

# Operation Streamline: Estimated Costs for Tucson, Arizona

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## **BACKGROUND**

Operation Streamline is a fast-track, *en masse* court proceeding created by the United States to prosecute large numbers of immigrants who enter U.S without authorization. The U.S. Department of Homeland Security (DHS) and Department of Justice (DOJ) launched Operation Streamline in federal criminal courts in 2005 in Texas. The U.S. also prosecutes some unauthorized immigrants in regular court proceedings, but this report focuses on the large-scale Streamline court.

Prior to 2005, U.S. Customs and Border Protection (CBP) generally processed unauthorized border crossers using voluntary removals or civil immigration deportation procedures. After Streamline was introduced, the numbers of immigrants prosecuted as criminals for unauthorized entry increased from about 40,000 prosecutions in 2007 to a high of 98,000 in 2013.<sup>1</sup> By 2015, criminal prosecutions for improper entry and re-entry were the most prosecuted federal crimes in the U.S.<sup>2</sup> Under the Trump administration, the number of prosecutions for immigration offenses rose 66 percent, from 59,797 in fiscal year 2017 to 99,479 in 2018.<sup>3</sup>

By 2008, Operation Streamline had expanded to five Border Patrol sectors, including the Tucson sector. Although there are some variations among Streamline courts, Tucson's Operation Streamline court currently prosecutes about 70-75 immigrants each day. Unlike most federal prosecutions, Streamline condenses the entire criminal proceedings—including initial appearance, plea, and sentencing—into a few hours on a single day. First-time border-crossers are charged with a criminal misdemeanor (U.S.C. 8 § 1325) and usually get a sentence of time served (the days that they spent in Border Patrol custody) although they could be sentenced to a maximum of 6 months in a federal prison. Repeat border-crossers are charged with a criminal felony (U.S.C. 8 § 1326), which is punishable for up to two years in federal prison or up to 20 years if there are other offenses. In Tucson's Streamline, re-entry defendants are offered a plea bargain. If they plead guilty to the criminal misdemeanor, the felony re-entry charge is dropped, and they receive a sentence of 30-180 days to be served in a federal prison. Most of those in both sets of defendants are eventually deported with a criminal conviction on their records, which may also interfere with their ability to obtain immigration relief or asylum.

## **DOES STREAMLINE PRODUCE THE INTENDED RESULT?**

The stated purpose of criminal prosecution of immigrants and the use of Streamline courts is to deter immigrants from entering the U.S. without authorization.<sup>4</sup> Proponents believe that criminal prosecution will dissuade unauthorized border crossings and claim that Streamline “works.” But this claim remains unproven.

- Both the DHS Office of Inspector General (2015)<sup>5</sup> and the Government Accountability Office (2017)<sup>6</sup> have published reports stating that CBP does not accurately assess repeat attempts to enter the U.S., and thus the CBPs conclusions about deterrence are invalid.
- A 2018 report from the Vera Institute of Justice presented a time series analysis of 22 years of immigrant apprehensions from 1992-2014 to assess what factors might influence changes in border

crossings over time. They used statistical modeling to look at monthly data in each border sector and found no evidence that the introduction of Streamline had a deterrent effect in any of the border sectors.<sup>7</sup>

### **WHAT DOES OPERATION STREAMLINE COST TAXPAYERS?**

To prosecute immigrants as criminals, the federal government must pay for:

- Transportation for immigrants to and from a federal courthouse;
- Court facilities for attorney meetings, courtroom proceedings, and temporary detention space;
- U.S. Marshals and Border Patrol agents who have custody of defendants while in court;
- Defense attorneys (required by law for any defendant in a criminal case);
- Court personnel including a magistrate judge, federal prosecutor, interpreter, clerk;
- Transportation to prison where convicted migrants serve their sentences;
- Daily costs of incarceration for those who serve sentences - mostly in private prisons.

