



*United States Marshals Service
Office of Congressional Affairs*



Southwest Border – Detention Space Briefing Paper

Introduction

The United States Marshals Service (USMS) assumes custody of individuals arrested by all federal law enforcement agencies and is responsible for the housing and transportation of prisoners from the time they are brought into federal custody until they are either released on bond awaiting trial, acquitted, or incarcerated. The USMS does not have the option to release prisoners once they are remanded to its custody. The USMS does not maintain federal detention facilities, but depends upon the Federal Bureau of Prisons (BOP) to house approximately 22% of its detainees. The remaining detainees are housed in state, local, and private prison facilities. Nationally, the USMS has approximately 56,000 detainees in its custody, which is more than double the population a decade ago.

The prisoner population levels along the United States' Southwest Border (SWB) have been an area of particular concern to the USMS since 1994, when immigration initiatives began in that region. Today, approximately one-third of all USMS prisoners are housed in the five SWB districts.

Southwest Border

The USMS' five SWB districts include: the Southern District of Texas (S/TX), the Western District of Texas (W/TX), the District of New Mexico (D/NM), the District of Arizona (D/AZ), and the Southern District of California (S/CA). Currently, these five districts all fall within the top six USMS districts in terms of the largest prisoner populations, and together these five districts have an average of more than 17,000 prisoners in custody on any given day. The sheer number of prisoners in the custody of these five districts makes finding sufficient detention space on a daily basis particularly challenging.

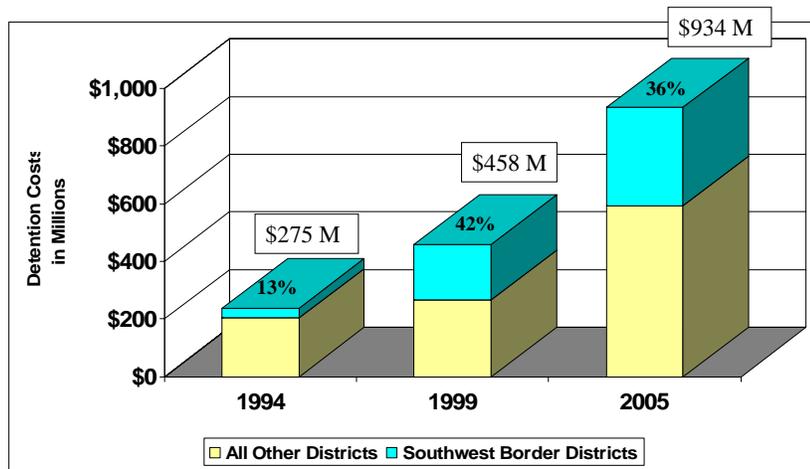
Since 1994, when the Southwest Border Initiative, also known as "Operation Gatekeeper" began, the USMS has seen dramatic population increases in these five districts. Prior to the implementation of Operation Gatekeeper, the USMS' five SWB districts comprised just 18% of the total USMS prisoner population with just over 3,500 prisoners. After September 11, 2001, the borders became of interest to national security, which focused on stopping illegal immigration as a means of increasing security for the Nation. The addition of

thousands of agents from the Department of Homeland Security’s (DHS) Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CPB) to the border has caused another increase in the number of illegal immigrants captured and detained along the Southwest Border, further contributing to increases in the USMS prisoner population. Additionally, the offices of the United States Attorneys in the Southwest Border States have lowered their thresholds for prosecution and have begun a “no tolerance” policy for illegal immigrants who cross the border. In 2004, the DHS began using augmented fingerprint analysis at the borders, which also has increased the number of illegal aliens caught and detained at the border.

Since 1994, the USMS has experienced unprecedented population increases resulting in a near quadrupling of the prisoner population in this region by 2004. Today, the SWB districts comprise one-third of the total USMS population with 17,000 prisoners in the custody of these five districts, an increase of 394% since FY 1994.

