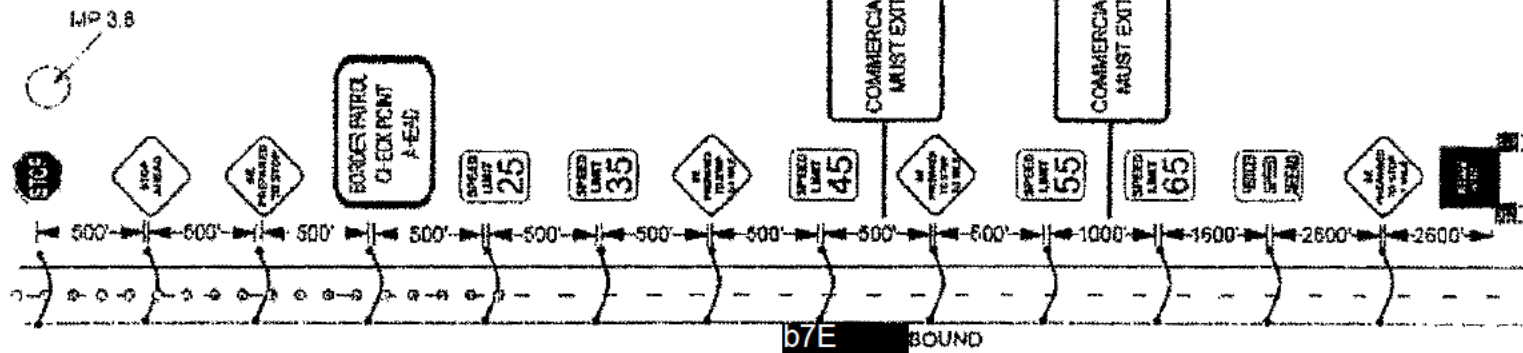


MESSAGE BOARD

PAGE 1 PAGE 2 PAGE 3

CHECK  
POINT  
AHEAD ALL  
TRAFFIC MUST  
STOP

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b7E BOUND

b7E



U.S. Customs and  
Border Protection

MAY 06 2014

MEMORANDUM FOR: All Chief Patrol  
All Division Chi

b6, b7C

FROM:

b6, b7C

b6, b7C

Chief

U.S. Border Patrol

SUBJECT: CBP Radiation Detection Program

On March 25, 2014, CBP's Radiation Detection Program, Directive Number 5290-015B, was issued and distributed to the field for immediate implementation. The directive sets forth policy for the CBP Radiation Detection Program, which is designed to detect and prevent illicit radioactive material from entering the United States. The directive outlines that agents must contact the Laboratory and Science Services Teleforensic Center (LSS-TC) when the following situations arise:

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A memorandum entitled "Guidance and the Use of Personal Radiation Detectors and VACIS Technology at Border Patrol Checkpoints," dated December 4, 2006, was also disseminated to the field for immediate implementation and compliance. This memorandum highlighted operational practices at interior checkpoints regarding the use of PRD and vehicle and cargo inspection systems.

I want to emphasize that it is of paramount importance that all U.S. Border Patrol agents are in compliance with both the CBP directive and guidance memorandum.

Staff may direct questions to Assistant Chief b6, b7C of the Non-Intrusive Inspection Program at b6, b7C.

Attachment

## U.S. CUSTOMS AND BORDER PROTECTION

CBP DIRECTIVE NO.

DATE: December 23, 2003

ORIGINATING OFFICE: OAT

SUPERSEDES:

REVIEW DATE:

### U.S. CUSTOMS AND BORDER PROTECTION RADIATION DETECTION PROGRAM DIRECTIVE

1 **PURPOSE.** To provide guidance for the U.S. Customs and Border Protection (CBP) Radiation Detection Program which is designed to detect and prevent illicit radioactive materials from entering the United States.

#### 2 **POLICY.**

2.1 It is the policy of CBP to thwart the operations of terrorist organizations by detecting, disrupting, and preventing the cross-border travel of terrorists, terrorist funding, and terrorist implements, including Weapons of Mass Destruction and their precursors.

2.2 This directive sets forth the policy for the Radiation Detection Program. Additional local procedures may be issued to augment the procedures contained within, however, they may not be inconsistent with or detract from the instructions contained in this directive. The Assistant Commissioner, Office of Field Operations or the Chief, Office of Border Patrol or their designated appointee, must approve all local procedures for their respective organizations.

2.3 No officers will operate radiation detection equipment without prior training.

2.4 All officers who have been issued a Personal Radiation Detector (PRD) will be required to carry it while on duty and ensure that it is activated, b7E [REDACTED]  
b7E [REDACTED]

2.5 PRDs will be issued to all CBP personnel at primary inspection within Ports of Entry and Border Patrol checkpoints.

### 3 DEFINITIONS.

#### 3.1 For the purpose of this document:

3.1.1 "Officer" will refer to CBP personnel who utilize radiation detection equipment while performing inspections at Ports of Entry and Border Patrol checkpoints.

3.1.2 "Primary" is defined as the initial point of contact with a person, conveyance, or shipment; in most cases, this is where radiation is first detected.

3.1.3 "Secondary" is designated as an isolated area where the source of radiation may be located and identified.

3.1.4 "Alert/Alarm" will be considered the physical means by which radiation detection is perceived.

3.1.5 "Locate" is the process of finding a radiation source by searching or examining.

3.1.6 "Identification" is the process of finding the origin, nature, or elemental isotope of a radiation source.

#### 3.2 Radiation detection equipment relevant to this directive includes:

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4 **AUTHORITY / REFERENCES.** 6 USC 111, 203, 211, 212; Reorganization Plan Modification for the Department of Homeland Security, H.R. Doc. No. 108-32 (2003); 8 USC 1357 (powers of immigration officers and employees); 18 USC 831 (unlawful transactions in radioactive material); 19 USC 482, 1401, 1461, 1496, 1499, 1581, 1582 (customs examination of persons, merchandise, baggage and conveyances); Delegation from the Secretary of the Treasury to the Secretary of Homeland Security, Treasury Department Order No. 100-16, 68 Fed. Reg. 28322, 51868-70 (2003), codified 19 CFR Part 0; 19 CFR 148.82(e); Delegation from the Secretary of Homeland Security to the Commissioner of U.S. Customs and Border Protection, No. 7010.1, June 20, 2003; Land Border Inspectional Safety Policy, CBP Directive No. 5290-007; Commissioner's Situation Room Reporting, CBP Directive No. 3340-025B; Antiterrorism, CBP Directive No. 3340-021.



## 5 RESPONSIBILITIES.

5.1 The Commissioner has overall responsibility for establishing policy and overseeing all aspects of the Radiation Detection Program.

5.2 The Director, Office of Anti-Terrorism (OAT) is responsible for coordinating the Radiation Detection Program, and will ensure cooperation among the relevant CBP Offices.

5.3 The Assistant Commissioner, Office of Field Operations (OFO) will ensure that this directive is provided and adhered to by all Field Operations Offices.

5.3.1 Within OFO, the Directors, Field Operations are responsible for the implementation of this directive at all Ports of Entry.

5.3.2 OFO personnel will be responsible for resolving all alarms that activate CBP radiation detection equipment at Ports of Entry and determining whether the radiation source is legitimate or illicit.

5.4 The Chief, Office of Border Patrol (OBP) will ensure that this directive is provided and adhered to by all Sectors.

5.4.1 Within OBP, the Chief Patrol Agents are responsible for the implementation of this directive at Border Patrol checkpoints.

5.4.2 OBP personnel will be responsible for resolving all alarms that activate CBP radiation detection equipment at Border Patrol checkpoints and determining whether the radiation source is legitimate or illicit.

5.5 The Assistant Commissioner, Office of Training and Development (OTD) will ensure that training curricula for the Radiation Detection Program are in place.

5.5.1 Within OTD, the Academies are responsible for training new CBP personnel in the proper use of certain radiation detection equipment.

5.6 The Assistant Commissioner, Office of Information and Technology (OIT) will provide computer support, data maintenance, and all related scientific and technical support associated with the Radiation Detection Program.

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5.6.2 Within OIT, the Executive Director, Laboratory and Scientific Services (LSS) will ensure that field personnel are provided with guidance to determine legitimacy of unresolved radiation detections. LSS will also coordinate additional response assets if elevated response capabilities are deemed necessary.

## 6 PROCEDURES.

### 6.1 OPERATING PROCEDURES

6.1.1 Radiation detection equipment will be operated in accordance with the manufacturers' operating manual and established CBP training procedures.

### 6.2 RESPONSE PROCEDURES - GENERAL

#### 6.2.1 Ports of Entry:

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#### 6.2.2 Border Patrol Checkpoints:

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6.3 RESPONSE PROCEDURES - NEUTRON ALARM

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6.4 RESPONSE PROCEDURES - GAMMA ALARM

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6.5 RESPONSE PROCEDURES - LSS TECHNICAL RESPONSE PROTOCOL

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6.6 RESPONSE PROCEDURES – SPECIFIC EVENTS

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6.7 RESPONSE PROCEDURES – EVENT DOCUMENTATION

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6.8 RESPONSE PROCEDURES – EQUIPMENT FAILURE

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7 **NO PRIVATE RIGHTS CREATED.** This document is an internal policy statement of the U.S. Customs and Border Protection and does not create or confer any rights, privileges, or benefits for any person or party.

8 **ATTACHMENTS.**

8.1 Appendix 1: Radioactive Material Technical Advice Questionnaire

8.2 Appendix 2: Common Innocent Radiation Sources

8.3 Appendix 3: Response Flow Chart

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Commissioner  
U.S. Customs and Border Protection

APPENDIX 1  
RADIOACTIVE MATERIAL TECHNICAL ADVICE  
QUESTIONNAIRE

Incident Location: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Reporting Officer: \_\_\_\_\_ Phone: \_\_\_\_\_

Passenger or Pedestrian Information:

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Gender: \_\_\_\_\_ HT: \_\_\_\_\_ WT: \_\_\_\_\_ Hair: \_\_\_\_\_ Eyes: \_\_\_\_\_

Address: \_\_\_\_\_

POB: \_\_\_\_\_ Citz: \_\_\_\_\_

Status: \_\_\_\_\_ A#: \_\_\_\_\_

Passport or Driver's License #: \_\_\_\_\_

Conveyance Information:

Airline: \_\_\_\_\_ Flt: \_\_\_\_\_ Deprt Ctry: \_\_\_\_\_

Vehicle Type: \_\_\_\_\_ Make/Model: \_\_\_\_\_

License: \_\_\_\_\_ ST: \_\_\_\_\_ Ctry: \_\_\_\_\_

# of Passengers: \_\_\_\_\_

Manifested Commodity: \_\_\_\_\_

Manifest or Placarding Information: \_\_\_\_\_

Shipper Name and Address: \_\_\_\_\_

Consignee Name and Address: \_\_\_\_\_

APPENDIX 1  
(cont.)

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APPENDIX 1  
(cont.)

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APPENDIX 2  
COMMON INNOCENT RADIATION SOURCES  
AND MAJOR ISOTOPES OF CONCERN

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APPENDIX 2  
(cont.)

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APPENDIX 3  
RESPONSE FLOW CHART

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**U.S. Department of Homeland Security  
Bureau of Customs and Border Protection  
Operations Order Report**

Op Order Name: b7E  
Beginning Date: b7E  
Report Date: 11/29/2006

## **Executive Summary**

Operation b7E is being proposed by the Yuma Border Patrol Sector in an effort to better facilitate the successful disposition of personal use narcotics cases generated at U.S. Border Patrol checkpoints located within the Yuma Sector area of responsibility (AOR). The proposed operation is in joint cooperation with the Yuma County Attorney's Office (YCAO) and the Yuma County Sheriff's Office (YCSO).

Under the proposed operation, the Yuma and Wellton Station Canine Handlers would be cross-designated as Arizona State Peace Officers by the Sheriff of Yuma County. The purpose of this cross-designation is to give the Canine Handlers the authority to issue state citations for misdemeanor marijuana and paraphernalia offenses committed in their presence. The citations will serve as the complaints for court purposes, thereby eliminating the "long form" requirement, which is currently prepared by an officer of the Arizona Department of Public Safety (DPS).

## **I. SITUATION**

### **A. General Situation:**

The Yuma Border Patrol Sector currently operates, with assistance from El Centro Sector, b7E. As a result of manning these checkpoints, numerous personal use narcotics cases are generated weekly by the Canine Handlers. The majority of these cases come from b7E.

Due to the fact that these cases do not meet the threshold guidelines set forth by the local Drug Enforcement Administration (DEA) Office, they are often times turned over to one of the state or local agencies in our area for disposition.

The law enforcement agencies with jurisdiction at the checkpoints include DPS and YCSO. Due to the volume of seizures at checkpoints by Border

Patrol Canine Handlers, the local law enforcement agencies were requested to respond frequently, often several times in one shift, to the checkpoints to handle personal use seizures.

Both DPS and YCSO have limited manpower and large areas to cover. Responding continuously to the checkpoints had an adverse impact on their ability to patrol their respective AORs and answer calls for service.

Several months ago, Yuma Sector personnel met with representatives from the YCAO, YCSO and DPS. As a result of that meeting, the personal use narcotics disposition policy for the Yuma Sector was created. This policy insures that misdemeanor narcotic offenses generated at the checkpoints do not go unpunished and mitigates the number of man-hours required by other agencies in response.

As per existing policy, Border Patrol first b7E

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According to the YCAO, in nearly every Border Patrol case that they long form, the defendant pleads guilty. However, most of the defendants are from somewhere other than Yuma County, which requires the YCAO to prepare and mail summonses to the defendants. This has created an undue hardship on the YCAO.

The YCAO has requested that Yuma Border Patrol Sector Canine Handlers be cross-designated as Arizona peace officers. This would allow the Canine Handlers the authority to issue citations to appear in court to defendants on misdemeanor narcotics charges, at the time of the seizure. This would eliminate the need to "long form" and would not require a summons to be mailed to the offender, thereby saving manpower and funding for the county.

**B. Cooperating Agencies:**

Yuma County Sheriff's Office  
Arizona Department of Public Safety  
Yuma County Narcotics Task Force  
Yuma County Attorney's Office

b7E

**II. MISSION**

Yuma Sector will have a system in place by which Sector Canine Handlers could lawfully issue state citations for misdemeanor, personal use narcotics offenses, thereby eliminating the long form requirement facilitated by DPS and YCAO. This effort will insure that all offenders encountered at Yuma Sector checkpoints are criminally charged without imposing undue manpower and budgetary hardships on the Border Patrol's local law enforcement partners.

**III. EXECUTION**

**A. Management/Supervisor Intent:**

It is the intent of the Chief Patrol Agent, United States Border Patrol, Yuma Sector to streamline the process of personal use narcotics seizures, while insuring that these offenses do not go unpunished and to mitigate the hardships imposed on local law enforcement partners as a result of the numerous personal use cases generated by Border Patrol. By mitigating the number of man-hours spent by local agencies on Border Patrol generated personal use cases, they are allowed to focus on more egregious criminal violations.

This proposed operation will not detract Canine Handlers from their primary mission and will allow them to remain at the checkpoints with only a miniscule amount of additional time required to complete the process.

**B. General Concept:**

The Canine Handlers, cross-designated by the Yuma County Sheriff, will issue state citations to subject(s) in possession of small amounts of marijuana and/or narcotics paraphernalia, at the checkpoints, that is not turned over to the Federal, state or local law enforcement agencies for prosecution. These citations will serve as the complaint forms for prosecution purposes. The citations will include a date and time on which the violators are to appear in court.

**C. Specific Responsibilities:**

**Canine Handlers:**

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**The Yuma Sector Canine Coordinator:**

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The Yuma County Narcotics Task Force:

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D. Coordinating Instructions:

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#### **IV. ADMINISTRATION/LOGISTICS**

The Sector Canine Unit will maintain a file on each individual citation case that is generated.

The Canine Unit supervisors will be responsible for transporting the contraband/evidence to b7E  
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#### **V. COMMAND/CONTROL/COMMUNICATION**

##### **A. Chain of Command:**

Normal Sector chain-of-command will be followed.

##### **B. Unit Command:**

Normal Unit chain-of-command will be followed.

**C. Location Zone:**

This operation applies to the Yuma Sector checkpoints located in Arizona.

**Legal Review:**

Sector Counsel, b6,b7C [REDACTED], has reviewed this proposal. b5 [REDACTED]

b5 [REDACTED]

b5 [REDACTED]

b5 [REDACTED]

b5 [REDACTED]

**Attachments:**

See attached flow chart diagram.

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**Memoranda of Understanding Between  
the United States Border Patrol, Yuma Sector  
and the La Paz County Sheriff's Office**

COPY
ACTION
INITIAL

- a) This agreement is between the United States Border Patrol, Yuma La Paz County Sheriff's Office, concerning the La Paz County Narcotics Task Force (LPCNTF), a law enforcement task force comprised of local, state, and federal law enforcement agencies. LPCNTF members include the La Paz County Sheriff's Office, Arizona State Police, Yuma County Sheriff's Office, Yuma Public Safety, U.S. Drug Enforcement Administration, Quartzsite Police Department, and Parker Police Department.
- b) The LPCNTF is one of many multi-agency efforts that are associated with the Yuma Office of Drug Control Policy High Intensity Drug Trafficking Area (HIDTA). LPCNTF has been in existence since the 1980's. LPCNTF became a HIDTA initiative in 2002.