After 14 years of implementation in all U.S. border sectors, *no one knows for sure* what it costs to implement Operation Streamline.

- In 2013, the Federal Public Defender in Tucson prepared a summary of Tucson's Streamline costs, but did not include costs for the courthouse, courtroom staff, magistrate, U.S. Marshals, Border Patrol, and U.S attorneys.<sup>8</sup>
- In 2016, to mark ten years of Streamline, Grassroots Leadership and Justice Strategies published a comprehensive report on the history and impact of Streamline in all border areas. The report estimated that the cost of incarceration over ten years totaled at least \$7 billion, but the authors did not attempt to calculate all the other costs associated with Streamline prosecutions.<sup>9</sup>
- In 2015, the Department of Homeland Security Office of Inspector General published a report that criticized CBP for not having methodologies in place to differentiate the costs of Streamline from other CBP activities.<sup>10</sup>
- In 2017, the U.S. Government Accountability Office (GAO) published a report that found that the Border Patrol did not effectively account for all the costs of Streamline implementation, focusing only on CBP's own costs.<sup>11</sup>

The CBP has not made it a priority to publicly account for the full costs of implementing its own deterrence policies or whether these are a cost-effective use of taxpayer dollars.

### **COST ESTIMATE FOR TUCSON OPERATION STREAMLINE**

The End Streamline Coalition was formed in 2013 in Tucson with the goal to end the criminal prosecution of immigrants, focusing mainly on Operation Streamline. We believe that criminalizing migration is a failure to understand why people migrate and deepens the suffering of people who seek to enter the United States to escape poverty, flee violence, or reunite with loved ones. End Streamline members decided to estimate the costs of Tucson's Streamline, believing that it is important for members of the public and elected officials to know costs to taxpayers for criminally prosecuting and incarcerating migrants.

This cost study focuses solely on the monetary costs associated with criminal prosecution in Tucson Streamline. Thus, the study does not include costs such as Border Patrol detention or deportation -- costs that would occur even if there was no policy of criminal prosecution. The study is a conservative estimate based on publicly available information and focuses only on Tucson's Streamline.

**RESULTS: Annual Costs for Tucson Operation Streamline**

The Tucson Streamline cost study includes dollar costs for magistrates, defense attorneys, prosecuting attorneys, U.S. Marshals, interpreters, plant costs for the courthouse, detainee transportation, and incarceration. Details about cost items and calculations are presented in Appendix A. Our conservative estimate is that the cost of criminally prosecuting immigrants in Tucson's Operation Streamline is more than \$62 million per year. In the eleven years since Tucson Streamline's inception, this would total over \$686 million.

| <b>Cost Category</b>      | <b>Subtotal</b>     |
|---------------------------|---------------------|
| <i>Personnel</i>          | \$5,298,842         |
| <i>Plant and Building</i> | \$12,681,229        |
| <i>Transportation</i>     | \$451,000           |
| <i>Incarceration</i>      | \$43,979,355        |
| <b>Total</b>              | <b>\$62,410,426</b> |

It is important to note that **70% of the costs** of this policy pay for incarceration, with most Tucson defendants sent to private prisons operated by Core Civic, a corporation based in Tennessee. Thus, 70% of the expenditures leave the community.

**WHAT ELSE COULD WE DO WITH \$62 MILLION PER YEAR IN TUCSON?**

Below are some other ways that the Tucson area might use \$62 million per year.<sup>12</sup>

- 1,123 infrastructure jobs could be created in 1 year
- 1,063 more elementary school teachers could be added
- 23,776 low-income children could receive health care
- 6,206 university students in Tucson could receive full 4-year scholarships<sup>13</sup>
- 799 people could receive nursing home care<sup>14</sup>
- 2,496,417 trees could be purchased<sup>15</sup>

**CONCLUSION**

The federal policy of criminal prosecution of immigrants is enormously costly to taxpayers, a burden on the criminal justice system, and deeply harmful for immigrants themselves. There is little evidence that criminal prosecution has a deterrent effect on immigrants' decisions to enter the United States. The "zero tolerance" policy of criminal prosecution and the Streamline courts should be ended immediately.