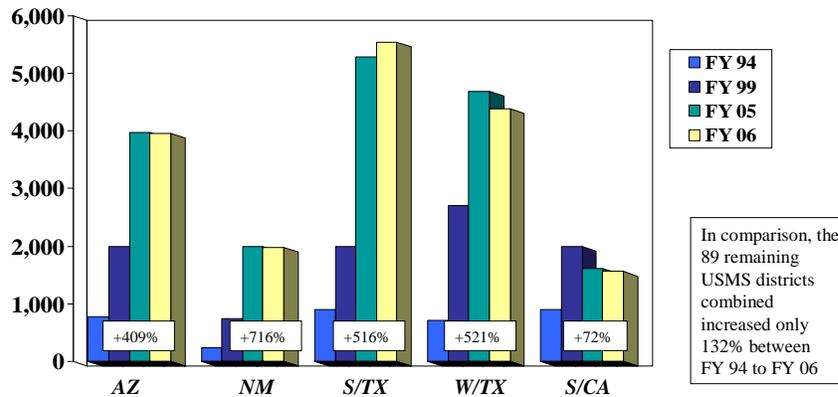
Obviously the cost to house such a large population is quite significant. In FY 2005, the five SWB border districts consumed \$341 million (or 36.5%) of all detention housing costs. This is even with the use of federal facilities in three of the districts which house close to 2,000 USMS prisoners at no charge to the USMS.

Southwest Border Districts Consume 36% of Detention Housing Costs in FY '05



State Analysis and USMS Actions to Combat Overcrowding

USMS Population Growth up 394% in Southwest Border Districts FY 94 – FY 06



Arizona – The district has experienced a 409% growth since FY 1994. Back in 1994, the D/AZ had an average of just 778 prisoners in custody; today that number stands at 3,960. The majority of the district’s prisoners are in USMS custody in two federal court cities – Tucson, which has responsibility for the custody of approximately 62% of the district’s prisoners, and Phoenix, which is responsible for 29%. These two federal court cities have seen their prisoner populations rise 320% and 589% respectively since 1994. The D/AZ continues to struggle with severe bedspace shortages due to this unprecedented population growth. Currently over 82% of the district’s population of nearly 4,000 is housed in a single private detention facility and another six percent in the Federal Correctional Institution (FCI) Tucson. The USMS will continue to look to the private sector to meet a growing percentage of its bedspace needs due to a lack of other available options.

California – The S/CA currently is responsible for the custody of nearly 1,600 federal detainees, a 72% increase since FY 1994. Approximately half of the district’s prisoners are currently housed at the Metropolitan Correctional Center (MCC) in San Diego, one-quarter are housed at a privately-operated detention facility in downtown San Diego, and another 16% of the prisoners are housed at another private facility in Otay Mesa, which is under contract with ICE.

New Mexico – The prisoner population in the District of New Mexico currently is near 2,000, and has experienced the greatest growth rate of all the SWB districts since FY 1994 – a 716% increase in the prisoner population. The majority of the D/NM’s prisoners are housed in two court cities: 55% in Las Cruces and 42% in Albuquerque. The district’s prisoners are housed in various facilities around the district, including several jails with Cooperative Agreement Program (CAP) bedspace guarantees and several more run by private operators.

Southern and Western Texas – These two USMS Southwest Border districts have experienced massive population increases and are the USMS’ two largest districts in terms of population levels. The S/TX (which is the USMS’ largest district) currently has more than 5,500 prisoners in its custody on any given day, an increase of more than 516% since 1994. In November 1999, the Metropolitan Detention Center Houston opened and currently houses 15% of the district’s population. While this facility has significantly improved the detention situation in the Houston area, it has not alleviated the housing shortages in the border cities of Brownsville/McAllen and Laredo which are responsible for the custody of 77% of the district’s prisoners. Due to space shortages, many of S/TX’s prisoners are housed outside of the district, which puts a further burden on the district when prisoners must be produced for their court dates.

The W/TX (which is the USMS’ second largest district) has approximately 4,400 prisoners in custody daily, a 521% increase since FY 1994. More than 72% of the prisoner population is held in the federal court cities of El Paso and Del Rio along the Mexican border.