- a) The U.S. Border Patrol, Yuma Sector, is authorized by DHS Management Directive 0450.1, dated January 24, 2003, to enter into this agreement.
- b) U.S. Border Patrol Agents derive their law enforcement authorities from the Homeland Security Act of 2002, and Titles 6, 8, and 19 of the United States Code.
- c) The State and Local members of the LPCNTF are authorized by A.R.S. Section 11-952, *et seq.*, A.R.S. § 13-3872, and A.R.S. § 11-951, to enter into this agreement.

a) LPCNTF is a multi-agency task force that conducts complex investigations targeting Transnational Criminal Organizations (TCO's) that smuggle narcotics across the international border, and distribute dangerous drugs within b7E

CBP00001357

- c) Further, the trafficking of narcotics and dangerous drugs has a substantial and detrimental effect on the health and general welfare of the people of b7E .
- d) The LPCNTF Objectives are to disrupt the illicit drug traffic in the b7E area by b7E  
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#### 4) Responsibilities:

- a) To accomplish the objectives of the LPCNTF, USBP agrees to b7E  
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- b) LPCNTF members will follow all policies and procedures of their respective agencies. Direction and oversight of all USBP-established Confidential Sources (CSs) must be in compliance with USBP policy.
- c) Allegations of misconduct by LPCNTF members will be referred and investigated by the relevant agency in conformance with its policies and procedures. Members of the LPCNTF will cooperate with any investigations of allegations of misconduct by any of its members.
- d) LPCNTF will provide the assigned BPA a workstation and necessary materials to complete office-based tasks, e.g. computer, desk telephone, cellular telephone. LPCNTF will also provide and maintain an assigned vehicle, including fuel, to the BPA assigned to the LPCNTF. USBP will provide all other tactical equipment necessary for carrying out law enforcement operations, as determined by the LPCNTF Supervisor, e.g. weapons, ballistic vests, and protective equipment.
- e) Assets seized by the LPCNTF may be processed for state or federal forfeiture. The Chairman of the LPCNTF Governing Board, in consultation with the LPCNTF Governing Board members, will determine whether assets are submitted for state or federal forfeiture.
- f) The LPCNTF Governing Board shall meet at the La Paz County Sheriff's Department at least once per month.
- g) USBP shall designate an individual representative to serve as a Participating Board Member on the LPCNTF Governing Board for the purpose of advising and assisting the LPCNTF Governing Board in carrying out the objectives of the LPCNTF.

Representatives who are unable to physically attend meetings may appear telephonically or designate a proxy in writing.

5) **Reporting and Documentation:**

- a) LPCNTF members will use the La Paz County Sheriff's Office investigative reporting format. The BPA assigned to the LPCNTF will also complete a monthly briefing to the USBP Station Command summarizing the monthly activities of the LPCNTF.
- b) Records that are provided to USBP and then maintained in a system of records by USBP may be disclosed to third parties, as required by federal laws, including the Privacy Act and Freedom of Information Act.
- c) The LPCNTF case lead will be the lead agency for releasing public information to the news media and will bear primary responsibility for public affairs matters. LPCNTF reports will be treated as "FOR OFFICIAL USE ONLY". Operational inquiries from the media will be directed to the appropriate agency.
- d) LPCNTF shall permit and have readily available for examination and auditing by USBP, the Comptroller General of the United States and any of their duly authorized agents and representatives, any and all records, documents, invoices, receipts or expenditures relating to this agreement. LPCNTF shall maintain all such reports and records until all audits and examinations are completed and resolved, or for a period of three (3) years after termination of this agreement, whichever is sooner.

6) **Other Provisions:**

- a) Nothing in this agreement is intended to conflict with current law or regulation or the directives of DHS, the La Paz County Sheriff's Office, or the LPCNTF. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement will become effective immediately.
- b) This MOU does not create or confer any right, privilege, or benefit, on any person not party to this Agreement.
- c) Any claim against the federal government that arises as a result of any actions taken by the LPCNTF shall be resolved pursuant to the provisions of the Federal Tort Claims Act (28 U.S.C. §134(b) and 28 U.S.C. § 2671, *et seq*).

7) **Points of Contact:**

- a) USBP [REDACTED], Chief Patrol Agent, Yuma Sector  
4151 S. Avenue A.  
Yuma, AZ 85365  
Phone: [REDACTED]
- b) LPCNTF [REDACTED]  
La Paz County Sheriff's Office  
1109 Arizona Avenue  
Parker, Arizona 85344  
Phone: [REDACTED]

8) **Modification:**

- a) This agreement may be modified upon the mutual, written consent of the parties. Said modification shall be in effect for the term prescribed therein, or if no term is so prescribed, for a period of 30 days.

9) **Effective Date:**

- a) The terms of this agreement shall be effective on the date the last representative signs the agreement, and shall continue in force and effect for a term of one year, or until the agreement is modified or terminated.

10) **Termination:**

- a) Either party may terminate this agreement at any time by providing thirty (30) calendar days written notice of termination to the other party. In the event of such termination, each party shall retain possession of its separately owned equipment and property.
- b) All equipment purchased with LPCNTF funds, including grants or Anti-Racketeering funds shall be retained by the LPCNTF. In the event that the LPCNTF is dissolved, remaining funds or assets shall be distributed to participating agencies by decision of the LPCNTF Governing Board.
- c) Billings for outstanding obligations must be received by USBP within ninety (90) days of the date of termination of this agreement. USBP will be responsible only for expenses incurred during the term of this agreement, subject to, and in compliance with, federal appropriations law.



- d) This agreement cannot be used as the sole authority of means to acquire or procure goods or services, exchange funds or property, or transfer or assign personnel. U.S.B.P. personnel must comply with pertinent federal contracting and procurement regulations.

Approved by:

U.S. CUSTOMS AND BORDER PROTECTION, U.S. BORDER PATROL, Yuma Sector

**b6,b7C**

Chief Patrol Agent  
U.S. Border Patrol, Yuma Sector

9-25-13

Date

LA PAZ COUNTY NARCOTICS TASK FORCE

**b6,b7C**

La Paz County Sheriff's Office

9-24-13

Date

LA PAZ COUNTY

By:

**b6,b7C**

**b6,b7C**, Chairman,  
La Paz County Board of Supervisors

Date: 9-16-13

**b6,b7C**

Clerk of the Board

ATTORNEY APPROVAL FORM FOR LA PAZ COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the U.S. Customs and Boarder Protection, U.S. Border Patrol, Yuma Sector, acting by and through its Chief Patrol Agent, U.S. Border Patrol, Yuma Sector, and La Paz County an Agreement among public agencies which has been reviewed pursuant to A.R.S. § 11-951 et seq. and declare this Agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 16th day of September, 2013.

**b6,b7C**

Deputy La Paz County Attorney



b5, b7E

b5, b6, b7C

Attorney Work Product, Attorney/Client Privileged, and FOIA Exempt

CBP00001362

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b5, b6, b7C

Attorney Work Product, Attorney/Client Privileged, and FOIA Exempt

CBP00001363

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Attorney Work Product, Attorney/Client Privileged, and FOIA Exempt

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Attorney Work Product, Attorney/Client Privileged, and FOIA Exempt

CBP00001367

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Attorney Work Product, Attorney/Client Privileged, and FOIA Exempt

CBP00001368

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b5, b7E

1300 Pennsylvania Avenue NW  
Washington, DC 20229



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

DATE: October 20, 2009

FILE: **b5,b6,b7C**

TO: Chief  
Border Patrol

FROM: Associate Chief Counsel  
(Enforcement)

**b5**

ATTORNEY WORK PRODUCT/PRIVILEGED COMMUNICATION --  
CIRCULATION RESTRICTED

THIS DOCUMENT CONTAINS ATTORNEY WORK PRODUCT AND/OR PRIVILEGED ATTORNEY/CLIENT COMMUNICATIONS. IT IS THEREFORE NOT AVAILABLE FOR RELEASE, DISCLOSURE, OR USE OUTSIDE OF THE AGENCY WITHOUT THE EXPRESS PRIOR APPROVAL OF THE COMMISSIONER AND THE OFFICE OF CHIEF COUNSEL, **b6,b7C**

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**Attachment**

ATTORNEY WORK PRODUCT/PRIVILEGED COMMUNICATION  
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United States Code (Legal Reference)

**18 USC 111** - Assaulting, resisting, or impeding certain officers or employees

(a) In General — Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service, shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.



U.S. Customs and  
Border Protection

U.S. Border Patrol

The Immigration and Nationality Act (INA), CFR Titles 8 and 22, Federal policies, and landmark U.S. Supreme Court decisions grant Border Patrol agents the authority to conduct checkpoint operations. Motorists should not be permitted to proceed until agents are satisfied with the inspection.

Procedures:

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• *The U.S. Supreme Court ruled in United States v. Martinez-Fuerte, (1976) that the U.S. Border Patrol has the authority to set up permanent or fixed checkpoints on public highways leading to or away from the Mexican border and that these checkpoints are not a violation of the Fourth Amendment.*

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U.S. Customs and  
Border Protection

U.S. Border Patrol

CBP00001376

# CBP ZBV Job Aids

b7E Course Code: b7E

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U.S. Customs and  
Border Protection

For Official Use Only





## **ZBV Job Aids**

1. CBP ZBV b7E
2. CBP ZBV X-Ray Subsystem Start-Up/Shutdown
3. CBP ZBV b7E
4. CBP ZBV b7E
5. CBP ZBV b7E
6. CBP ZBV b7E
7. CBP ZBV Troubleshooting
8. CBP ZBV Image Analysis



CBP ZBV b7E

b7E

Job Aid 01

b7E

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# **CBP ZBV X-Ray Subsystem Start-Up/Shutdown Job Aid 02**

**b7E**





## CBP ZBV X-Ray Subsystem Start-Up/Shutdown Procedure

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CBP ZBV b7E

Job Aid 03

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CBP ZBV b7E

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CBP ZBV b7E

Job Aid 04

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Job Aid 05

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CBV ZBV b7E

Job Aid 06

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# CBP ZBV Troubleshooting

## Job Aid 07

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## CBP ZBV Troubleshooting Job Aid

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# CBP ZBV Image Analysis

## Job Aid 08

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## **CBP ZBV Working with Images**

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**b7E**





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**b7E**

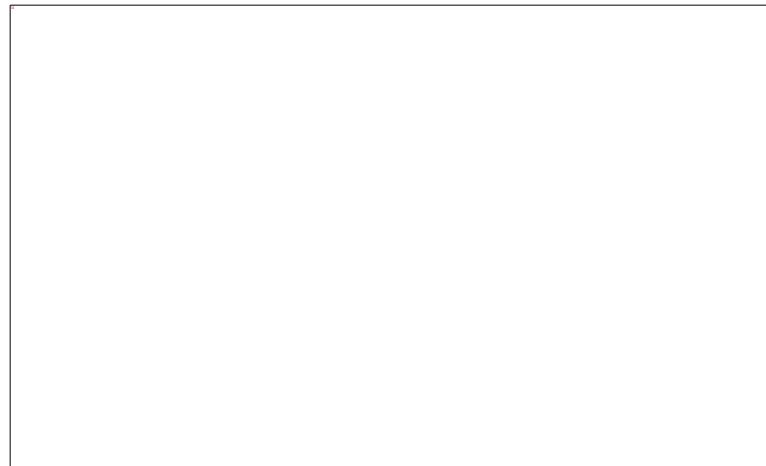


**b7E**

# *Checkpoint Operations*

## *Wellton BP*

### *2014*



Checkpoint Operations – Wellton BP

# USBP Checkpoint Operations - Overview

- USBP Traffic Check Operations are a critical enforcement tool for securing the Nation's borders against all threats to our homeland.
- Our enforcement presence along strategic routes reduces the ability of criminals and potential terrorists to easily travel away from the border.
- Checkpoints are an integral part of the border enforcement strategy and provide a level of authority that is not replicated in any other law enforcement tool outside of the Ports of Entry.





# Types of Checkpoints

- Two Types of Checkpoints:
  - Permanent
  - Fixed/Tactical
- Legal Requirements are all the same regardless of the checkpoint type.



# USBP Checkpoint - Authority

- Section 287(a)(2) & Section 235 (d)(1) of the Immigration and Nationality Act explains the authorities that agents have without a warrant.
- BP Handbook – Chapter 13.2 cites 8 U.S.C. Section 1357(a)(2) & (a)(3), in addition to 8 U.S.C. 1225
  - Power to arrest without warrant
  - Board and search for aliens in any vessel/conveyance
- M-69 – Chapter 3.6 (*Checkpoints*) states that Border Patrol agents may lawfully stop motorists at checkpoints located away from the border to determine the citizenship of the vehicle's occupants.



## USBP Checkpoint – Authority (cont.)

- ***United States v. Martinez-Fuerte***, 428 U.S. 543, 556 (1976).
  - Confirmed the authority of the Border Patrol to set up permanent checkpoints on public highways leading to (or away from) the Mexican border.
  - This Supreme Court case affirmed the 287(a)(3) authority when it was ruled Constitutional to stop all travelers at a permanent checkpoint (and also to refer people to a secondary area) for questions about citizenship and immigration.
  - b7E [REDACTED]  
b7E [REDACTED]  
b7E [REDACTED]
  - b7E [REDACTED]  
b7E [REDACTED]



# Authority of Border Patrol Agents at USBP Checkpoints

U.S. v. Martinez-Fuerte – 428 U.S. 543 (1976)

**Holding: Border Patrol Agents may stop and question motorists at reasonably located checkpoints, even at the absence of individualized reasonable suspicion**

*What section of the INA did the Supreme Court used to justify their opinion?* **INA 287 (a)(3)**

*What section of the INA gives us the authority to question motorists?*  
**INA 287 (a)(1)**

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Checkpoint Operations – Wellton BP

# Authority of Border Patrol Agents at USBP Checkpoints

“It is agreed that checkpoints stops are ‘seizures’ within the meaning of the Fourth Amendment.”

-U. S. Supreme Court  
U.S. v Martinez-Fuerte (1976)



# Authority

287 (a)(1)	Interrogate aliens
287(b)	Administer oaths
287(a)(3)	Board conveyances w/in 100 air miles of the border
287(a)(2)	Arrest unlawfully present aliens (likely to escape at a checkpoint)
19 USC 1589a(3)	Arrest for Federal misdemeanors committed in the presence and for any federal felonies
274(b)	Seize alien-smuggling conveyance for forfeiture
19 USC 1595a(a)	Seize anything used for smuggling merchandise



# Scope of Questioning

What can you ask?

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*“Reasonable suspicion” is no longer required to stop vehicles at an immigration checkpoint in the Ninth Circuit, so long as the checkpoint is well-advertised in advance by signs and cones, and is lighted and marked so that motorists can see that other vehicles are being stopped and that Border Patrol Agents are in charge. U.S. v. Soto-Camacho, 58 F.3d 408 (9th Cir. 1995).*



Checkpoint Operations – Wellton BP

# Secondary Inspection

- Purpose: to determine whether an immigration or criminal violation has occurred or is occurring
- Level of Suspicion for an immigration violation?
  - Some or Mere Suspicion
- Level of Suspicion for a non-immigration violation?
  - Reasonable suspicion
- Continued Detention





# Secondary Inspection

- *Border Patrol Agents who conduct secondary immigration inspection may perform a variety of unintrusive activities designed to quickly reveal immigration status or alien smuggling violations. To the extent possible, these investigative activities should be conducted simultaneously in an ongoing inspection process designed to minimize any required detention of a vehicle or its occupants. During secondary immigration inspection, agents may generally conduct the following investigative activities, even in the absence of probable cause:*

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# Bus/Shuttle Vans

- b7E  
b7E
- b7E  
b7E
- “Hello, my name is \_\_\_\_\_. I am a United States Border Patrol Agent. It is the duty of the Border Patrol to ensure that people are in the United States legally. To that end, I am going to conduct an immigration inspection. As I come by, please make sure that you have the appropriate documentation ready for inspection. Thank you very much for your cooperation.”
- 



# Fraudulent Documents

- Remember to consider the overall quality of the document
  - Does it look like something that was produced by the US government; or in somebody's garage?
- *Get a feel for the presenter's body language*
  - *Is she/he: visibly nervous; avoiding eye contact; being overly friendly (or) aggressive*
- Maintain familiarity with the most common immigration documents security features that you encounter in your area of responsibility



# USBP Checkpoint - Impostors

- As documents become more difficult to alter and/or counterfeit, the use of genuine, unaltered documents by impostors has become more common.
- Genuine, unaltered documents presented by impostors are the most difficult to detect.

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## USBP Checkpoint - Impostors

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# Other Purpose

- Although the primary purpose of an immigration checkpoint is to inspect vehicular traffic for illegal aliens, agents often encounter violators of other federal and state laws. Where Border Patrol Agents seek to detain a vehicle for secondary inspection solely for some non-immigration purpose, the law generally requires the agents to have “reasonable suspicion” of criminal wrongdoing.
- Section 287(a)(5)(A)- (*BPAs have limited general arrest authority for any federal crimes committed in their presence while conducting immigration enforcement duties*). These infrequent “other purposes” for detaining a vehicle at a checkpoint include customs, drugs, or state crimes.



# Other Purpose

- Title 19/Title 21
- Border Patrol Agents have been delegated limited customs authority to:
  - i) patrol the border area for customs enforcement,
  - ii) arrest smugglers found illegally importing/exporting merchandise to/from the United States, and
  - iii) conduct customs border searches and seize illegally imported or exported merchandise.



# Other Purpose

- In addition, Border Patrol Agents have been delegated limited drug enforcement authority to:
  - i) make arrests in the enforcement of Title 21 (the Controlled Substances Act and the Controlled Substances Import and Export Act),
  - ii) conduct searches and seizures incident to an arrest, and
  - iii) conduct warrantless searches and seizures at Border Patrol checkpoints.





# Secondary

- Stay alert to the occupants of the vehicle;
  - Safety of the agents/Safety of the occupants
  - Make determination of alienage in a prudent and efficient manner
  - stay alert when occupants allowed to open trunk/compartments in vans, etc., remove articles from storage areas

K9 - Maintain the security of the handler (s)

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# Disposition at the Checkpoint

- Have a nice day!!! ☺
- Arrest:
  - Primary
    - Zero Suspicion
  - Secondary
    - Mere Suspicion or Reasonable Suspicion
  - Probable Cause
    - Mobile Conveyance Search
    - Inventory Search
    - Search incident to arrest
  - Forfeiture



# Customer Service Issues

- What do you do when you have an uncooperative driver?
  - AKA—The Activist or the Constitutionalist

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# Fourth Amendment

- The right of the People to be secure in their persons, houses, papers, against unreasonable searches and seizures, **SHALL NOT BE VIOLATED**, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.



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NOV 08 2012



U.S. Customs and  
Border Protection

MEMORANDUM FOR:

All Chief  
All Division

FROM:

b6, b7C  
Chief  
U.S. Border Patrol

b6, b7C

SUBJECT:

Guidance on Noncompliant Motorists Encountered  
at U.S. Border Patrol Checkpoints

U.S. Border Patrol agents, while carrying out the mission of securing our Nation's borders, come into contact with millions of motorists each year at immigration checkpoints. The majority of motorists traverse these checkpoints on a daily basis without incident. Noncompliant motorists are an exception and can pose unique challenges. It is imperative that agents performing and supervising checkpoint operations know, understand, and are able to articulate their authorities and options when encountering noncompliant motorists.