## APPENDIX A:

### Cost Estimate Line Items and Calculations

| COST ITEM   | CALCULATION          | SUBTOTAL            |
|---|----------------------|---------------------|
| <b>PERSONNEL</b>  |                      |                     |
| <b>U.S. Magistrate Judge</b> salary, <sup>16</sup> \$194,028, 3/4 day x 250/260 days, x 1.26 ERE  | 176,304              | \$ 176,304          |
| <b>Defense Attorneys</b>  |                      |                     |
| Criminal Defense Attorney - @ \$148/hour, <sup>17</sup> 6 hours/day   | \$888                |                     |
| 16 lawyers per court day x 250 court days/year <sup>18</sup>  | \$3,567,096          | \$3,567,096         |
| Federal Public Defender annual base salary \$146,862, 2 FPDs per day, 3/4 day, x 250/260 days, x 1.26 ERE   | \$266,893            | \$266,893           |
| <b>Federal Prosecutor</b> 2 full time AUSAs specially assigned to OSL, annual base salary \$146,862 x 2, x 1.26 ERE <sup>19</sup>   | \$370,092            | \$370,092           |
| <b>Court Clerk</b> annual base salary <sup>20</sup> \$58,806, full day, x 250/260 days, x 1.26 ERE  | \$71,246             | \$71,246            |
| <b>Interpreters</b> @ \$226 <sup>21</sup> per afternoon court hearing, x 2 interpreters / court hearing, x 250 days   | \$113,000            | \$113,000           |
| <b>U.S. Marshals and Border Patrol</b> @ \$48,077 salary, <sup>22</sup> full day<br>6 U.S. Marshals and 4 Border Patrol officers = 10 @ \$48,077 salary, 250/260 x 1.26 ERE | \$582,471            | \$582,471           |
| <b>Court security officer</b> @ \$50,958 salary, <sup>23</sup> 1/2 day x 250/260 x 1.26 ERE   | \$30,869             | \$30,869            |
| <b>Court reporter</b> @ 82,264 salary, <sup>24</sup> 1/2 day x 250/260 x 1.26 ERE   | \$49,833             | \$49,833            |
| <b>Contracted security</b> @ \$39,089 <sup>25</sup> 1/2 day x 250/260 x 1.26 ERE<br>3 contracted security present   | \$23,679<br>\$71,037 | <br>\$71,037        |
| <b>TOTAL ANNUAL PERSONNEL COSTS</b>   |                      | <b>\$5,298,842</b>  |
| <b>PLANT AND BUILDING (Annual)</b>  |                      |                     |
| Custodial, energy, and maintenance/operations <sup>26</sup>   | \$37,338,169         |                     |
| Depreciated building construction costs <sup>27</sup>   | \$705,518            |                     |
| Subtotal - Plant and Building   | \$38,043,687         |                     |
| Operation Streamline proportion of plant and building space @ 1/3   | \$12,681,229         |                     |
| <b>TOTAL ANNUAL PLANT &amp; BUILDING COSTS</b>  |                      | <b>\$12,681,229</b> |
| <b>TRANSPORTATION</b>   |                      |                     |

