

OBP 50/1-C

AUG 17 2010



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

MEMORANDUM FOR: All Chief Patrol Agents
All Division Chiefs
(b)(6),(b)(7)(C)

FROM: Michael J. Fisher
Chief
U.S. Border Patrol

SUBJECT: Transportation Check Operations

Transportation check (TC) is a critical component of our National Border Patrol Strategy. It directly supports our mission to prevent the entry of terrorists, terrorist weapons, smugglers, illegal aliens, and other contraband into the United States, as well as to deny further egress away from immediate border areas. It is an integral part of a layered enforcement approach that helps establish a substantial probability of apprehension, thus further deterring transnational criminal organizations who might otherwise attempt to circumvent linewatch and traffic check operations.

TC is the inspection of common carriers, such as buses, passenger and freight trains, aircraft, and watercraft to apprehend smugglers and illegal aliens who utilize these modes of transportation to further their illegal entry into the interior of the United States. This key enforcement tool is part of a defense-in-depth posture that effectively employs a minimum number of agents to accomplish substantial operational results, including a percentage of the arrests of illegal aliens from special interest countries.

Statutory authority for conducting inspections of common carriers is contained in 8 U.S.C. Sections 1225 and 1357 of the Immigration and Nationality Act. In broad form, the authority granted by these sections permits boarding and searching conveyances, including common carriers, for aliens. This authority has evolved from a series of court decisions interpreting these sections. If persons believed to be aliens are encountered during such inspections, they may be questioned regarding their right to be or to remain in the United States. Agents should be familiar with relevant sections of law and court decisions, as well as with (b)(7)(E) when performing TC operations.

Initial egress transportation hubs are not always located within the immediate border area or a Border Patrol Sector

(b)(7)(E)

(b)(7)(E)

Therefore, steady state operational plans for TC in immediate border areas will have predicate conditions relating to threats of illegal cross-border smuggling and illegal entry, [REDACTED]

(b)(7)(E)

[REDACTED] Other potential benefits and liabilities associated with planned TC efforts should also be considered.

(b)(7)(E)

Nothing in this guidance is intended to restrict the ability to conduct TC. Conducting these operations effectively requires proper planning and procedural compliance in order to ensure that we are operating within our legal authority and that the chain of command is well informed of any enforcement efforts that may have a national impact.

Chief Patrol Agents will ensure that all supervisors and agents under their command are aware of and in compliance with these requirements. Staff may direct questions to Associate Chief [REDACTED] (b)(6), (b)(7)(C) at [REDACTED] (b)(6), (b)(7)(C) or Assistant Chief [REDACTED] (b)(6), (b)(7)(C) at [REDACTED] (b)(6), (b)(7)(C) of the Strategic Planning, Policy and Analysis Division - Policy Branch.