Noncompliant motorists at checkpoints do not deprive U.S. Border Patrol agents of their authority or responsibility to conduct searches and immigration inspections. At immigration checkpoints, agents may question drivers and passengers about their citizenship and right to be in the United States. They may also request a traveler's immigration documents, permit canine sniffs, tap exterior compartments, and make plain-view observations.

When a motorist stops and refuses to roll down windows or to answer questions, a range of enforcement options remain available. If the agent has concerns about whether the motorist or his passengers are legally present in the United States, the agent should advise the driver that he will not be permitted to proceed until he answers the agent's questions. If the driver continues to be non-cooperative, agents may direct the driver to secondary inspection.

If the motorist complies with the directive to move to secondary inspection, he or she may be detained for a reasonable period of time to determine the vehicle occupants' legal U.S. presence. Generally, courts have deemed that three- to five-minute secondary inspections are reasonable. Detentions exceeding this general time frame may be viewed as reasonable when a motorist's uncooperative actions are the reason for extending the detention.

If an individual is referred for secondary inspection solely for a non-immigration purpose, such as a possible narcotics offense, the referral must be based on reasonable suspicion of criminal wrongdoing. Once an agent establishes a motorist's lawful U.S. presence and no reasonable suspicion of criminal wrongdoing exists, secondary detention is unwarranted and immediate release is appropriate.

Checkpoint Operations – Wellton BP

CBP00001438

# Primary Inspection

In the event a motorist refuses to answer an agent's questions at Primary Inspection, the Primary agent should refer the motorist to Secondary Inspection.

*“Sir/Ma’am, this is a U.S. Border Patrol Checkpoint, and we are conducting immigration inspections under the authority of Section 287 (a)(3) of the Immigration and Nationality Act.”*

If the motorist refuses to move the vehicle to Secondary Inspection, the agent will communicate the following information to the driver:

*“You are impeding and obstructing our operations and creating a traffic hazard. Move your vehicle immediately to the Secondary Inspection area, or you may be subject to arrest and criminal charges.”*

The agent should advise and transition to a supervisor

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# United States Code (Legal Reference)

## \*18 USC 111 - ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES

**(a) In General.**— Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section [1114](#) of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section [1114](#) on account of the performance of official duties during such person's term of service, shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

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# Remember:

Always remain consistent, objective, and professional.

Be cognizant that non-compliant motorists may carry audio or video recording devices.

*\*per Chief [REDACTED] b6,b7C CPA/USBP dated November 2012*

*“It is imperative that all agents performing and supervising checkpoint operations know, understand, and are able to articulate their authorities and options when encountering noncompliant motorists.”*

Report incident to your supervisor immediately.





# Checkpoint

- Be professional in all cases:
  - Approach/Attitude/your overall demeanor

- **b5,b7E**

- Use common sense when dealing with the general public

- Make a decision

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*When your are not on point it is important that you stay tuned in to what is happening outside the trailer door and or in secondary. Your partner may need your assistance. Your partner is relying on you as his/her backup as much as you are dependent on your fellow agents.*





## ➤ OATH OF OFFICE

✍ I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Those who stand for nothing fall for anything .....

– *Alexander Hamilton*

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U.S. Customs and  
Border Protection

294-9009-1  
Rev. C  
January 2011

# **AS&E<sup>®</sup> Z<sup>®</sup> Backscatter Van<sup>™</sup>**

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## **CBP Operator's Manual**

**Cargo and Vehicle Screening System**

**b4,b7E**

**American Science and Engineering, Inc.**

829 Middlesex Turnpike, Billerica, MA 01821

**b6,b7C**

[www.as-e.com](http://www.as-e.com)

CBP00001444



October 9, 2013

Charles K. Edwards  
Deputy Inspector General  
Department of Homeland Security  
Office of Inspector General  
245 Murray Drive, SW,  
Building 410  
Washington, D.C. 20528

Tamara Kessler  
Officer for Civil Rights and  
Civil Liberties  
Department of Homeland Security  
Office of Civil Rights and Civil Liberties  
245 Murray Lane, SW  
Building 410  
Washington, D.C. 20528

**Re: Complaint and request for investigation of unlawful roving patrol stops by U.S. Border Patrol in southern Arizona including unlawful search and seizure, racial profiling, trespassing, excessive force, and destruction of personal property.**

Dear Mr. Edwards and Ms. Kessler:

We write with serious concerns regarding abuses by U.S. Customs and Border Protection ("CBP") officials in the context of "roving patrol" stops in southern Arizona. Too often, the ACLU receives complaints from Arizona residents reporting unlawful searches and seizures, excessive use of force, and other misconduct related to Border Patrol's roving patrol operations; several recent examples are described in detail below. As employees of the nation's largest law enforcement agency, it is imperative that CBP officials be held to the highest professional law enforcement standards and conduct themselves in accordance with agency guidelines and the rule of law.

The ACLU is a non-partisan, non-profit, nation-wide organization that works daily in courts, communities, and legislatures across the country to protect and preserve the rights and liberties established by the Bill of Rights and state and federal law. The ACLU has a particular commitment to ensuring that fundamental constitutional protections of due process and equal protection are extended to every person, regardless of citizenship or immigration status. The ACLU also works to ensure that governmental agencies and officials respect the civil and human rights of all people. The ACLU of Arizona is an ACLU state affiliate organization with over 7,000 supporters. The ACLU's Border Litigation Project investigates, documents, and litigates civil and human rights violations in the U.S.-Mexico border region.

Unlawful roving patrol stops by Border Patrol are a longstanding problem. Two weeks ago, the ACLU announced the terms of a settlement in its legal challenge to CBP roving patrol

practices on Washington's Olympic Peninsula.<sup>1</sup> As a result, CBP agreed to provide agents additional training on the Fourth Amendment, to abide by Supreme Court and Ninth Circuit precedent as well as Department of Homeland Security ("DHS") guidance prohibiting reliance on race in law enforcement decisions, and to hand over patrol data to the ACLU for the next 18 months.<sup>2</sup> As discussed below, numerous other lawsuits have contributed to a considerable body of case law delineating the lawful bounds of roving patrol stops.<sup>3</sup>

Despite the recent settlement and clearly established legal authority, many of the same unlawful CBP practices persist, and are widespread throughout southern Arizona. In addition to unlawful vehicle stops, the ACLU has documented cases in which Border Patrol agents have interrogated pedestrians on the streets of Yuma and Tucson as well as patients in Tucson area hospitals. Last year, a Sunnyside High School student in Tucson was wrongfully handed over to Border Patrol agents by school officials for investigation of his immigration status. The picture that emerges from these incidents and years of litigation is of pervasive abuse and a systemic failure of oversight and accountability at all levels of CBP.

We request that you promptly investigate the individual examples of abuse described below. Further, a comprehensive review of complaints involving CBP roving patrols is required to determine whether Border Patrol agents are complying with their obligations under agency guidelines, the U.S. Constitution, and international law. Cases of unlawful conduct must be met with appropriate intervention and discipline, and the results made publicly available. Absent prompt and transparent investigations, there is no incentive for CBP to effectively address continuing and future rights violations. Significant changes in CBP training, oversight, and accountability mechanisms are needed, and we urge you to make substantive recommendations for such changes consistent with your institutional mission to prevent further abuses.

Section I of this complaint sets out recent examples of unlawful CBP conduct in the context of Border Patrol's roving patrol operations in southern Arizona. Section II discusses some of the applicable constitutional provisions and relevant legal analysis.

## **I. Individual Complaints of Unlawful Roving Patrol Stops**

### **A. May 21, 2013 Roving Patrol Stop of Clarisa Christiansen**

On May 21, 2013, Clarisa Christiansen was driving home with her seven-year-old daughter and five-year-old son after picking her daughter up from elementary school. Ms.

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<sup>1</sup> *Jose Sanchez, et al. v. U.S. Office of Border Patrol, et al.*, No. 2:12-cv-00735 (W.D.Wa. filed Apr. 26, 2012); Complaint available at <https://aclu-wa.org/cases/sanchez-v-homeland-security-0>; see also Manuel Valdes, ACLU, *Immigrant Groups to Keep an Eye on U.S. Border Patrol After Profiling-case Win*, Wash. Post, Sept. 24, 013, available at [http://www.washingtonpost.com/politics/aclu-immigrant-groups-to-keep-an-eye-on-us-border-patrol-after-profiling-case-win/2013/09/24/d400ae3a-2583-11e3-b75d-5b7f66349852\\_story.html](http://www.washingtonpost.com/politics/aclu-immigrant-groups-to-keep-an-eye-on-us-border-patrol-after-profiling-case-win/2013/09/24/d400ae3a-2583-11e3-b75d-5b7f66349852_story.html)

<sup>2</sup> *Sanchez v. U.S. Border Patrol Settlement Agreement*, available at <http://aclu-wa.org/sites/default/files/attachments/2013-09-23--Fully%20Executed%20Settlement%20Agreement.pdf>

<sup>3</sup> See, e.g., *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999); *Nicacio v. U.S. I.N.S.*, 797 F.2d 700 (9th Cir. 1985); *Muniz, et al. v. Gallegos, et al.*, No. 09-02865 (N.D. Ohio. filed Dec. 10, 2009); *Murillo v. Musegades*, 809 F.Supp. 487 (W.D.Tex.1992); *Ramirez v. Webb*, 599 F.Supp. 1278 (D.C. Mich., 1984); *Marquez v. Kiley*, 436 F.Supp. 100 (D.C.N.Y. 1977);

Christiansen and her children are U.S. citizens and residents of Three Points, Arizona, located west of Tucson and approximately 40 miles north of the U.S.-Mexico border. On their way home, at approximately 2:15 pm, the family was pulled over by a Border Patrol vehicle. The stop occurred on a stretch of dirt road about two miles from their home, which is approximately fifteen miles from the elementary school.

Ms. Christiansen stopped her vehicle and was approached by a Border Patrol agent. The agent asked her if she was a U.S. citizen; she answered affirmatively. The agent then demanded that Ms. Christiansen exit her vehicle so it could be searched. Ms. Christiansen stated that she did not consent to a search and asked the agent why she had been stopped. The agent responded that he would not provide an explanation until Ms. Christiansen exited her vehicle. Ms. Christiansen stated that she would not exit her vehicle until she was provided with an explanation for the stop. The agent refused and was clearly agitated that Ms. Christiansen had requested an explanation. At that point, two additional Border Patrol agents approached Ms. Christiansen's vehicle.

Ms. Christiansen then stated that if there was no reason for stopping her that she would be on her way, and wished the agent a good day. The agent told her, "You're not going anywhere." That agent then said to the other agents, "This one is being difficult, get the Taser." The agent opened the driver's side door and demanded that she exit. Ms. Christiansen, now fearing for her safety and that of her children, refused. Ms. Christiansen's children became upset; her daughter asked, "Mommy what's going on?" Ms. Christiansen told the children to stay calm and sit still, but she could see they were confused and afraid.

The agent then approached Ms. Christiansen with a retractable knife and threatened to cut her out of her seatbelt if she didn't exit the vehicle. Ms. Christiansen repeated her demand for an explanation, which the agents still refused to give her. Instead, the agent forcibly reached inside Ms. Christiansen's vehicle without her consent and removed the keys from the ignition.

Ms. Christiansen had no choice but to exit the vehicle. She presented her identification. The agents ran a background check, gave her back her driver's license, returned to their vehicle without saying anything, and drove away. The entire stop lasted approximately 35 minutes. At that point, Ms. Christiansen noticed that her rear tire had been punctured and was flat. There was a large incision along the side of the tire, consistent with a knife puncture and not a routine or accidental flat. It was a very hot day and there was no one for miles around. Fortunately, Ms. Christiansen was able to contact her brother to bring her a car jack to change the flat tire.

Ms. Christiansen reported the incident as soon as she arrived home, at around 4:00 pm. She called Border Patrol headquarters in Tucson as well as the Pima County Sheriff's Department. She was contacted the next day by DHS official Vincent Zarcone, who identified himself as an investigator. Ms. Christiansen relayed the details of her ordeal to Mr. Zarcone over the phone and stated that she was seeking compensation for the flat tire. Mr. Zarcone invited Ms. Christiansen to his office to make a formal report, and asked that she bring the tire for evidence.

The next day, Ms. Christiansen met with Mr. Zarcone and two other DHS officials at 4720 N. Oracle Road, Suite 308 in Tucson, Arizona. Again she described the agents and their actions, and repeated her request for compensation. Mr. Zarcone and the other officials took down her story. Ms. Christiansen also provided Mr. Zarcone with the damaged tire and a receipt showing the cost of a replacement tire, which totaled approximately \$50.00. Mr. Zarcone photographed but kept the flat tire. He told Ms. Christiansen that she “might” get a call regarding the case.

When Ms. Christiansen contacted Mr. Zarcone in late June 2013, a month after they had met, he told her the case had “been investigated.” When she asked what the outcome would be, he did not say. Only after the ACLU contacted Mr. Zarcone on Ms. Christiansen’s behalf did he report that the matter had been transferred to another DHS official, Richard Hill. Ms. Christiansen’s attempted to contact Mr. Hill, but Mr. Hill did not initially respond. Finally, he responded that Ms. Christiansen’s request for compensation was “not something my office deals with” and provided her with an FTCA complaint form.

Mr. Hill subsequently contacted Ms. Christiansen, informed her that he believed the tire was “torn” and had not been intentionally punctured. Mr. Hill also disclosed that one of the agents involved in the May 21 incident was named Agent Laguna. Mr. Hill further stated that he planned to interview Agent Laguna that day and would follow up with Ms. Christiansen at a later time. As of the date of this letter, Mr. Hill has failed to do so. Ms. Christiansen has been provided no further information.

#### **B. April 15, 2013 Roving Patrol Stop of Ernestine Josemaria**

On the evening of April 15, 2013, Ernestine Josemaria was driving her 2005 Ford F150 truck southbound on Federal Route 15 on the Tohono O’odham Indian Reservation, west of Tucson, Arizona and approximately 50 miles north of the U.S.-Mexico border. Ms. Josemaria is Tohono O’odham and a U.S. citizen. With the exception of one year, during which she lived in Phoenix, she has lived her entire life on the Tohono O’odham Reservation.

Around 7:30pm, Ms. Josemaria was driving south from the town of North Komelick and approaching the town of Santa Rosa. She was following another vehicle, which itself was following a Border Patrol vehicle going 65 mph in a 55 mph zone. From Ms. Josemaria’s perspective, it appeared that the vehicle in front of her truck was tailgating the Border Patrol vehicle and driving erratically. In the absence of oncoming traffic, Ms. Josemaria accelerated and passed, on the left hand side, the vehicle in front of her as well as the Border Patrol vehicle. After she did so, the Border Patrol vehicle accelerated, and began to follow her at a close distance with its high beams on. Ms. Josemaria was driving approximately 65 mph. The Border Patrol vehicle continued to tailgate Ms. Josemaria’s truck for approximately 5 miles approaching Santa Rosa. She became alarmed, and pushed her breaks repeatedly, but the Border Patrol vehicle continued to tailgate her with its high beams on for several more miles.

Ms. Josemaria continued into the town of Santa Rosa and began to slow to 35mph. As she passed the Santa Rosa School, she saw two Border Patrol vehicles parked on the side of the road with their emergency lights flashing. She immediately decelerated further. At that

moment, the Border Patrol vehicle behind her turned on its emergency lights, signaling for her to pull over, which she did. The other two Border Patrol vehicles pulled out with their emergency lights on and followed them to a stop.

Ms. Josemaria rolled down the front driver's side and passenger's side windows of her truck. She was approached on the passenger side by a Border Patrol agent – a young, Caucasian male who later identified himself as “Agent J. Rock.” The agent yelled at her, “Why were you speeding?!” He then demanded, “Give me your license, or do you have one?” Ms. Josemaria responded that she did, and handed the agent her license. Ms. Josemaria had not been speeding; rather, she had been followed at dangerously close range by Agent Rock for several miles before being directed to stop.

Ms. Josemaria asked if speeding wasn't a traffic issue for the Tribal Police to handle. The agent responded, “We don't want them interfering.” The agent then yelled, “You know what? Get out of the vehicle now!” The agent then came around to the driver's side and was visibly angry. Fearing for her safety, Ms. Josemaria refused to exit her truck. Then, without Ms. Josemaria's consent and over her objections, Agent Rock tried to forcibly open her door. It was locked, so the agent reached up and into the open window, then unlocked and opened the door.

Ms. Josemaria told the agent that she had done nothing wrong, told him to stop, and demanded an explanation. The agent yelled out, “You're a known smuggler.” Ms. Josemaria is not a known smuggler and has no criminal convictions. The agent continued yelling at Ms. Josemaria: “Get out of the truck! You're resisting arrest! Help!” At that moment, approximately four other Border Patrol agents ran to the truck and joined Agent Rock in trying to pull Ms. Josemaria out. All of the agents appeared to be Caucasian males with the exception of one agent who appeared to be a Latino male. Ms. Josemaria cried out for them to stop but the agents ignored her. One of the agents reached into her vehicle on the passenger side, opened the door, entered the truck cab, and unbuckled Ms. Josemaria's seat belt. Ms. Josemaria was terrified but she demanded to know what she was being arrested for. She received no response.

The agents twisted her wrist and pushed her arm behind her back, causing her to cry. She demanded that they call the police. Agent Rock yelled back, “You call them if you want.” As she was being pulled from her truck, a Tohono O'odham Ranger's car drove by, but it did not stop. Crying in pain as the group of agents pulled at her arms and legs, Ms. Josemaria exited her truck. Agent Rock tried to throw her to the ground but could not do so, and instead pushed Ms. Josemaria towards the side of the road.

The agents began to search Ms. Josemaria's truck, over her objections. When Ms. Josemaria objected to the search the agents laughed at her. An agent reached into the glove box and into back seat of the truck cab. The agents never checked her registration or asked about her citizenship or legal status.

After searching the truck, the agents called for a drug-sniffing CBP “service canine.” Ms. Josemaria was forced to wait by the side of the road for approximately one hour until the service canine arrived. When it finally did, the service canine was allowed to enter her truck and circled it several times but found no contraband. By this time, there were five Border Patrol



vehicles parked at the scene of the stop. Several agents were laughing at Ms. Josemaria; when she repeatedly asked if she was free to go, the agents ignored her or told her she was not.

Agent Rock finally told Ms. Josemaria she could go and returned her license to her. She asked him for the agents' names and badge numbers, and he identified himself as "Agent J. Rock," with ID #58, and an additional agent as "Agent Pena," ID #668. Before she left, Ms. Josemaria saw the agents conferring together in private and making notations in their notepads. The entire stop lasted approximately an hour and a half.