Overall USMS actions to combat overcrowding in the Southwest Border Districts

The USMS has been very proactive in trying to keep pace with the demands being placed on the Southwest Border districts. To this end, the USMS notes the following actions to acquire detention space and keep overcrowding to an acceptable level:

- With the help of the Joint Automated Booking System (JABS) Program Office of the Department of Justice, Automated Booking Stations have been installed in all five Southwest Border districts. Use of JABS has increased the number of bookings accomplished in a day, reduced the time it takes to book a prisoner, and allowed for immediate criminal history returns for the prisoners.
- Because the USMS has a severe shortage of operational staff in the SWB Districts, transportation agreements have been established with many local and private jails, increasing the ability to safely and effectively transport prisoners to and from the courthouses.
- The USMS has had to contract for additional administrative support personnel for the Southwest Border Districts to handle the increased workload.
- Buses have been acquired to assist with large-scale prisoner movements.
- Special Justice Prisoner and Alien Transportation System (JPATS) air movements have been used to free up critical detention space. Funding for these movements was received from the Office of the Federal Detention Trustee in order to accomplish this important task, at a cost savings to the USMS.
- An agreement was reached with BOP on a Short Term Sentence (STS) Project, which stipulates that BOP designate sentenced prisoners quickly and assume the

cost for these sentenced prisoners. (Short Term Sentence prisoners are defined as those with less than one year to serve). These prisoners often serve their entire sentences while in USMS custody, contributing to jail space shortages and increased detention costs. It is anticipated that this project will be implemented in the Districts of Arizona, Southern Texas and Western Texas in FY 2006.

- The USMS continues to work with BOP and the Administrative Office of the U.S. Courts to ensure timely designation and movement of sentenced prisoners to BOP facilities.

Medical Concerns

In 1998, the USMS implemented a new Prisoner Tuberculosis Control Policy that has been very successful throughout the 94 USMS districts. The primary goal of the USMS Prisoner Tuberculosis Control Policy is to ensure that those USMS prisoners who have active tuberculosis (TB) disease are identified, isolated, and appropriately treated as soon as possible.

According to the Centers for Disease Control and Prevention (CDC), the incident TB case rate for the general population remained at fewer than 10 cases per 100,000 persons for the decade ending in 2003. However, the TB case rate per 100,000 people in 2004 was 4.9. The correctional population has received a significantly higher case rate with some reports reaching as high as 10 times the rates for the general population. Studies have found that the prevalence of latent TB infection among inmates may be as high as 25%.

Although the incidence of TB is relatively steady in the United States, the number of TB cases among foreign-born persons living in the U.S. continues to increase. In 2004, the portion of foreign-born persons with TB had grown to 54% – representing a 23% increase from the previous decade. Similarly, the percentage of foreign-born inmates with TB had increased from 15.5% to 40.3% showing a 24.8 % increase over the same time period. In 2004, foreign-born persons with TB in the U.S. were most commonly (25%) from the birth country of Mexico.

Local jails in particular have been implicated in TB transmission due to lack of adequate TB surveillance and control practices. A recently-published study of 300 TB cases reported in a county in Arizona from 1999-2000 found that 73 cases (or 24%) occurred in persons who had a history of incarceration in the county jail. This report highlights concern that tuberculosis infection spreads rapidly among the inmates and that short length-of-stay cases pose challenges in completing adequate screening and follow-up. There are also higher numbers of cases concentrated in pockets located in major metropolitan areas, and this increased prevalence is due, in large part, to the increased number of people with or at risk for HIV/AIDS infection.

Multi-drug resistant tuberculosis (MDR-TB) among the USMS prisoner population in the Southwest Border States continues to be a concern. Within the U.S., the proportion of MDR-TB cases was more common in foreign-born persons (1.3%) than U.S.-born persons (0.7%). This has been the trend from 1998-2003. In addition, TB drug resistance is higher among those who:

- have been exposed to MDR TB, especially if they have HIV infection or another immuno-compromised condition;
- have a previous history of TB and failed to take medications as prescribed;
- have been diagnosed with TB and were prescribed an ineffective treatment; or
- have previously been treated for TB.

