

OPERATION STREAMLINE OVERVIEW

Green Valley-Sahuarita Samaritans

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Operation Streamline (OS) is a fast-track, *en masse* court proceeding created by the United States to prosecute large numbers of immigrants if they enter the U.S. without authorization. Up to 75 migrants a day are charged and sentenced within 2 ½ hours. Started in 2005 in Texas, the practice was adopted by other jurisdictions, including New Mexico, Arizona and California. Today, OS courts operate in Brownsville, McAllen, Laredo, Del Rio, Alpine and El Paso, TX; Las Cruces, NM; Tucson and Yuma, AZ; El Centro and San Diego, CA.

WHAT HAPPENS ON THE DAY of OPERATION STREAMLINE?

Each weekday morning, the defendants are brought to the courthouse to meet with their court-assigned Criminal Justice Attorney or the Federal Public Defender who provide legal advice free to the migrants. (Note: these are not Immigration lawyers). Each lawyer meets for about 30 minutes with each of the 4-6 defendants that s/he will represent.

The purpose of the morning meeting is to explain the plea bargain agreement to those charged with re-entry that they can sign prior to the afternoon hearing. Additionally, the lawyers make sure that each defendant is at least 18 years old, can understand English or Spanish (so they can understand the hearing that is translated into Spanish), and have no parents or grandparents that are US citizens (which could mean they have a claim to U.S. citizenship). During these discussions, the defendants can raise individual concerns: medical issues, family situations, mistreatment at the border or in their home country, or fear of returning to their home country.

During the afternoon hearing, the magistrate asks the defendants who have been charged with a **criminal petty offense** of illegal entry (8 USC 1325) to plead guilty to entering the U.S. illegally (outside an official port of entry). If so, they are convicted, given time served, a criminal record and turned over to Immigration for deportation. Those who are charged with both illegal entry and the **criminal felony offense** of re-entry (8-USC 1326) and have signed a **plea agreement**, plead guilty to illegal entry (the lesser charge). The felony charge is waived and they are sentenced from 30-180 days – usually in a private prison. Those who do not plead guilty, are assigned a date to be tried for the felony, which carries punishment of up to 2 years in prison.

CONCERNS ABOUT OPERATION STREAMLINE

Criminalization: In most countries (and in the U.S. until the last 30 years), unauthorized immigration is treated as a civil, not criminal, offense. A criminal conviction can prevent any future legal entry into the U.S.

Due Process: In OS, criminal attorneys represent up to 6 defendants each day and meet only briefly with each one to explain the plea deal, options, and the afternoon hearing process. There is little time to delve into individual case complexities and, without immigration law experience, these criminal lawyers might not advise their clients properly.

Defendant Comprehension: While the hearings are translated into Spanish, some defendant's first language is an indigenous language, not Spanish. These defendants could be excused if no translator is available. What is being explained to these defendants in one day is the complexity of the charge, the U.S. legal system, and the plea bargain. It's doubtful that everyone grasps the life-altering implications of the decision made here.

Costs: In the U.S, immigration prosecutions represent over half of the federal criminal docket. These unauthorized immigrants could be immediately deported but instead are sent to 30-180 days of detention. A 2019 study found that Tucson OS, just one of ten Operation Streamline courts along the border with Mexico, costs more than \$62 million a year.

Not a proven deterrent: The Department of Homeland Security's Office of Inspector General reported in 2015 that the Border Patrol did not have an adequate system in place to measure whether Operation Streamline succeeded in deterring unauthorized migrants. A 2018 report from the Vera Institute of Justice also found no evidence of a deterrent.

Loss of Valuables: Border Patrol confiscates all belongings (inc. money, belts, medicine, IDs) when migrants are apprehended. Some of these items disappear, and others may not be returned because the Border Patrol holds them for only 30 days. Deported Mexicans may find themselves without money or IDs in northern Mexico and no way to get home.

Asylum: Most days, OS has migrants who have expressed fear of returning home. They are told they must serve their OS prison sentence and then ask for a "credible fear" interview, the first step in seeking asylum. The Inspector General of the Department of Homeland Security reported in 2015 that this U.S. practice may violate international treaties we have signed.

RESOURCES – Operation Streamline, the Border, and Immigrants

Green Valley Samaritans: <https://www.gvs-samaritans.org/learn-more.html> (good list of resources and organizations)

Southern Poverty Law Center: www.splcenter.org

Transactional Records Access Clearinghouse, Syracuse University: www.trac.syr.edu

American Friends Service Committee: <https://afscarizona.org/resources/partners/end-streamline-coalition/>

"ACLU Fact Sheet: Criminal Prosecutions for unauthorized Border Crossing," ACLU. www.aclu.org/sites/default/files/field_document/15_12_14_aclu_1325_1326_recommendations_final.pdf

"The Deported: Immigrants Uprooted from the Country they call Home," Human Rights Watch, Nov. 2017.

"Immigration Prosecution Factory," Kino Border Initiative, November, 2017.

"The Rise in Criminal Prosecutions of Asylum Seekers," Human Rights First, 2017.

"Indefensible: A Decade of Mass Incarceration of Migrants Prosecuted for Crossing the Border," Grassroots Leadership, July, 2016. <https://grassrootsleadership.org/reports/indefensible-decade-mass-incarceration-migrants-prosecuted-crossing-border>

"How crossing the US Mexico border became a crime," The Conversation, April 30, 2017. <http://theconversation.com/how-crossing-the-us-mexico-border-became-a-crime-74604>

"Harvest of Empire: US involvement in Central American politics causes northern migration," You Tube, 1.5 hours.

"Shakedown: How Deportation Robs Immigrants of Their Money and Belongings," No More Deaths, 2014.

Arizona Week, Nancy Montoya, Causes of Central American refugees to the US. <http://playpbs.azpm.org/video/3007200818/>