Ms. Josemaria called and reported the incident to the Tribal Police the next day. An officer Cook came to her house to take photographs of the injuries she sustained while being forcibly removed from her truck, as well as the damage the Border Patrol agents had caused to her driver's side door. She also tried to fill out an online complaint on the DHS website the night of the incident; however, she was still extremely upset and when she received an error message and was unable to submit the complaint, she gave up.

Ms. Josemaria is outraged that she was stopped by Border Patrol without cause, assaulted, and subjected to an unlawful search and seizure. Ms. Josemaria has heard many stories of other Tohono O'odham subjected to similar abuse and mistreatment by U.S. Border Patrol agents, but she did not ever think it would happen to her.

### **C. March 22, 2013 Roving Patrol Stop of Bryan Barrow**

On March 22, 2013, at approximately 3:30 pm at Fort Bowie National Historic Site in southeast Arizona, Bryan Barrow was returning from a hike to the visitor center. Mr. Barrow is a U.S. citizen and resident of Oregon, and was vacationing in Arizona. As he proceeded toward his car, Mr. Barrow noticed a man with a dark cap and sunglasses, his hands cupped against the driver side window looking directly into Mr. Barrow's vehicle.

When Mr. Barrow inquired what the man was doing, the man identified himself as a park ranger. The ranger then asked Mr. Barrow for identification, which Mr. Barrow provided. The ranger instructed him to wait by the car while he radioed in the information, and soon returned. The ranger then asked for Mr. Barrow's registration and proof of insurance. Mr. Barrow replied that he would try to locate the documents, but that the car was a mess as it was filled with camping gear.

The ranger then assumed a hostile tone and began to interrogate Mr. Barrow. Eventually, he asked if Mr. Barrow had drugs in the vehicle. Mr. Barrow replied that he did not, but the ranger persisted, "Are you sure you don't have drugs in the vehicle? Do you have marijuana in the vehicle, sir? I think you have marijuana in your car don't you?" The ranger continued: "You have marijuana in your car. So if the canine came to sniff your car there would be nothing in there to set him off?" Mr. Barrow consistently answered that he did not use drugs. Nonetheless, the ranger stated that he was going to call a canine unit. He continued interrogating Mr. Barrow at length.

There were very heavy winds that day and at one point Mr. Barrow went to shut the passenger-side door, which was ajar, but the ranger wedged himself between the body of the car and the inside of the door and pushed it forcefully back outward. When Mr. Barrow said that he would like to close the door to his car, the ranger pulled out a Taser and ordered Mr. Barrow to sit on the ground, which he did. The ranger then demanded the car keys, which Mr. Barrow refused to provide. The ranger called in additional rangers, one of whom frisked Mr. Barrow.

Mr. Barrow was never asked for his consent to search his vehicle, nor did he give such consent for anyone to search his vehicle, stating numerous times that there was no probable cause to support such a search. Though the rangers said he was not under arrest, when Mr. Barrow tried to stand and approach his car, the rangers told him to sit back down.

Finally, a Border Patrol agent named Owens arrived with a drug-sniffing service canine. While inspecting the vehicle, the dog never visibly alerted to the presence of any contraband, though Agent Owens claimed the dog was “set off” and a search of the vehicle ensued. The rangers and the Border Patrol Agent Owens began rifling through the contents of Mr. Barrow’s vehicle. When Mr. Barrow tried to stand or get a better view of what the officials were doing, he was promptly told to stay put; however, he was able to videotape a portion of the ordeal with his phone. Other tourists returning to their cars were asked by the ranger to leave the area.

In the course of the search, the Border Patrol service canine caused significant damage to Mr. Barrow’s vehicle, both inside and out. The damage was later assessed and totaled \$682.12. At the time, Agent Owens agreed that it did appear that the dog could have caused damages. He took a picture of the scratched paint and suggested Mr. Barrow could submit a tort claim if he desired. Border Patrol subsequently denied a claim by Mr. Barrow’s insurance company, stating in a letter that there was insufficient evidence and that the Federal Torts Claims Act “bars recovery for property damaged by CBP employees while the property is under detention in CBP custody”).

Mr. Barrow was detained for approximately four hours. During that time he was not allowed food, water or access to a bathroom, and he became dehydrated. The ranger confiscated a bottle of essential oils, which had been given to Mr. Barrow as a Christmas present. The ranger also issued two citations for failure to show registration and proof of insurance. Those citations were subsequently dismissed, but Mr. Barrow was forced to extend his stay in Arizona to fight the charges, causing great inconvenience and further expense.

Mr. Barrow feels that his constitutional rights to be free of unreasonable search and seizure were clearly violated. “What at first began as a pleasant hike and a nice memory in a national park ended up a nightmare,” he said.

#### **D. May 6, 2012 Roving Patrol Stop of Salvador Valdivia**

Adam Valdivia co-owns a vegetable farm, Sleeping Frog Farms, near the town of Benson, Arizona, about 38 miles east of Tucson. He is a U.S. citizen and has lived near Benson with his wife and two children for about three years. Border Patrol agents have entered his 76 acre private property and parked their vehicles there, without his consent or a warrant, and in

clear violation of the law. Mr. Valdivia notes there is a large presence of Border Patrol agents in and around Benson – a town of just over 5,000 people, located approximately 60 miles north of the U.S.-Mexico border – despite the apparent absence of undocumented immigrants and smugglers in the area.

One incident of particular concern occurred when Mr. Valdivia's father Salvador, who was 57 years old at the time, was visiting from his home in Colorado. On May 6, 2012 at approximately 2 pm, Salvador Valdivia, who is of Mexican descent and has dark skin, was driving back to the farm with his five-year-old grandson in the backseat. Approximately 15 miles from the farm, a Border Patrol vehicle began following him at a very close distance. As he approached the farm, the Border Patrol vehicle pulled onto the Valdivia property and turned its emergency lights on. Salvador Valdivia pulled into the driveway and stopped.

Two agents emerged from their vehicle, holding automatic weapons. This was a day of the week the Valdivia family hosted a farm stand for locals in the community. Nonetheless, the agents questioned Salvador Valdivia, with their hands on their guns, for over an hour, in front of his grandson and Adam Valdivia, who had emerged from the house to see what was happening. The family objected that the agents were on private property and had no right to be there. The agents, who were later identified as Agent Gia and Agent Yaeger, ran Salvador Valdivia's license and the vehicle information. When pressed on the reason for the stop, Agent Gia claimed that the agents were looking for a red station wagon (Salvador Valdivia was driving a grey station wagon). The agents finally left without providing any further explanation.

Adam Valdivia filed a complaint with Patrol Agent in Charge ("PAIC") Weinbrenner at the local CBP office in Wilcox, Arizona. PAIC Weinbrenner informed him that Salvador Valdivia was pulled over because his "route of travel," rate of speed, and vehicle type raised a "reasonable suspicion." At the time of the stop, Salvador Valdivia was driving the speed limit, on Cascabel Road, the main route from Benson, in a grey Volvo station wagon with Colorado plates and a roof rack, with a five-year-old asleep in the back seat. PAIC Weinbrenner never clarified how any of those factors would have created a reasonable suspicion to justify the stop. Adam Valdivia also left several messages with CBP official Roger San Martin at Tucson Sector Headquarters but was referred back to PAIC Weinbrenner. Mr. Valdivia never heard anything further in response to his complaint (Case No. 12-wcx-05-02), other than a form letter he received from PAIC Weinbrenner saying the matter was "under investigation."

Adam Valdivia used to work at the Agua Linda Farm in Amado, Arizona, about 25 miles north of the border, and says CBP agents would enter the property constantly.<sup>4</sup> It was partly because of this experience that he intentionally chose to live further from the border and did not consider buying property closer to the border. As such, Mr. Valdivia is upset by what he views as a clear case of racial profiling, as well as trespassing, by Border Patrol agents in Benson. He feels that he and his family should not have less freedom or be suspect in the eyes of CBP simply because of where they have chosen to live.

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<sup>4</sup> The owner of Agua Linda Ranch, Stuart Loew, was recently featured in a New York Times Op-Ed in which he describes being detained by CBP agents on his ranch while agents demanded that he provide identification. See Todd Miller, *War on the Border*, NY TIMES, Aug. 18, 2013, available at <http://www.nytimes.com/2013/08/18/opinion/sunday/war-on-the-border.html?pagewanted=all&r=0>.

### **E. Spring 2011 Roving Patrol Stop of Suzanne Aldridge**

In the spring of 2011, Suzanne Aldridge was returning from her daughter's home in Hereford, Arizona to Bisbee, Arizona. Ms. Aldridge is a U.S. citizen and 19-year resident of Bisbee, a town of 5,600 people, where she owns a small business. Just outside of Bisbee, the vehicle behind Ms. Aldridge turned on its emergency lights, signaling for her to stop. After she pulled over, Ms. Aldridge was approached by a man dressed in plainclothes. The man did not identify himself as a Border Patrol agent. Instead, he aggressively demanded to know where Ms. Aldridge was coming from. She responded that she was returning from her daughter's house. The man demanded to know what the name of the road was, and Ms. Aldridge told him. The man responded, "That's not the name of the road." He then asked if anyone else was in the car. The man was standing over Ms. Aldridge's vehicle and could clearly see there was no one else inside it. Ms. Aldridge responded there was no one inside. The man then told her to roll down the back window. She complied, but she asked the man why he'd pulled her over. The man did not respond; instead he asked if he could search the car. Ms. Aldridge said "no." The man responded that he was going to get a drug-sniffing dog.

Ms. Aldridge was terrified. At this point, she still did not know who the man was, why he had stopped her, or why he wanted to search her vehicle. The man had been extremely aggressive and hostile, and she was parked in an area with no pedestrians or other vehicles around. Ms. Aldridge was afraid for her safety and shaking with fear. When the man returned to his vehicle, she decided to drive a short distance to San Jose Plaza, a more public area approximately 1500 yards away, where she knew there would be people.

Ms. Aldridge pulled into the San Jose Plaza parking lot and parked. She attempted to call her son-in-law, a Bisbee police officer. As she was making the call, she saw additional Border Patrol vehicles pull into the parking lot. Before she could complete the call, Ms. Aldridge was approached by multiple uniformed Border Patrol agents. Without speaking to her, one of the agents opened her car door and forcibly dragged Ms. Aldridge from her vehicle, over her objections. The agent pushed Ms. Aldridge against the side of the car and hand-cuffed her with extreme force. The same agent patted her down, groping her and touching her breasts. Ms. Aldridge was crying. The agent then forcibly pulled Ms. Aldridge away from the car and pushed her to the ground. She remained seated by the side of the car, crying and asking for someone to remove the handcuffs, which the agents refused to do.

Additional law enforcement vehicles arrived to the scene, including Bisbee Police and Cochise County Sheriff vehicles. Ms. Aldridge estimates there were eventually upwards of ten Border Patrol vehicles in the parking lot. One of those vehicles arrived with a Border Patrol service dog, which searched the interior of Ms. Aldridge's car without her consent. She was detained in a Border Patrol vehicle during the search.

Eventually, a local police officer Ms. Aldridge knew arrived on the scene and told Border Patrol to remove the handcuffs, which they finally did. Ms. Aldridge was told she could go. She had been detained for approximately one hour. As she was leaving one of the uniformed Border Patrol agents that had arrived was cursing and saying, "That is fucked up. If that was me, you

would not be letting me go.” Ms. Aldridge understood that to mean that the agent opposed her release, and that if she had been a man she would not have been released.

Before leaving, Ms. Aldridge asked for the name of the agent who pulled her over; however, no one would provide it. She again asked why she had been stopped. One of the agents told her that her vehicle “fit a description” but would say nothing more. Ms. Aldridge’s subsequent requests for the name of the agent who stopped her have all been refused by Border Patrol officials. Similarly, when she requested an explanation for her initial stop, none was provided. Border Patrol officials finally claimed that Ms. Aldridge’s car fit the description of a drug smuggling vehicle they had been looking for. Officials later claimed she was stopped because her license plates matched a vehicle that had been used to smuggle drugs. However, Ms. Aldridge had owned her car for 11 years, during which time she had traveled to Mexico periodically and returned through Ports of Entry without incident.

After trying to resolve her complaint with a local Border Patrol supervisor, the supervisor said he could no longer speak with her and that she would have to file a complaint with Tucson Sector CBP headquarters. Ms. Aldridge contacted a Tucson Sector CBP representative, who in turn directed her to file an online complaint with a DHS office in Washington, D.C. Ms. Aldridge submitted the online complaint but never received a verification of receipt or response.

Ms. Aldridge continued to feel great fear and anxiety following this incident. To this day, she still feels traumatized. Ms. Aldridge says she is fearful around Border Patrol because she never knows what they will do, a sentiment she says is shared by many others in and around Bisbee. Ms. Aldridge has heard the stories of friends and neighbors abused and harassed by Border Patrol agents. Prior to this incident, she herself had been pulled over by Border Patrol on approximately five other occasions.

As someone born and raised in the border region, Ms. Aldridge says she is deeply saddened and disturbed that Border Patrol has come to have such a negative impact on the place she calls home and the people who live there.

## **II. Legal Analysis**

The Fourth Amendment’s protection against unreasonable searches and seizures extends to protect against unlawful investigatory stops. To be lawful, an investigatory stop must be supported by “reasonable suspicion,” based on specific articulable facts, that the individual being stopped is engaged in illegal activity. *United States v. Arvizu*, 534 U.S. 266, 273 (2002); *see also* 8 C.F.R. § 287.8(b)(2). Without such reasonable suspicion, Border Patrol agents on roving patrols are prohibited from stopping individuals to inquire about citizenship status or for any other purpose.

The reasonableness standard is meant to strike a balance between preventing illegal entry and criminal conduct and an individual’s rights to personal security, without “arbitrary” interference by law enforcement officers. *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). The reasonable suspicion analysis evaluates all of the known circumstances, any objective observations, and the known patterns of such lawbreakers the sum of which must yield

a particularized suspicion that the individual being stopped is engaging in wrongdoing. *United States v. Cortez*, 449 U.S. 411, 418 (1981) (where reasonable suspicion was based upon the corroboration of narrowly anticipated conditions, following a two-month investigation); *see also*, e.g., *United States v. Diaz-Juarez*, 299 F.3d 1138 (9th Cir. 2002) (reasonable suspicion existed where agent encountered vehicle late at night, in high-crime area near border, shortly after receiving reports that contraband was entering the U.S., and vehicle appeared to be modified for smuggling); *United States v. Montero-Camargo*, 208 F.3d 1122 (9th Cir. 2000) (finding reasonable suspicion where two vehicles, with Mexican license plates, driving in tandem, each made a U-turn prior to an unexpectedly operational border patrol checkpoint, before stopping at a high-crime turnoff).

Courts have enumerated various factors that officers can consider in their reasonable suspicion determination. In the Ninth Circuit, which includes Arizona, those factors include but are not limited to: (1) characteristics of the area; (2) proximity to the border; (3) usual patterns of traffic and time of day; (4) previous alien or drug smuggling in the area; (5) behavior of the driver, including obvious attempts to evade officers; (6) appearance or behavior of passengers; (7) model and appearance of the vehicle; and (8) officer experience. *United States v. Valdez-Vega*, 685 F.3d 1138, 1144 (9th Cir. 2012). The Ninth Circuit has specifically prohibited Border Patrol and other law enforcement officials from relying on race as a factor in forming reasonable suspicion. *Montero-Camargo*, 208 F.3d at 1135 (“[A]t this point in our nation’s history, and given the continuing changes in our ethnic and racial composition, Hispanic appearance is, in general, of such little probative value that it may not be considered as a relevant factor where particularized or individualized suspicion is required. Moreover...it is also not an appropriate factor.”).

Although making a reasonable suspicion finding is not always simple, it is clear that reasonable suspicion cannot be satisfied by facts that establish a profile applicable to “**a very large category of presumably innocent travelers.**” *United States v. Sigmond-Ballesteros*, 285 F.3d 1117, 1127 (9th Cir. 2002) (emphasis added) (finding profile too broad to support reasonable suspicion where defendant was traveling on a road used by smugglers, in a type of vehicle a smuggler might use, at a time when the road was mostly populated by commercial vehicles); *see also United States v. Garcia-Camacho*, 53 F.3d 244 (9th Cir. 1995) (determining that a driver in a heavily loaded pickup truck who changed lanes while looking in front of him as he passed a stationary Border Patrol agent established too broad a profile to find reasonable suspicion).

In the factual accounts presented above, Border Patrol lacked reasonable suspicion to justify the stops. Although the circumstance varied, the factors that would support a lawful stop were absent or weighed against an intrusive investigatory stop because they applied to a large category of innocent travelers. However, one factor in particular stands out: None of the stops occurred in close proximity to the border, and most were close to populated areas where the volume of legitimate travelers was extremely high.

The U.S. Border Patrol claims broad authority over areas within “a reasonable distance”<sup>5</sup> of the border. That reasonable distance is defined by outdated regulations to be “100 air miles”<sup>6</sup>

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<sup>5</sup> 8 U.S.C. § 1357(a)(3).

from any external boundary, including coastal boundaries, and thus encompasses roughly two thirds of the U.S. population and the entirety of several states. In some instances, Border Patrol conducts operations even further inland.<sup>7</sup> However, courts have consistently recognized that roving patrol stops conducted far from the border are unlikely to generate contacts with recent border-crossers, and are thus far less likely to be supported by reasonable suspicion.

As the Supreme Court has long recognized, even roads that are proximate to the border “carry not only aliens seeking to enter the country illegally, but a large volume of legitimate traffic as well.” *Brignoni-Ponce*, 422 U.S. at 882. Proximity to the border is of especially limited value where the border is itself in close proximity to a metropolitan area, or even smaller but densely populated cities. *Sigmond-Ballesteros*, 285 F.3d at 1126; *see also, e.g., Valdez-Vega*, 685 F.3d at 1147–48 (A driver with a Mexican license plate committing a traffic infraction 70 miles north of U.S.-Mexico border, who was driving a pickup truck and failed to look a Border Patrol agent in the eyes, does not fit into a category narrow enough to justify reasonable suspicion that defendant was smuggling drugs or aliens.)