| <b>COST ITEM</b>  | <b>CALCULATION</b> | <b>SUBTOTAL</b>     |
|---|--------------------|---------------------|
| <b>Transport from BP station to court - 6 miles @ 1.10 per detainee per mile<sup>28</sup></b> |                    |                     |
| 75 detainees/day x 250 days of court  | 123,750            |                     |
| 50% discount for multiple detainees from same location  | 61,875             |                     |
| Subtotal - transport from BP to court   | 61,875             | \$61,875            |
| <b>Return transport from court to BP - 6 miles @1.10 per detainee/mile</b>                    |                    |                     |
| Average of 40 not sentenced who return to BP x 250 days                                       | 66,000             |                     |
| 50% discount for multiple detainees to same location  | 33,000             |                     |
| Subtotal - transport from court to BP   | 33,000             | \$33,000            |
| <b>Transport of sentenced detainees @ \$1.10/detainee/mile<sup>29</sup></b>                   |                    |                     |
| 74 miles - distance to Florence   | 81.4               |                     |
| 35 detainees/day x 250 days of Streamline   | 712,250            |                     |
| 50% discount for multiple detainees to same location  | 356,125            |                     |
| Subtotal - transport of sentenced detainees   | 356,125            | \$356,125           |
|   |                    |                     |
| <b>TOTAL ANNUAL TRANSPORTATION COSTS</b>  |                    | <b>\$451,000</b>    |
|   |                    |                     |
| <b>INCARCERATION</b>  |                    |                     |
| Daily bed rate <sup>30</sup> @ \$103.42/day   |                    |                     |
| Average # of days sentenced per/day in Tucson <sup>31</sup> = 1701 days in prison             | \$175,917          |                     |
| 250 days of court   | \$43,979,355       |                     |
|   |                    |                     |
| <b>TOTAL ANNUAL INCARCERATION COSTS</b>   |                    | <b>\$43,979,355</b> |
|   |                    |                     |
| <b>GRAND TOTAL – Tucson Operation Streamline Estimated Annual Costs</b>                       |                    | <b>\$62,410,426</b> |