Numerous federal appellate courts have emphasized the importance of proximity to the border in justifying roving patrol stops. In *United States v. Venzor-Castillo*, the Tenth Circuit held, “[T]he more attenuated the international border becomes, the greater the significance distance assumes...when the officer has no knowledge whatsoever about the point of origin of a particular traveler’s route.” 991 F.2d 634, 639 (10th Cir. 1993).<sup>8</sup> In the Fifth Circuit, a “vital element” of the reasonable suspicion analysis is whether the agents making the stop have “reason to believe that the vehicles came from the border.” *Pallares-Pallares*, 784 F.2d 1231, 1233 (5th Cir. 1986) (“The emphasis under these rules is whether the vehicle originated at the border”); *see also United States v. Rubio-Hernandez*, 39 F.Supp.2d 808, 810 (W.D. Texas 1999). When a stop occurs more than fifty miles from the border, that vital element is missing. *See United States v. Moreno-Chaparro*, 157 F.3d 298, 300 (5th Cir.1998).

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<sup>6</sup> 8 C.F.R. § 287.1(b). The Justice Department did not issue regulations defining a “reasonable distance” from the border as 100 miles until 1953. CONGRESSIONAL AND ADMINISTRATIVE NEWS, pp. 2117-18. In 1957, these regulations were then published in the Federal Register, along with other new regulations for the revised INA. *See Field Officers: Powers and Duties*, 22 Fed. Reg., 236, 9808-09 (Dec. 6, 1957) (to be codified at C.F.R. § 287). However, other than their presence in these publications, there is no public history as to why the Justice Department chose 100 miles as the “reasonable distance” from the border under the INA. It may simply be that 100 miles has a history of being the distance considered to be reasonable regarding the availability of witnesses for examination, responses to subpoenas, and numerous other discovery issues under other federal laws. *See, e.g.*, 10 U.S.C.A. § 849; Fed. R. Crim. P. 7; Fed. R. Civ. P. 45.

<sup>7</sup> *See, e.g.*, Michelle Garcia, *Securing the Border Imposes a Toll on Life in Texas*, Al Jazeera America, Sept. 25, 2013, available at [http://america.aljazeera.com/articles/2013/9/25/living-under-the-law-of-border-security.html#mainpar\\_adaptiveimage\\_0](http://america.aljazeera.com/articles/2013/9/25/living-under-the-law-of-border-security.html#mainpar_adaptiveimage_0) (“Efrain Perez, a spokesman for the regional U.S. Customs and Border Patrol station in Laredo, 90 miles away, said Alice [120 miles north of the border] fits within the ‘second tier enforcement.’ But when it was pointed out that the town sits more than 100 miles from the border, he explained that ‘the law does not say that we cannot patrol. Our jurisdiction kinda changes.’”); *see also United States v. Venzor-Castillo*, 991 F.2d 634 (10th Cir. 1993) (finding Border Patrol lacked reasonable suspicion to stop and search vehicle approximately 235 miles from the border where agent had no knowledge regarding the origin of the vehicle).

<sup>8</sup> “The fact the defendant in this case could have entered the highway from any of the three thirteen towns and cities between the closest point of entry on the border and the point of stop, coupled with the equally plausible fact he could have come from a neighboring state, simply inhibits a belief that the defendant and his passengers had recently crossed the Mexican border.”

In the five cases presented herein, respectively, the stops occurred approximately 40, 50, 60, 60, and 8 miles north of the border. In none of these situations did Border Patrol have any indication that the vehicles came from the border. Nor were other factors present to suggest that any of the individuals stopped were engaged in illegal activity or fit a profile other than one applicable to a large category of innocent travelers. In each of these instances, U.S. citizens were subjected to stops unsupported by reasonable suspicion, in some cases followed by unlawful searches, extended detention, excessive use of force, or destruction of personal property.<sup>9</sup>

It is also deeply distressing that Border Patrol is improperly relying on race and ethnicity as factors in stopping residents of southern Arizona. In addition to the stops described above – at least one of which appears to have been motivated by race – the ACLU has received many reports from Latino residents of Tucson and other Arizona cities, as well as Native American residents of the Tohono O’odham Indian Reservation, who have been pulled over or otherwise approached and interrogated by Border Patrol agents for no apparent reason other than their perceived race or ethnicity. Many Latino residents have reported being stopped by local law enforcement on a pretext, detained, and then handed over to Border Patrol for investigation. Such practices are unlawful as well. *See Montero-Camargo*, 208 F.3d 1122; *Melendres v. Arpaio*, 2013 WL 2297173 (D. Ariz. May 24, 2013) (“Thus, there is no legitimate basis for considering a person’s race in forming a belief that he or she is more likely to engage in a criminal violation, and the requisite “exact connection between justification and classification,” in focusing on Hispanic persons in immigration enforcement is lacking.” (internal citation omitted)); *see also* U.S. Department of Justice, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*, June 2003, available at [http://www.justice.gov/crt/about/spl/documents/guidance\\_on\\_race.pdf](http://www.justice.gov/crt/about/spl/documents/guidance_on_race.pdf); DHS Secretary Napolitano Memo: *The Department of Homeland Security’s Commitment to Nondiscriminatory Law Enforcement and Screening Activities*, April 26, 2013, available at [http://www.dhs.gov/sites/default/files/publications/secretary-memo-race-neutrality-2013\\_0.pdf](http://www.dhs.gov/sites/default/files/publications/secretary-memo-race-neutrality-2013_0.pdf)

Finally, the complaint process by which individuals report abuse to CBP and other DHS entities is lacking in consistency and transparency and fails to provide meaningful redress to those whose rights have been violated by federal officials. In several of the cases detailed above, DHS officials failed to provide accurate information to complainants about the complaint and investigatory process or the status of their complaint, and were not responsive to those complainants’ reasonable requests for information. Individuals whose property was destroyed by CBP officials were essentially told to file a federal lawsuit, no matter the sum involved or how egregious the agents’ conduct. Such opaque and unresponsive complaint procedures only reinforce the lack of accountability in CBP and further undermine the public’s trust.

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<sup>9</sup> For example, Border Patrol may not search the interior of a vehicle following a roving patrol stop without probable cause or consent. *See Almedia-Sanchez v. United States*, 413 U.S. 266, 273 (1973) (quoting *Brinegar v. United States*, 338 U.S. 160 (Jackson, J., dissenting): “These (Fourth Amendment rights), I protest, are not mere second-class rights but belong in the catalog of indispensable freedoms. Among deprivations of rights, none is so effective in cowering a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government.”).



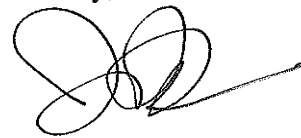
### III. Conclusion

CBP abuses related to unlawful roving patrol stops are longstanding and widespread. The ACLU of Washington's litigation in *Sanchez v. United States Border Patrol* is only one of the latest efforts to address the problem of unconstitutional roving patrol stops by Border Patrol. In the settlement agreement, CBP specifically stated, "Consistent with its commitment to abide by the requirements of federal law, the Border Patrol acknowledges that for vehicle stops made under the Fourth Amendment in non-border search situations...agents must have reasonable suspicion of a violation of the law. Border Patrol acknowledges that in many circumstances it will not be sufficient to establish reasonable suspicion to justify a vehicle stop under *Terry* simply that a vehicle is in an area near an international border."<sup>10</sup> Meanwhile, the same problems identified and ultimately addressed through litigation in Washington and elsewhere have persisted in southern Arizona for years.

We request that you conduct a prompt investigation of these individual allegations of abuse *and* undertake a comprehensive investigation of roving patrol practices involving CBP officers generally to determine whether the Border Patrol is complying with its obligations under the U.S. Constitution, international law, and agency guidelines – **with particular attention to:** 1) lawful application of the "reasonable suspicion" standard; 2) observance of legal limitations on the use of race and prohibitions on racial profiling, and 3) adherence to proper complaint procedures. In cases of unlawful conduct, we urge that the agents responsible be appropriately disciplined and that the results of your investigation be provided to complainants and made public. Finally, as the foregoing accounts make clear, significant changes in CBP training, oversight, and accountability mechanisms are needed, and we urge you to make meaningful recommendations for such changes consistent with your institutional mission so as to provide substantive redress and prevent further abuses.

Please do not hesitate to contact us with any questions or concerns at (602) 650-1854.

Sincerely,



James Lyall  
Staff Attorney  
ACLU of Arizona

Cc: John S. Leonardo  
United States Attorney  
Department of Justice  
405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040

---

<sup>10</sup> *Sanchez v. U.S. Border Patrol* Settlement Agreement, available at <http://aclu-wa.org/sites/default/files/attachments/2013-09-23--Fully%20Executed%20Settlement%20Agreement.pdf>

**CMS Incident #b6,b7C – Traffic Checkpoint:**

On January 25th, 2014, the Ajo Station received a formal (verbal) citizen's complaint from b6,b7C b6,b7C. He stated that an Ajo Agent was unprofessional and demeaning during questioning at the Traffic Checkpoint located at b7E of Highway 85.

The Agent was identified and his actions are currently being reviewed. The appropriate corrections will be made if determined necessary.

Name: b6,b7C

DOB: b6,b7C

COB: b6,b7C

COC: b6,b7C

**CMS Incident #b6,b7C - Traffic Checkpoint:**

Recently, on Jan 1st or 2nd 2014, I had an incident at a check point between Ajo and Gila Bend. While passing the check point I was pulled over by b.p. and there was marijuana found in my vehicle however I was unaware of it and the amount was very little. I believe the b.p. were saying it was immeasurable as it was so little. So I was not arrested but it was recorded by the b.p. and I wonder if there is a court date the will be set or what exactly happened with this incident. please get back to me thank you very much.

b6,b7C

b6,b7C

b6,b7C

b6,b7C

b6,b7C

**CMS Incident #b6,b7C – TON Town hall Meeting**

See attachment

**CMS Incident #b6,b7C – TON Town hall Meeting**

See attachment

**CMS Incident b6,b7C – b6,b7C Citizen 10/31/2013**

I am an b6,b7C resident. On the morning of October 10 we were driving on the Ajo Well Road near the high school. This section of road has a 25 mph speed limit and is in a school zone. The road has a double yellow line in this area. We were driving 25 mph, when a Border Patrol agent in a DHS van passed us

going about 40 mph. The license plate on the van was b6,b7C (we aren't sure about the last two digits) and the vehicle number (in green digits) was b6,b7C.

I called the USBP station in Why to make a complaint and the guy who answered the phone said he would "look into it." He never asked for my phone number so that he could get back to me.

I also called the sheriff's department in Ajo to complain, but they said the issue was solely a USBP issue.

I live in b6,b7C and, as all of the residents here, are used to Border Patrol vehicles speeding on the roads. We generally have to shrug it off, because how many times do you have to complain??? This time, though, I am really angry.

In a school zone? Double yellow line? Really? This guy needs to be reprimanded.

b6,b7C

b6,b7C

b6,b7C

b6,b7C

b6,b7C

b6,b7C

**From:** b6,b7C  
**Sent:** Saturday, August 31, 2013 6:12 PM  
**To:** CAG IIR  
**Subject:** RE: IIR 13 CAG 08 038 Encounter With b6,b7C

This incident has been upgraded to an SIR by the JIOC.

---

**From:** b6,b7C  
**Sent:** Saturday, August 31, 2013 5:11 PM  
**To:** CAG IIR  
**Subject:** IIR 13 CAG 08 038 Encounter With b6,b7C

On August 31, 2013, the Duty Supervisor at the Casa Grande Border Patrol Station was advised that a b6,b7C tribal member had stopped at the Border Patrol checkpoint on Federal Route 15 (FR15) and was being uncooperative with the agents.

The female tribal member driver had two occupants in the car. The passenger was another adult female, and there was a child in the back seat. When the driver brought the vehicle to a stop, the agents noticed that the vehicle had b6,b7C specialized b6,b7C Plates. b7E

b7E Upon being asked, the driver rolled up her window and refused to answer questions. The agents continued to ask questions, and the driver continued to refuse to answer the questions. Throughout being asked, the driver yelled that she was a tribal member, but refused to state her citizenship.

The driver was told to pull into secondary inspection, which she complied with. Once in secondary inspection, attempts to question her by the agents and the checkpoint supervisor continued and she continued to refuse to lower her window or answer any questions. At this time an agent ran his service K9 with negative results. The checkpoint supervisor then ran registration checks on the vehicle bearing b6,b7C license plate b6,b7C.

Registration Information:

b6,b7C  
2003 Chevrolet

b6,b7C  
b6,b7C

While sitting in secondary inspection, b6,b7C made a phone call to the Casa Grande Station in regard to the incident claiming harassment by the agent. The call was forwarded to the Duty Supervisor and a citizen's call report was filed specifically documenting b6,b7C's claims. The checkpoint supervisor contacted the Tohono O'odham Police Department (T.O.P.D.) to b6,b7C. T.O.P.D. responded and stated she was b6,b7C with right to be on b6,b7C of verbal mistreatment by the agents were b6,b7C officer, no action was taken. b6,b7C and her passengers were allowed to continue north on FR15 toward b6,b7C.

WC b6,b7C was notified of this incident



U.S. Customs and Border Protection  
*Securing America's Borders*

CBP INFO Center

Give Us a  
COMPLIMENT

Submit a  
COMPLAINT

☐☐

First Name

Middle Name

Last Name

b6,b7C

b6,b7C

Address

b6,b7C

Email Address

Phone Number

b6,b7C

Station related to where compliment/complaint occurred

Ajo Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Casa Grande Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Tucson/Three Points Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Date of Event

Description of Event

1) July 4, 2012 incident Hwy 86/Federal Rt 1

2) What is your interpretation with human rights

Between checkpoints & ports of entry

3) Vehicle stop & Agent requesting for dog search





# U.S. Customs and Border Protection

Securing America's Borders

CBP INFO Center

Give Us a  
COMPLIMENT

Submit a  
COMPLAINT



General

First Name

b6,b7C

Middle Name

Last Name

b6,b7C

Address

b6,b7C

Email Address

Phone Number

Station related to where compliment/complaint occurred

Ajo Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Casa Grande Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Tucson/Three Points Border Patrol Station ☐

Checkpoint Incident ☐

b7E

Date of Event 11/15/2013

Description of Event

Although most of us as b6,b7C don't appreciate Border Patrol tearing up the lands (sacred) or high speeding & tailgating harassments out.

Most of us fail to see and realize that the agents are human beings too. And may have issues such as family or personal problems that we or they are dealing with on daily basis and who are we to judge or criticize one's actions. We do however need to be responsible and held accountable for our actions.

I just like to commend all agents for their support and

CBP00001463



Description of Event Continued

security of all the people who they have assisted big or small  
thank you for putting your life on the job in a dangerous  
positions you face daily.

My prayer is that, God our father in heaven + earth  
continue to protect all Border Patrol agents, ~~bless~~  
God Bless them and their families. God lead them  
and guide them, that they would do their jobs with  
compassion, understanding + love. Also bless all those  
that hold authority over us in all the same way.  
Thank you God



b6,b7C

**From:** b6,b7C  
**Sent:** Monday, August 19, 2013 8:48 AM  
**To:** b6,b7C  
**Subject:** RE: IIR 13 CAG 08 027 Encounter with b6,b7C  
**Attachments:** b5,b7E.pdf

FYI, b6,b7C,b7E

The attached memo has some guidance regarding b5,b7E from OCC.

The conclusion states:

b5,b7E

---

**From:** b6,b7C  
**Sent:** Sunday, August 18, 2013 2:28 PM  
**To:** b6,b7C  
**Subject:** IIR 13 CAG 08 027 Encounter with b6,b7C

On August 18, 2013, the Duty Supervisor at the Casa Grande Border Patrol Station was advised that a b6,b7C b6,b7C tribal member had stopped at the Border Patrol checkpoint on Federal Route 15 (FR15) and began videotaping the agents while refusing to comply with instructions. The agents requested that the driver roll down her window, which she refused to comply with. The driver also refused to answer any immigration questions.

The driver was told to pull into secondary inspection, which she complied with. Once in secondary inspection, she continued to refuse to lower her window or answer any questions. Agent b6,b7C ran his service K9 with negative results. An agent ran registration checks on the vehicle bearing b6,b7C license plate b6,b7C.

Registration Information:

b6,b7C  
2003 Ford F250  
b6,b7C  
b6,b7C

A K9 handler then attempted to speak with the b6,b7C, at which point she complied. She gave the agents her information and stated she was a b6,b7C. At this time she was informed she was free to leave. b6,b7C then left the checkpoint continuing northbound on FR15.

(A)WC b6,b7C was informed of this incident.



U.S. Department of Homeland Security  
4742 North Oracle Road, Suite 111  
Tucson, AZ 85705



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

**DATE:** May 16, 2012

**FILE:** b5,b6,b7C

**MEMORANDUM FOR:** b6,b7C  
Policy & Compliance Division

**FROM:** Assistant Chief Counsel  
Tucson, Arizona

**SUBJECT:** b5,b6,b7C,b7E

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WITHOUT THE EXPRESS PRIOR APPROVAL OF THE COMMISSIONER OF CBP AND THE OFFICE OF THE CHIEF  
COUNSEL. b6,b7C

**b5,b7E**

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**b5, b7E**

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**b5, b7E**

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**b5, b7E**

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**b5, b7E**

U.S. Department of Homeland Security  
4742 North Oracle Road, Suite 111  
Tucson, AZ 85705



U.S. Customs and  
Border Protection

Memorandum

DATE: November 30, 2007

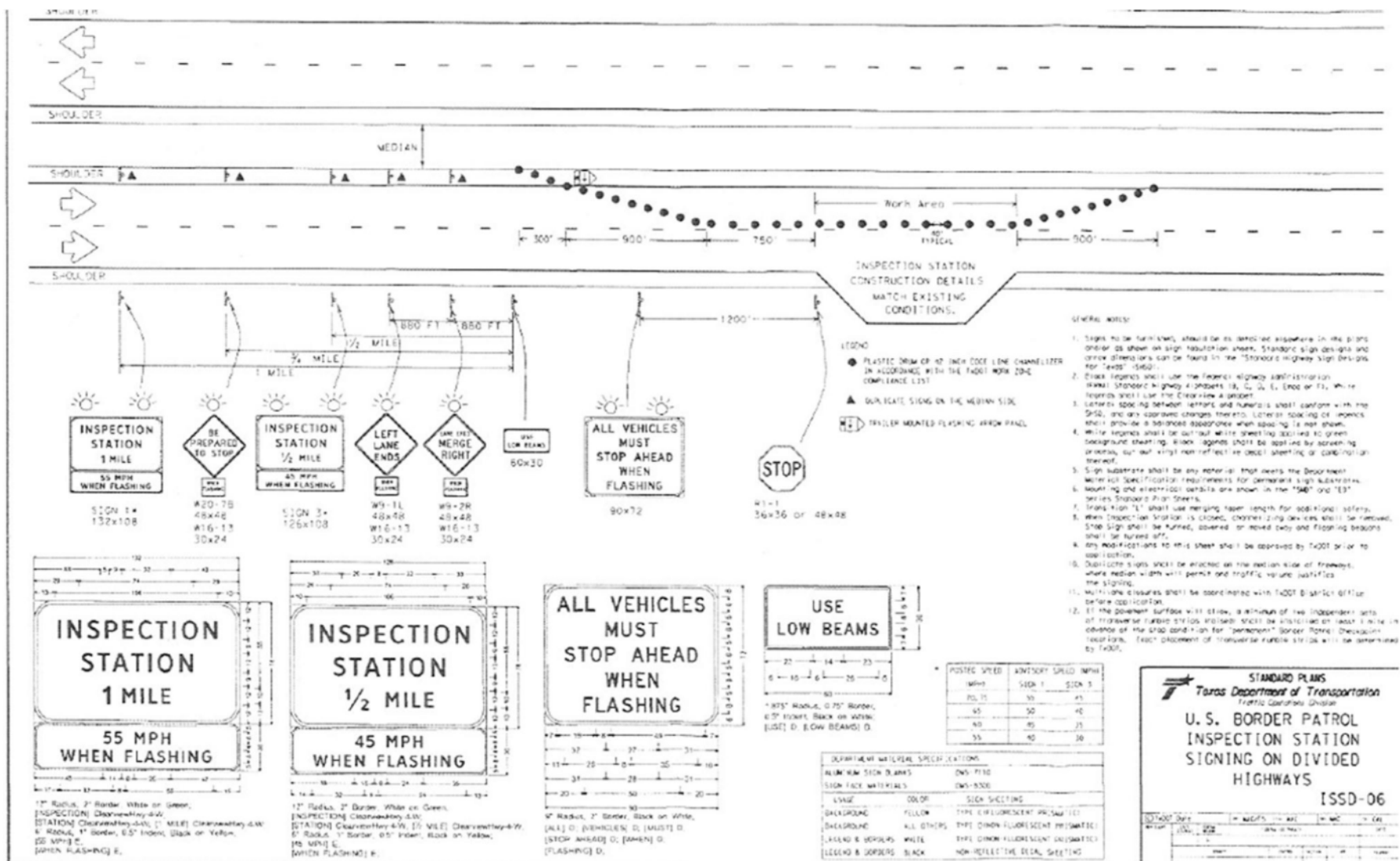
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TO: ACPA b6,b7C  
FROM: Assistant Chief Counsel - Tucson  
SUBJECT: b5,b7E

ATTORNEY WORK PRODUCT/PRIVILEGED COMMUNICATION - CIRCULATION RESTRICTED  
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OUTSIDE OF CBP WITHOUT THE EXPRESS PRIOR APPROVAL OF THE COMMISSIONER OF CBP AND  
THE OFFICE OF THE CHIEF COUNSEL, b6,b7C