## Endnotes

- <sup>1</sup> Transactional Records Action Clearinghouse (TRAC). “Criminal prosecutions for illegal border crossers jump sharply in April.” <https://trac.syr.edu/immigration/reports/515/>
- <sup>2</sup> American Civil Liberties Union. “Fact sheet: criminal prosecutions for unauthorized border crossing.” 2015. <https://www.aclu.org/other/operation-streamline-issue-brief>
- <sup>3</sup> Gramlich, John. “Far more immigration cases are being prosecuted criminally under Trump administration,” Pew Research Center. Sept. 27, 2019 <https://www.pewresearch.org/fact-tank/2019/09/27/far-more-immigration-cases-are-being-prosecuted-criminally-under-trump-administration/>
- <sup>4</sup> Department of Homeland Security Office of Inspector General. “Streamline: measuring its effect on illegal border crossing.” May 15, 2015. [https://www.oig.dhs.gov/assets/Mgmt/2015/OIG\\_15-95\\_May15.pdf](https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-95_May15.pdf)
- <sup>5</sup> Ibid.
- <sup>6</sup> Government Accountability Office. “Border Patrol: actions needed to improve oversight of post-apprehension consequences.” <https://www.gao.gov/assets/690/682074.pdf>
- <sup>7</sup> M. Corradini, J. Kringen, L. Simich, K. Berberich, and M. Emigh. “Operation Streamline: no evidence that criminal prosecution deters migration.” June 2018. <https://www.vera.org/publications/operation-streamline>
- <sup>8</sup> H. Williams. “Operation Streamline estimated costs – 2013; defense attorney ethics and medical considerations.” Unpublished report, February 2013.
- <sup>9</sup> J. Green, B. Carson, and A. Black. *Indefensible: a decade of mass incarceration of migrants prosecuted for crossing the border*. <https://grassrootsleadership.org/reports/indefensible-decade-mass-incarceration-migrants-prosecuted-crossing-border>
- <sup>10</sup> Department of Homeland Security Office of Inspector General. “Streamline: measuring its effect on illegal border crossing.” May 15, 2015. [https://www.oig.dhs.gov/assets/Mgmt/2015/OIG\\_15-95\\_May15.pdf](https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-95_May15.pdf)
- <sup>11</sup> Government Accountability Office. “Border Patrol: actions needed to improve oversight of post-apprehension consequences.” <https://www.gao.gov/assets/690/682074.pdf>
- <sup>12</sup> National Priorities Project (date). Tradeoffs. Retrieved from <https://www.nationalpriorities.org/interactive-data/trade-offs/>
- <sup>13</sup> <https://www.collegetuitioncompare.com/edu/104179/university-of-arizona/tuition/>
- <sup>14</sup> <https://www.seniorliving.org/nursing-homes/costs/>
- <sup>15</sup> <https://tucsoncleanandbeautiful.org/trees-for-tucson/>
- <sup>16</sup> <https://www.uscourts.gov/judges-judgeships/judicial-compensation> U.S. Magistrate Judge salaries are up to 92% of U.S. District Court Judges.
- <sup>17</sup> [https://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230\\_16](https://www.uscourts.gov/rules-policies/judiciary-policies/cja-guidelines/chapter-2-ss-230-compensation-and-expenses#a230_16)
- <sup>18</sup> 5 days/week x 52 weeks minus 10 federal holidays = 250 days/year
- <sup>19</sup> <https://www.glassdoor.com/Salary/US-Department-of-Justice-Salaries-E41301.htm>
- <sup>20</sup> <https://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates>
- <sup>21</sup> <https://www.uscourts.gov/services-forms/federal-court-interpreters>
- <sup>22</sup> <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/law-enforcement-officer/>  
(Estimated based on G7 mid-point salary range for Tucson/Nogales in 2019)
- <sup>23</sup> [https://www.uscourts.gov/sites/default/files/cps\\_leo\\_tucson\\_2019.pdf](https://www.uscourts.gov/sites/default/files/cps_leo_tucson_2019.pdf)
- <sup>24</sup> [https://www.uscourts.gov/sites/default/files/2019\\_court\\_reporters\\_hired\\_on\\_or\\_after\\_october\\_11\\_2009.pdf](https://www.uscourts.gov/sites/default/files/2019_court_reporters_hired_on_or_after_october_11_2009.pdf)
- <sup>25</sup> <https://www.ziprecruiter.com/Salaries/Contract-Security-Officer-Salary>
- <sup>26</sup> In response to a Freedom of Information Act (FOIA) request we received this information for annual costs for custodial, energy, and maintenance/operations for the Tucson DeConcini Federal courthouse, although it was unclear which figure was for which service: \$1,804,700; \$2,730,975; \$14,814,312; \$17,142,466; \$418,671; \$427,045. These total \$37,338,169 annually.
- <sup>27</sup> This calculation begins with the cost of construction (\$17,200,000 in 2010 dollars <https://www.gao.gov/products/GAO-10-417> ). We adjusted this amount to \$13,260,000 for the value of 2000 dollars, which was the year when the courthouse was built.

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<sup>28</sup> This is a typical contracted rate for a private prisoner transportation company, for example, a 2016 Coconino County (Arizona) contract with Prisoner Transportation Services of America, LLC.  
<https://www.coconino.az.gov/DocumentCenter/View/13177/Binder3?bidId=>.

<sup>29</sup> Calculation based on:

- \$1.10 per detainee/mile (see previous citation)
- 74 miles from Border Patrol station to Florence, Arizona
- 35 detainees per day who must serve sentences -- an average calculated from sentences in Tucson Operation Streamline proceedings in March and April 2019.
- 250 days of Streamline per year
- 50% discount for multiple prisoners going to same location.

<sup>30</sup> The most recent advisory from the Administrative Office of the United States Courts, dated July 1, 2019, provides the following monthly cost data: (a) Bureau of Prisons Facilities: Daily \$103.00; Monthly \$3,121.00; Annually \$37,448.00. (Personal communication, October 16, 2019).

<sup>31</sup> This is the average number of days defendants in Tucson Streamline were sentenced during March and April 2019, as documented by End Streamline court observers.