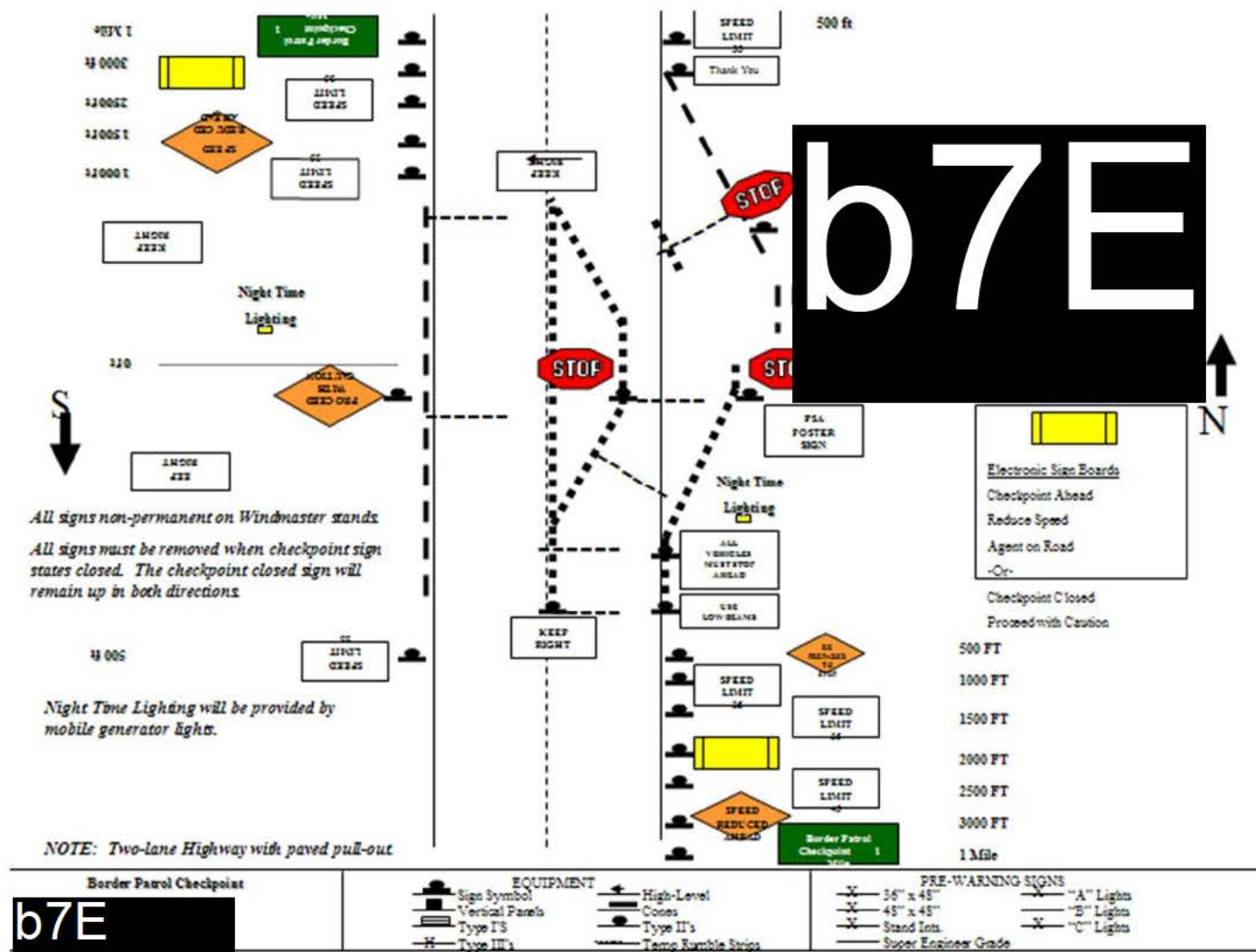
b5,b7E

b7E



CBP00001472

b7E



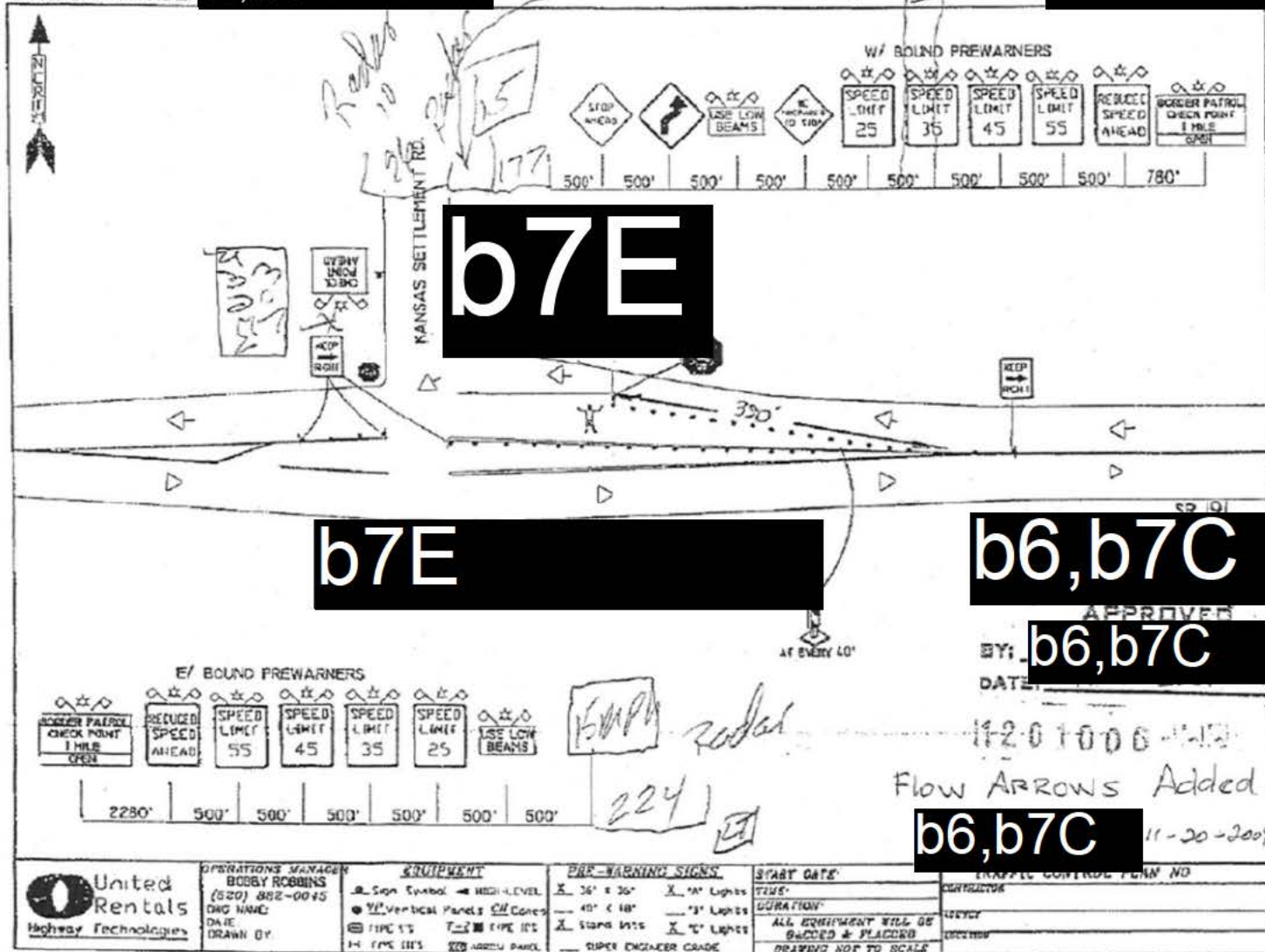


b7E

BORDER PATROL

b6,b7C

b7E



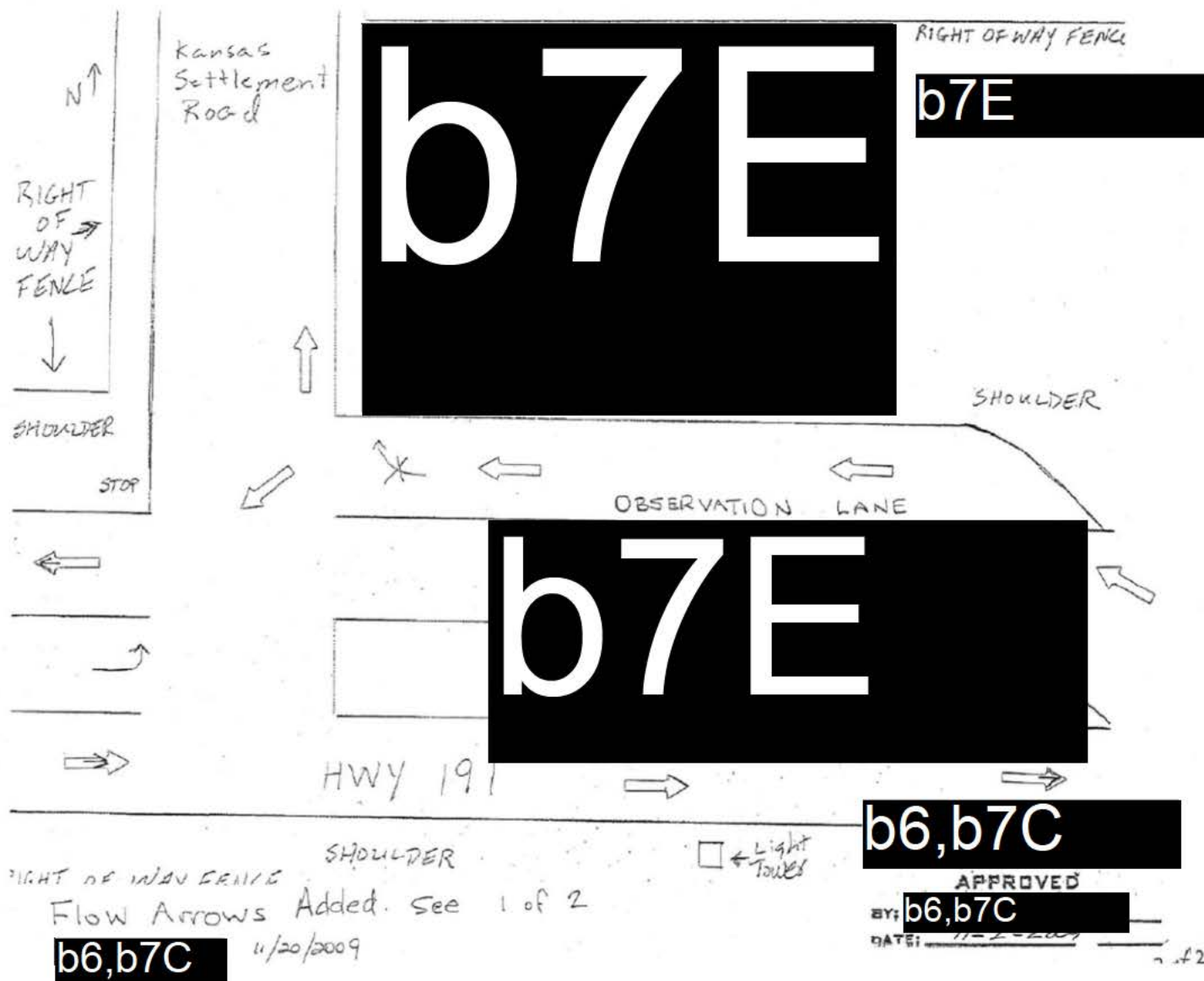
b7E

b6,b7C

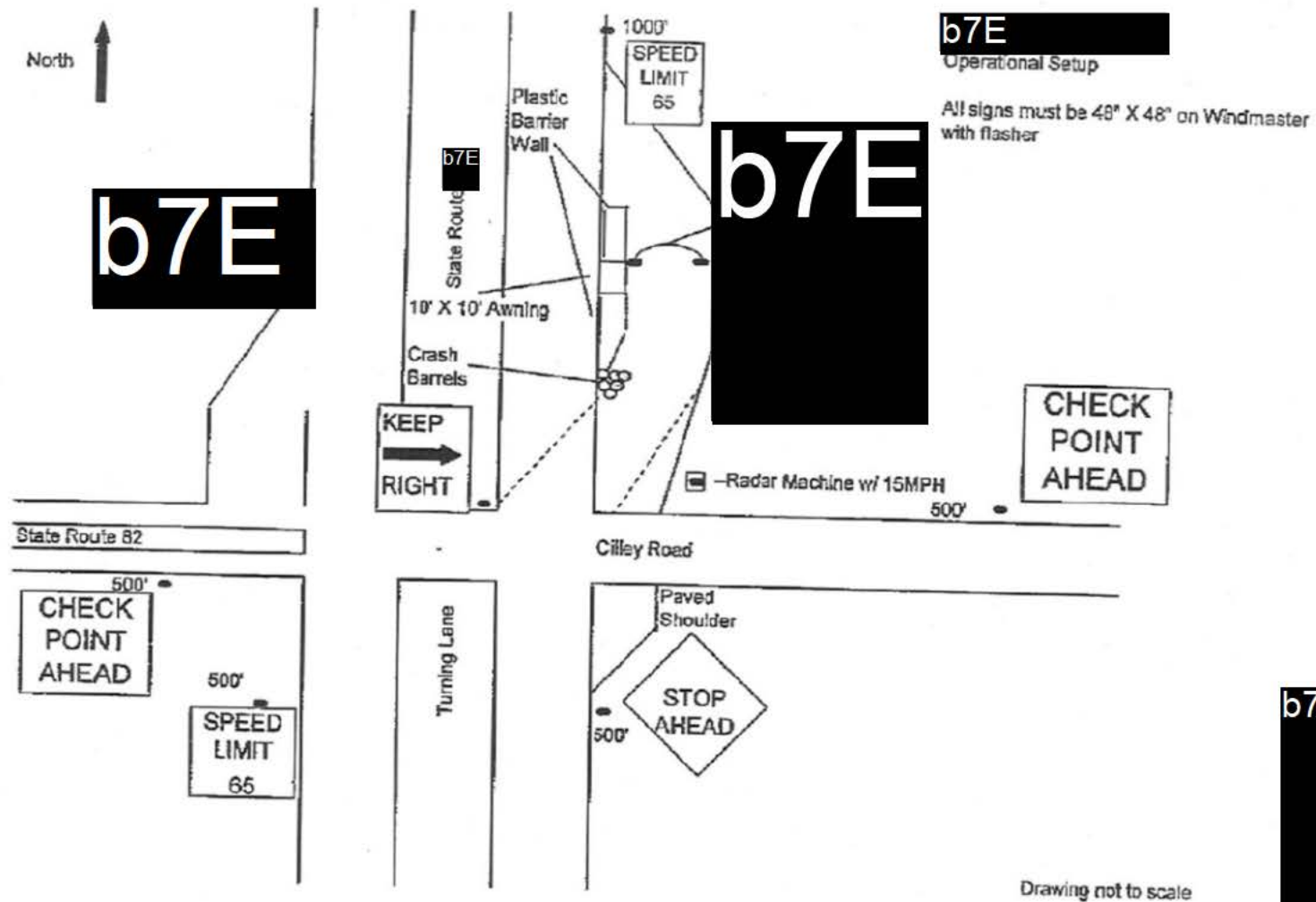
BY: b6,b7C

b6,b7C

b7E

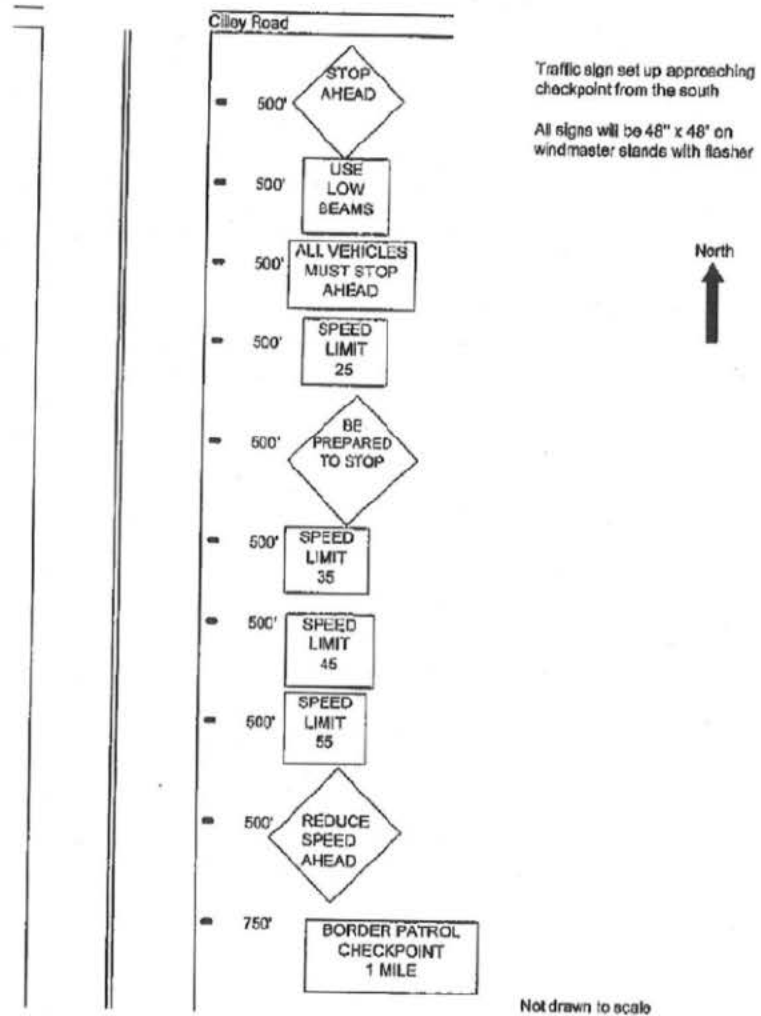


b7E

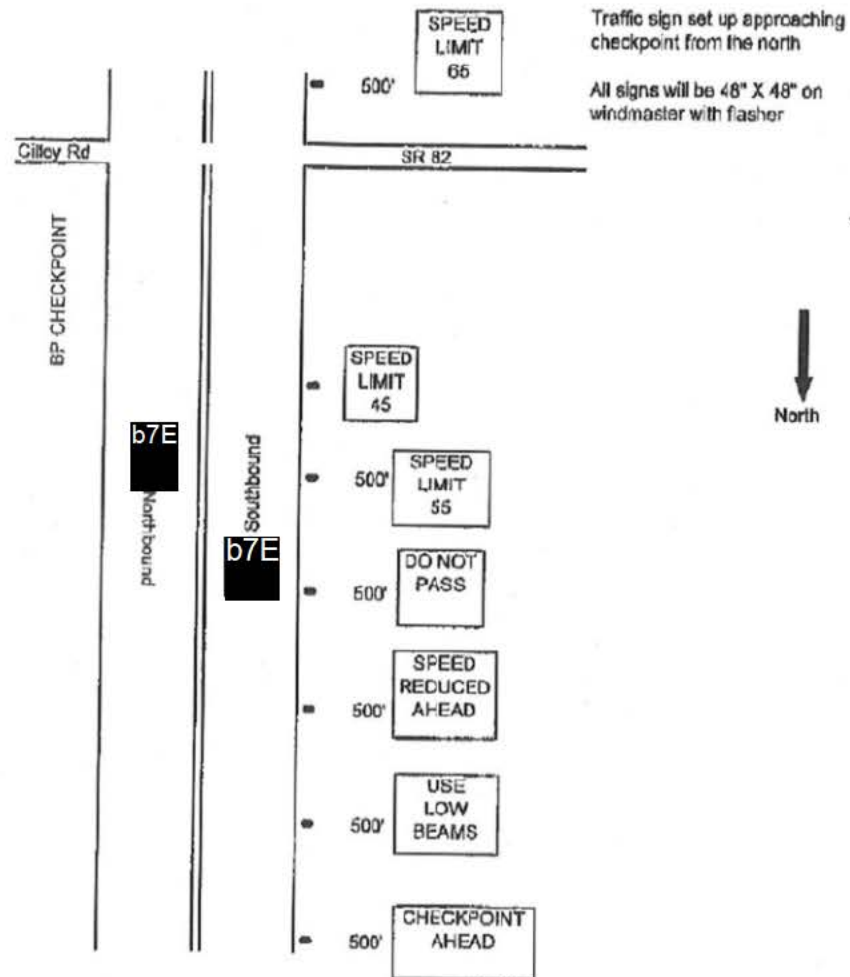


b7E

b7E



b7E





# GUIDANCE ON UNCOOPERATIVE MOTORISTS

## KNOW YOUR AUTHORITY, STAY OFF YOUTUBE

Q. AM I BEING DETAINED?  
A. YES!



WHAT AUTHORITY DO YOU HAVE TO STOP ME?

THE U.S. VS. MARTINEZ-FUERTE STATES THE BORDER PATROL HAS THE AUTHORITY TO CONDUCT IMMIGRATION INSPECTIONS WITHIN A REASONABLE DISTANCE OF THE BORDER WITHOUT SUSPICION.

WHAT ARE YOU DOING AND WHY DO YOU WANT TO SEARCH MY VEHICLE?

I AM CONDUCTING AN IMMIGRATION INSPECTION AND I WANT TO ENSURE YOUR VEHICLE IS FREE OF ANY ILLEGAL ALIENS.

AM I FREE TO GO?

NO. YOU MAY LEAVE WHEN YOU ANSWER MY QUESTIONS AND I AM SATISFIED OF YOUR RIGHT TO BE PRESENT IN THE UNITED STATES.

WHY DO I NEED TO EXIT MY VEHICLE?

WHEN PROBABLE CAUSE EXISTS: FOR YOUR SAFETY AND MINE.

IF NO PROBABLE CAUSE EXISTS: I WOULD PREFER IF YOU DID FOR

YOUR SAFETY AND MINE. **b7E**

**b7E**





# GUIDANCE ON UNCOOPERATIVE MOTORISTS

KNOW YOUR AUTHORITY, STAY OFF YOUTUBE

Q. AM I BEING DETAINED?

A. YES!

## UNITED STATES VS. MARTINEZ FUERTE

THE SUPREME COURT HELD THAT IMMIGRATION CHECKPOINTS ARE CONSTITUTIONAL EVEN IN THE ABSENCE OF REASONABLE OR INDIVIDUAL SUSPICION.

- AGENTS MAY STOP AND QUESTION MOTORISTS AT REASONABLY LOCATED CHECKPOINTS (WITHIN 100 AIR MILES OF BORDER.)
- AGENTS MAY ASK INDIVIDUALS ABOUT THEIR CITIZENSHIP AND REQUEST DOCUMENTS PROVING THEIR RIGHT TO BE IN THE UNITED STATES.
- AGENTS MAY INTERROGATE ANY ALIEN OR PERSON BELIEVED TO BE AN ALIEN ABOUT THEIR RIGHT TO BE IN OR REMAIN IN THE UNITED STATES.

KNOWING THE LAW AND YOUR AUTHORITIES WILL HELP YOU DEAL WITH THOSE TRYING TO QUESTION WHY YOU ARE DOING YOUR JOB!





# GUIDANCE ON UNCOOPERATIVE MOTORISTS

## Q. AM I BEING DETAINED?

### A. YES!

#### Q. WHAT GIVES YOU THE AUTHORITY TO STOP ME? AREN'T WE IN AMERICA?

- U.S. V. MARTINEZ-FUERTE GIVES AGENTS THE AUTHORITY TO STOP AND QUESTION MOTORISTS AT CHECKPOINTS
  - **EVEN IN THE ABSENCE OF REASONABLE SUSPICION**
- INA 287 DEFINES REASONABLE DISTANCE FROM THE BORDER, FOR PURPOSES OF IMMIGRATION CHECKS, AS BEING WITHIN 100 AIR MILES OF THE BORDER.

REMEMBER WHAT WE NEED TO SEND SOMEONE TO SECONDARY:

- ONLY MERE SUSPICION OF AN IMMIGRATION VIOLATION
- REASONABLE SUSPICION OF CRIMINAL VIOLATION

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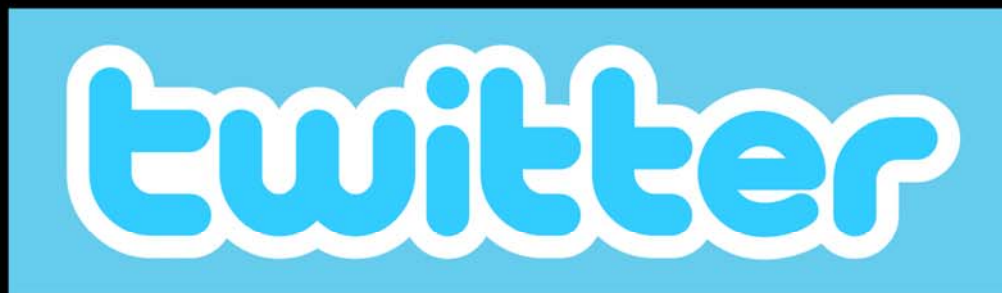
IF YOU HAVE ONE OF THESE LEVELS OF SUSPICIONS AND AN UNCOOPERATIVE MOTORIST REFUSES TO MOVE, YOU HAVE THE AUTHORITY TO DETAIN THE INDIVIDUAL UNTIL YOU ARE SATISFIED.

SOMETIMES, THE BEST COURSE OF ACTION IS SIMPLY TO ALLOW THE UNCOOPERATIVE DRIVER TO PASS, IF NO SUSPICION IS RAISED (REFUSING TO ANSWER A QUESTION IS NOT ENOUGH TO RAISE SUSPICION).

BE COGNIZANT OF CAMERAS, THE PUBLIC IS ALLOWED TO FILM YOU PERFORMING YOUR CHECKPOINT DUTIES.







## #SocialMedia

The fastest and easiest way for an agent to get in trouble - don't embarrass yourself or your agency.

#protectyourfamily #dontgoviral #besmart #protectyourself #noteveryoneneedstoknow



## U.S. vs. Martinez-Fuerte

Knowing the checkpoint laws and authorities can help keep you out of embarrassing situations.

# Why are you here?



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U.S. Customs and  
Border Protection



**CHECKPOINT ALERT**

b6,b7C

b7E

b6,b7C

# Nogales Checkpoint Arrest

b7E

b7E

On December 20, 2013, a 1994 blue Ford Mustang approached the Border Patrol Checkpoint on I-19, near Amado, AZ. After a Border Patrol service canine alerted to an odor that it is trained to detect, agents referred the vehicle to the secondary inspection area and performed a Z Backscatter Van (ZBV) scan on the vehicle.

The ZBV images showed an anomaly in the trunk of the vehicle. Agents searched the trunk and subsequently found an adult Mexican national inside. The subject, driver, and vehicle were transported to the Nogales Station and were processed according to guidelines.

# Nogales Checkpoint Arrest



K9, ZBV work together for bust, read more...



# CHECKPOINT PRD ALERTS

Do you know what to do?

ALL RADIATION DETECTION ALERTS AT BORDER  
PATROL CHECKPOINTS MUST BE RESOLVED.

CONVEYANCES IN PRIMARY GENERATING FURTHER  
INSPECTION WILL BE REFERRED TO SECONDARY.



AT SECONDARY, AGENTS WILL ATTEMPT TO VERIFY  
THE RADIATION ALERT.

USE RADIATION DETECTION EQUIPMENT TO ISOLATE  
AND LOCATE THE RADIATION SOURCE.

b7E





The FedEx logo, featuring the word "FedEx" in a stylized font with a red "E" and a blue "x".The FedEx logo, featuring the word "FedEx" in a stylized font with a red "E" and a blue "x".The FedEx logo, featuring the word "FedEx" in a stylized font with a red "E" and a blue "x".The FedEx logo, featuring the word "FedEx" in a stylized font with a red "E" and a blue "x".A small black airplane icon flying upwards.

# Nogales Station SEIZURE

A small black airplane icon flying upwards.

On May 21, 2013, Nogales Station agents referred a FedEx truck to the I-19 Checkpoint's secondary inspection area after a canine alert in the pre-primary lane. BPAs offloaded the contents of the truck and noticed wrapped bundles of marijuana concealed within boxes, weighing approximately 1,620 lbs. A ZBV scan of the truck confirmed 30 boxes with an anomaly consistent with bundles of marijuana.

A small black airplane icon flying upwards.A large, stylized FedEx logo with a green "E" and a blue "x".



# NOGALES MARIJUANA SEIZURE



On August 22, 2013, Nogales Station Border Patrol Agents responded to a suspicious vehicle that was spotted by the **b7E** in the area. Upon encountering the van, two subjects exited the vehicle and absconded from the area. Agents were able to seize the van and 189 bundles of marijuana, weighing 4600.5 lbs.



# CHECKPOINT ALERT

b7E

b6,b7C

ON OCTOBER 11, 2013, AGENTS ASSIGNED TO THE FALFURRIAS BORDER PATROL CHECKPOINT ENCOUNTERED AN UNCOOPERATIVE MOTORIST WHILE CONDUCTING IMMIGRATION INSPECTION DUTIES. A SEDAN, WITH A SINGLE MALE UNITED STATES CITIZEN DRIVER, ENTERED THE PRIMARY LANE FOR AN IMMIGRATION INSPECTION. DURING PRIMARY INSPECTION, THE DRIVER ATTEMPTED TO VIDEO TAPE THE ENCOUNTER WITH HIS CELLULAR PHONE. WHILE THE SUBJECT WAS BEING INSPECTED, A CBP SERVICE CANINE ALERTED TO THE VEHICLE. THE DRIVER WAS REFERRED TO SECONDARY BUT REFUSED TO MOVED THE VEHICLE TO THE SECONDARY INSPECTION AREA. A SYSTEMATIC SEARCH OF THE VEHICLE REVEALED TWO UNDOCUMENTED ALIENS HIDDEN WITHIN THE TRUNK OF THE SEDAN. ALL THREE SUBJECTS WERE PLACED UNDER ARREST.

# CHECKPOINT PRD ALERTS

Do you know what to do?



ALL RADIATION DETECTION ALERTS AT BORDER PATROL CHECKPOINTS MUST BE RESOLVED.

CONVEYANCES IN PRIMARY GENERATING FURTHER INSPECTION WILL BE REFERRED TO SECONDARY.

AT SECONDARY, AGENTS WILL ATTEMPT TO VERIFY THE RADIATION ALERT.

USE RADIATION DETECTION EQUIPMENT TO ISOLATE AND LOCATE THE RADIATION SOURCE.



b7E



b6,b7C

**From:** b6,b7C  
**Sent:** Tuesday, February 04, 2014 7:15 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** Re: ACLU AZ CBP CP Complaint

b6,b7C

Please double check me - I thought it was ours - but it might be TPS.

Thanks!!

Sent from my blackberry,

b6,b7C

Deputy Patrol Agent In Charge

Casa Grande Station

b6,b7C

---

**From:** b6,b7C  
**Sent:** Tuesday, February 04, 2014 05:22 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: ACLU AZ CBP CP Complaint

b6,b7C

Please research and forward what you find to all on this string.  
Thanks

**7. The b6,b7C Family – Route 86 Checkpoint, east of Tohono O’odham Indian Reservation, Aug. 19, 2013.**

On August 19, 2013, b6,b7C were driving east on State Route 86 from Sells, Arizona with their twin six-year-old foster children. b6,b7C was driving when the family arrived at the checkpoint. Without inquiring about the family’s residence status, the agent directed b6,b7C to pull into the secondary inspection area. b6,b7C asked why they were being detained and the agent responded angrily, “Because I told you so.” The b6,b7C again asked for an explanation. A female agent, later identified as b6,b7C, approached and directed b6,b7C to pull into secondary. Agent b6,b7C stated that she would forcefully remove the b6,b7C from their vehicle and drive the car into secondary if they did not comply. The b6,b7C repeated their request for an explanation. Agent b6,b7C claimed that a service canine had “alerted” to the vehicle. The b6,b7C stated that they did not have anything in the vehicle that would cause a dog to alert, and no dog was nearby.

Agent b6,b7C then directed another agent to “put it down,” shorthand for deploying a tire deflation device to prevent the vehicle from driving away. b6,b7C told the agent that she would go to the secondary inspection area, and Agent b6,b7C instructed her to “hold on.” The tire deflation device was removed and b6,b7C drove into secondary, where Agent b6,b7C demanded that the b6,b7C exit the vehicle. The b6,b7C had begun recording the incident on a cell phone. When b6,b7C exited the

Page 9 of 17

vehicle with the phone, Agent b6,b7C yelled at her to turn it off, and tried unsuccessfully to grab the phone from b6,b7C’s hand, poking her chest. b6,b7C handed the phone to her husband. Agent b6,b7C continued to yell and demanded that b6,b7C turn the phone off. Agent b6,b7C stated that b6,b7C could not use her phone to record because Border Patrol was searching the vehicle “based on probable cause.” Agent b6,b7C continued yelling at b6,b7C to turn off the phone. The b6,b7C family was escorted to a nearby bench. Several agents stood over them in a threatening manner as the b6,b7C parents tried to comfort their sons, who were terrified by what was



happening. From where they were sitting the b6,b7C could not see whether or not agents were searching their vehicle. Agent b6,b7C continued yelling at b6,b7C to turn off his phone. Another agent told the b6,b7C they were "setting terrible role models" for their children. b6,b7C could see that Agent b6,b7C's behavior was upsetting his children, so he turned the phone off, but not before Agent b6,b7C attempted, again unsuccessfully, to grab the phone out of his hands. Another agent pulled b6,b7C b6,b7C aside and told them not to "argue" with Agent b6,b7C which would "just make matters worse" for them. The b6,b7C parents continued to try to comfort their children, who were visibly upset. Finally, the b6,b7C family was released. They were never asked about their citizenship.

This incident was extremely traumatic for the b6,b7C children, who continued to refer to the experience for several weeks. One of the children stated that he was afraid that Border Patrol agents were going to "throw Mom down." The other child said he did not want to visit his cousin in Sells anymore because he did not want to cross the checkpoint again. Several days after the incident, the b6,b7C children spotted some Border Patrol agents in a local diner and were instantly afraid; the boys clung to their parents and asked if the agents were going to harm them. Both b6,b7C work in Sells. It is not possible for them to return from work without passing through one of the four Border Patrol checkpoints surrounding the Tohono O'odham Indian Reservation. b6,b7C often returns from work late at night, sometimes arriving at the checkpoint around midnight, with no other cars around. Agents have repeatedly demanded that she open her trunk for inspection, questioned her about matters unrelated to her immigration status, and refused to provide names and badge numbers when requested.

b6,b7C says, "The Reservation has become a police state. It seems like no one can go out in public without being questioned by Border Patrol agents." He says Border Patrol agents do not respect tribal customs or the law, and that abuses of tribal members have become more common because agents "are never held accountable for their actions."

b6,b7C  
**Deputy Patrol Agent In Charge**  
**Casa Grande Station**

b6,b7C  
b6,b7C

---

**From:** b6,b7C  
**Sent:** Tuesday, February 04, 2014 4:58 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: ACLU AZ CBP CP Complaint

Good Evening everyone, can you please provide documentation in response to the attached ACLU complaints, as it relates to the Casa Grande station. I already have responses from Wilcox, Tucson, and Naco, just need one from CAG.

Thanks

b6,b7C

---

**From:** b6,b7C  
**Sent:** Tuesday, February 04, 2014 10:06 AM  
**To:** b6,b7C  
**Subject:** FW: ACLU AZ CBP CP Complaint

b6,b7C,

Please get with the individual Stations listed in the complaints and see if they have any documentation on any of the listed incidents at their respective Stations. You should be able to cut and past the info request from the attached IP. The DCPA already sent this info out with a professionalism message. I am not asking for the Station to ask agents for memos. I only want the info that is available to date. We need to collect them for OCC.

Let me know when you get all the responses.

Thanks,

b6,b7C

Division Chief

Operational Support

US Border Patrol

Tucson SHQ

Office b6,b7C

Cell b6,b7C

b6,b7C @DHS.GOV

---

**From:** b6,b7C

**Sent:** Thursday, January 16, 2014 3:58 PM

**To:** b6,b7C

b6,b7C

**Cc:** b6,b7C

**Subject:** FW: ACLU AZ CBP CP Complaint

PAICs

Attached is an ACLU (pdf) complaint/demand for an investigation document that we just received that was sent to OIG and CRCL. Also attached is a word doc that provides a summary of what the pdf doc says.

Please take the time to read both docs. The intent of the word doc is to allow you all to discuss the complaints with the agents and reiterate our authorities at checkpoints. Regardless of the veracity of the allegations..... the fact is they are being raised. Please take the opportunity to discuss what expectations you have of our agents that are assigned to checkpoint duties. I will remind you..... the point man (the agent at primary inspection), as a professional law enforcement officer, is obligated to operate within their authorities and (when operationally possible) every interaction they have with a member of the traveling public should start by informing them they are at a Border Patrol checkpoint followed up by the Agent asking a question concerning citizenship, and that question should be applied to all occupants of the vehicle. We have to be disciplined in our approach at all our checkpoints consistent with the authority we have to operate them.

Please recognize, the current environment we are operating in is ripe for these types of "allegations". With respect to any complaint we get, we should ask the complainant if our agents were professional.....the reply we want to hear is "yes they were" thereby taking the air out of the majority of complaints against agents.

If you have any questions or if you would care to discuss further please let me know.

Lastly, if you have any background information on any of these "allegations" please forward all documentation you have to ACPA b6,b7C no later than COB 1/21/14. If you have no documentation a negative reply is required.

Thank you,

b6,b7C

b6,b7C

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**From:** b6,b7C  
**Sent:** Thursday, December 12, 2013 6:45 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: Checkpoint Training CAG

Please also include available K9 agents in this training as well.

b6,b7C  
**SUPERVISORY BORDER PATROL AGENT**  
CASA GRANDE BORDER PATROL STATION  
396 NORTH CAMINO MERCADO  
CASA GRANDE, AZ 85122  
PH: b6,b7C  
EMAIL: b6,b7C @cbp.dhs.gov

---

**From:** b6,b7C  
**Sent:** Wednesday, December 11, 2013 8:11 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** RE: Checkpoint Training CAG

The Checkpoint training has been rescheduled for Thursday, December 19<sup>th</sup>, 2013 at 0900hrs. Please try to have as many SBPA's attend as possible.

b6,b7C  
**SUPERVISORY BORDER PATROL AGENT**  
CASA GRANDE BORDER PATROL STATION  
396 NORTH CAMINO MERCADO  
CASA GRANDE, AZ 85122  
PH: b6,b7C  
EMAIL: b6,b7C @cbp.dhs.gov

---

**From:** b6,b7C  
**Sent:** Tuesday, December 03, 2013 7:38 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: Checkpoint Training CAG

FYI, The checkpoint training that was set for Thursday, December 5, 2013, has been cancelled due to a scheduling conflict with OCC. The class will be rescheduled for a later date.

b6,b7C  
**SUPERVISORY BORDER PATROL AGENT**  
CASA GRANDE BORDER PATROL STATION  
396 NORTH CAMINO MERCADO  
CASA GRANDE, AZ 85122  
PH: b6,b7C

EMAIL: b6,b7C @cbp.dhs.gov

---

**From:** b6,b7C  
**Sent:** Tuesday, December 03, 2013 7:20 AM  
**To:** b6,b7C  
**Subject:** FW: Checkpoint Training CAG

Please see below

Thank you,

b6,b7C  
Supervisory Border Patrol Agent  
Training Department  
Tucson Sector  
b6,b7C

---

**From:** b6,b7C  
**Sent:** Tuesday, December 03, 2013 7:09 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** RE: Checkpoint Training CAG

Actually I just found out that OCC needs to reschedule. Can you let CAG know that we will have to cancel on thurs and will let them know about rescheduling once we find out from OCC. Thanks.

b6,b7C  
*Acting Special Operations Supervisor*  
*Tucson Sector Training Department*  
b6,b7C Office

---

**From:** b6,b7C  
**Sent:** Monday, December 02, 2013 4:26 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** Checkpoint Training CAG

b6,b7C

Can you confirm with b6,b7C from CAG that they are set for the CP training on Thurs at 0900. Thanks.

b6,b7C  
*Acting Special Operations Supervisor*  
*Tucson Sector Training Department*  
b6,b7C Office



U.S. Department of Homeland Security  
4742 North Oracle Road, Suite 111  
Tucson, AZ 85705



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

**DATE:** September 23, 2010

**FILE:** b5,b6,b7C,b7E

**MEMORANDUM FOR:** b6,b7C  
Field Operations Supervisor  
Tucson Sector

**FROM:** Assistant Chief Counsel  
Tucson, Arizona

**SUBJECT:** b5,b7E

*ATTORNEY WORK PRODUCT/PRIVILEGED COMMUNICATION – CIRCULATION RESTRICTED*  
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WITHOUT THE EXPRESS PRIOR APPROVAL OF THE COMMISSIONER OF CBP AND THE OFFICE OF THE CHIEF  
COUNSEL. b6,b7C

b5,b7E

b6,b7C

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**From:** b6,b7C  
**Sent:** Thursday, April 11, 2013 4:42 PM  
**To:** b6,b7C  
**Subject:** FW: b5,b7E  
**Attachments:** b5,b7E

FYI

b6,b7C  
Deputy Patrol Agent In Charge  
Casa Grande Station  
b6,b7C extension b6,b7C  
b6,b7C

---

**From:** b6,b7C  
**Sent:** Thursday, March 28, 2013 1:09 PM  
**To:** b6,b7C  
**Subject:** FW: b5,b7E

b5,b7E

Thanks,

b6,b7C

---

**From:** b6,b7C  
**Sent:** Thursday, March 28, 2013 11:38 AM  
**To:** b6,b7C  
b6,b7C  
b6,b7C  
b6,b7C  
b6,b7C  
b6,b7C  
b6,b7C  
b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: b5,b7E

b5,b7E

b6,b7C

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**From:** b6,b7C  
**Sent:** Thursday, March 28, 2013 10:24 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
b6,b7C  
b6,b7C  
**Subject:** b5,b7E

b5,b7E

Thank you,

b6,b7C

b6,b7C

Attorney  
Office of Assistant Chief Counsel  
U.S. Customs and Border Protection  
4742 N. Oracle Rd. Suite 111  
Tucson, AZ 85705  
b6,b7C (Office)  
b6,b7C (Fax)  
b6,b7C [@cbp.dhs.gov](mailto:b6,b7C@cbp.dhs.gov)



U.S. Customs and  
Border Protection

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**From:** b6,b7C  
**Sent:** Thursday, March 28, 2013 9:03 AM  
**To:** b6,b7C  
**Cc:** b6,b7C  
b6,b7C  
b6,b7C  
**Subject:** b5,b7E

b5,b7E

b5,b7E

Sincerely,

b6,b7C

Attorney

Office of Assistant Chief Counsel

U.S. Customs and Border Protection

4742 N. Oracle Rd. Suite 111

Tucson, AZ 85705

b6,b7C (Office)

b6,b7C (Fax)

b6,b7C [@cbp.dhs.gov](mailto:cbp@dhs.gov)



U.S. Customs and  
Border Protection

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U.S. Department of Homeland Security  
4742 North Oracle Road, Suite 111  
Tucson, AZ 85705



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

**DATE:** March 27, 2013

**FILE:** b5,b6,b7C,b7E

**MEMORANDUM FOR:** Chief Patrol Agent  
Tucson, Arizona

Director of Field Operations  
Tucson, Arizona

**FROM:** Assistant Chief Counsel  
Tucson, Arizona

**SUBJECT:**

**b5,b7E**

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**b6,b7C**

**b5,b7E**

b6,b7C

**From:** b6,b7C  
**Sent:** Wednesday, October 30, 2013 10:31 PM  
**To:** b6,b7C  
b6,b7C  
**Cc:** b6,b7C  
**Subject:** RE: b7E Training

I somewhat concur with b6,b7C; the only edit I will suggest is to start the training earlier than noon since the PGA folks would probably have to come back that night (otherwise I lose them for more than just that day—accommodating days off or leave to compensate).

b6,b7C

Watch Commander  
US Border Patrol  
Casa Grande, AZ

b6,b7C  
b6,b7C (BB)

---

**From:** b6,b7C  
**Sent:** Wednesday, October 30, 2013 4:35 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** Re: b7E Training

If OCC could plan on starting training for both at about noon we could maximize how many supes we can get to it. You would have almost all of B, C, D, and A could send as many as we could. Especially, since the training is only a couple hours long. That would work for both days

---

**From:** b6,b7C  
**Sent:** Wednesday, October 30, 2013 12:41 PM  
**To:** b6,b7C  
**Cc:** b6,b7C  
**Subject:** FW: b7E Training

b6,b7C and b6,b7C

Please work with the WCs and Sector in making this available for as many SBPAs as we can operationally allow.

[This is a very important topic on multiple levels.](#)

Thanks

b6,b7C  
Deputy Patrol Agent In Charge  
Casa Grande Station  
b6,b7C  
b6,b7C

---

**From:** b6,b7C  
**Sent:** Wednesday, October 30, 2013 12:39 PM  
**To:** b6,b7C

Cc: b6,b7C  
Subject: b7E

Training

PAIC's/DPAIC's

As a result of several inquiries and recent events involving b6,b7C, the TCA Training Department has identified a need to conduct refresher training courses relating to b6,b7C b6,b7C. The TCA Training Department along with the Office of Chief Counsel (OCC) will travel to every station throughout the Sector to conduct the training courses. Attached is a schedule of dates when OCC is available to travel to the stations. I apologize for the quick turnaround on the first couple dates. OCC availability is very limited and we wanted to get started with the training as soon as possible.

Each training course will last approximately 2-3 hours. The start time will be determined by each station, taking into account travel times and OCC work hours. Representatives from OCC as well as the Training Department will be available to answer any questions. The b7E training is intended for managers only, with the expectation that they will continue to educate other agents internally. OCC intends to observe checkpoint operations and interact with agents and supervisors before arriving at the stations for training. The b7E training should be made available to any audience that the stations deem appropriate, such as managers, firearms and intermediate force instructors and special operations units.

Please see the attached schedule and confirm that there are no scheduling conflicts and respond with what time you would like the training to be held. Please note that both training courses will be held on the same day for the TPS and AJO locations. We're hopeful that after receiving the training, agents will be more knowledgeable and confident in their roles and responsibilities when going out in the field. Feel free to contact me or (A) ACPA b6,b7C with any questions.

b6,b7C

*Acting Special Operations Supervisor*

*Tucson Sector Training Department*

b6,b7C

*Office*

## Performing Checkpoint Operations 10.2.1 – Instructor Guide


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	<b>10.2.1.1 - Notes</b>
<p><b>Instructor Guidance</b></p> <p><b>Time:</b> 4 hours</p> <p><b>Materials:</b> None</p> <p><b>References:</b></p> <ul style="list-style-type: none"><li>• 8 U.S.C. Sections 1225 and 1357</li><li>• 18 U.S.C. 111 Impeding a Federal Officer</li><li>• Immigration and Nationality Act: Sections 235 and 287</li><li>• 8 C.F.R. Part 287</li><li>• U.S. Border Patrol Checkpoint Policy</li><li>• U.S. Border Patrol Pursuit Policy</li><li>• U.S. Border Patrol Controlled Tire Deflation Device Policy</li></ul>	
<p><b>Objectives:</b></p> <p>Successfully perform checkpoint operations.</p> <ul style="list-style-type: none"><li>• Maintain officer safety in the conduct of checkpoint operations.</li><li>• Perform rotational checkpoint duties within the area covered.</li><li>• At conclusion of the operation, analyze and explain the operational and safety issues that impact checkpoint operations.</li></ul>	



## Performing Checkpoint Operations 10.2.1 – Instructor Guide

	10.2.1.2 - Notes
<b>Instructor Guidance</b>  <i>Observe</i> officer safety in the conduct of checkpoint operations.	
<b>Safety</b> <ul style="list-style-type: none"><li>• Maintains officer safety in the conduct of checkpoint operations.<ul style="list-style-type: none"><li>○ Safe operation of checkpoints is of the utmost importance.</li><li>○ Agents and traveling public should not be exposed unsafe conditions.</li><li>○ b7E [REDACTED]</li><li>○ b7E [REDACTED]</li><li>○ b7E [REDACTED] b7E [REDACTED]</li></ul></li><li>• Exercises caution when working in inclement weather while performing checkpoint operations.<ul style="list-style-type: none"><li>○ b7E [REDACTED]</li><li>○ b7E [REDACTED]</li></ul></li></ul>	

	10.2.1.3 - Notes
<b>Instructor Guidance</b>  <i>Observe</i> the performance of the interns as he/she rotates through various checkpoint duties within the area covered.	
<b>Performing rotational checkpoint duties</b>   b7E	

b7E

## Performing Checkpoint Operations 10.2.1 – Instructor Guide

	10.2.1.4 - Notes
<b>Instructor Guidance</b>  At conclusion of the operation, <i>discuss</i> and analyze the operational and safety issues that influence checkpoint operations.	
<b>Operational and Safety Objectives</b> <ul style="list-style-type: none"><li>• Formulate an analysis of the operational issues that impact checkpoint operations.<ul style="list-style-type: none"><li>○ All Agents must be familiar with the U.S. Border Patrol Checkpoint Policy.</li><li>○ Establishing Border Patrol checkpoints is a policy designed to restrict routes of egress from the border area where appropriate and thereby create deterrence to the initial illegal entry into the United States.</li><li>○ Checkpoints are a Border Patrol operation that consists of examining occupants of vehicles on roads and highways as to their right to be or remain in the United States.</li><li>○ The primary purpose of a traffic checkpoint operation is to apprehend illegal aliens and smugglers who manage to evade apprehension at the border and attempt to travel to interior locations. Checkpoints greatly enhance the Border Patrol's ability to carryout the mission of securing the Nation's borders against terrorist, smugglers of weapons of terrorism, other contraband, and illegal aliens. Border Patrol Agents assigned to this operation often encounter violators of state and other Federal laws. Any assistance rendered to other agencies is incidental to their duties as immigration officers.</li><li>○ 8 U.S.C. Section 1357(a) of the Immigration and Nationality Act (INA) provides power to arrest without warrant, within a reasonable distance from any external boundary of the United States.</li></ul></li><li>• Analyze safety issues that impact checkpoint operations.<ul style="list-style-type: none"><li>○ Safe operation of traffic checkpoints is of the utmost importance.</li><li>○ Neither Agents nor the traveling public should be subjected to hazards beyond those that are inherent in any Border Patrol operation.</li></ul></li><li>• Signage and lights should be highly visible.<ul style="list-style-type: none"><li>○ b7E [REDACTED]</li><li>○ b7E [REDACTED]</li></ul></li></ul>	

- b7E [REDACTED]  
b7E [REDACTED]
- b7E [REDACTED]
- b7E [REDACTED]
- Assisting Agents should be available for apprehensions that may create an unfavorable circumstance.
- Buses, trucks, and large vehicles (motor homes, trailers, etc.) should be approached with added caution.
- b7E [REDACTED]  
b7E [REDACTED]
- b7E [REDACTED]  
b7E [REDACTED]  
b7E [REDACTED]



## U.S. CUSTOMS AND BORDER PROTECTION

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Nogales Border Patrol Station  
Interstate-19 Checkpoint Training

Schedule for  
March 27<sup>th</sup>, 28<sup>th</sup> 2014

Participants  
Nogales Border Patrol Checkpoint Agents

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0800	PAIC [b6,b7C]: Opening remarks and PAIC expectations
0815	(A) WC [b6,b7C]: Introductions and WC expectations
0825	(A) WC [b6,b7C] & SBPA [b6,b7C]: Checkpoint SOP
0850	Break
0900	SBPA [b6,b7C]: [b7E]
1000	DPS Sgt. [b6,b7C]: [b7E]
1100	OFO TBD: [b7E]
1200	Lunch Break
1300	BPA [b6,b7C] & [b6,b7C]: [b7E]
1330	BPA [b6,b7C]: [b7E]
1355	Break
1400	SBPA [b6,b7C]: [b7E]
1500	[b6,b7C] & [b6,b7C]: Report writing & checkpoint authority
1600	AUSA [b6,b7C]: Checkpoint Case law