Recent data shows that inmates with diagnoses of both HIV and TB in local jails and federal prisons stand at 12.4% and 9.3%, respectively.

MDR-TB can be prevented with initial treatment of those with TB with four medications and by direct observation administration of those medications. In addition, treatment regimens must be individualized and provided through consultation with experts in this field. These treatment challenges are compounded by the high cost of treatment. It has been estimated that treatment for one case costs up to \$1.3 million dollars. Critical elements to all of the TB treatment efforts are communication and collaboration between inmates, health departments, and corrections officials. Current efforts are directed to the coordination of case management and discharge planning for inmates that are released during TB evaluation or treatment and to improve TB case tracking efforts. These efforts require ongoing and timely collaboration between agencies, departments, and international TB advocate groups such as TBNET.

The number of TB cases reported in the Southwest Border States, especially in California and Texas, remains very high. From 1993 through 2003, data provided from the national TB surveillance system, found that these two states accounted for 42.7% of the reported 7,820 TB cases among inmates. According to the CDC Division of Tuberculosis Elimination, the number of reported TB cases has increased substantially in correctional facilities (200,648 cases in 2003) in some geographical areas in the United States. For example, in San Francisco, a TB case rate of 72.1 cases per 100,000 jail inmates was compared to the local population with a rate of 26.6 cases per 100,000.

In 2004, California and Texas had a case rate for the two states of 15.8 per 100,000. TB case rates per 100,000 decreased slightly in Arizona, from 5.3 in 2003 to 4.7 in 2004. In New Mexico, the rate decreased from 2.6 in 2003, to 2.2 in 2004.

California – Ranks 2nd in the U.S. with 2,989 reported TB cases in 2004 (8.3 per 100,000). This continues a decreasing trend from a high of 3,852 cases reported in 1998.

Texas – With a case rate of 7.5 per 100,000, Texas ranks 3rd in the U.S. with 1,683 reported cases in 2004. This is an increase from 1,649 cases reported in 1999.

Arizona – Ranks 14th according to case rate in the U.S. for states reporting TB cases in 2004. The number of reported cases of TB increased from 262 reported cases in 1999 to 272 in 2004 (4.7 per 100,000).

New Mexico – Compared to the other three bordering states, New Mexico has a much lower TB case rate (2.2 per 100,000 in 2004 down from 3.7 per 100,000 in 1999) and ranks 34th in the U.S. The state reported only 42 cases of TB in 2004, down from 64 in 1999.

Despite the continued decline of TB in the U.S., it continues to be a growing challenge in the correctional system. Relevant to the increased risk of TB in correctional facilities is the disproportionate number of inmates who often have co-factors of substance abuse, lower socioeconomic status, and inadequate health care access in the community. This multi-risk profile favors progression from TB latent infection to active TB disease. Critical elements of improved treatment outcomes include advancements in the communication and coordination of care needs across treatment arenas. TB control in the correctional setting remains a pressing public health issue.

Conclusion

The Department of Homeland Security has announced the creation of new Border Enforcement and Security Task Forces, part of DHS' Secure Border Initiative aimed at increasing control over the borders. These task forces are to include nationally-integrated teams of federal, state, and local law enforcement personnel that will specifically focus on cross-border criminal activity. It is anticipated that these task forces will initially be focused in Texas and Arizona.

The Southwest Border Districts will continue to face unprecedented prisoner populations as immigration/border security issues remain a top priority. Since the USMS relies heavily on state and local facilities to house the majority of its population, the Service will continue to face ongoing difficulties in its search for additional prisoner bedspace, as state and local prisoner populations rise, placing more of a demand on an already-limited supply of detention beds. At the same time, the USMS has confronted obstacles in securing funding for additional federal detention facilities which, in turn, have to compete for funding with federal prisons for sentenced prisoners. Consequently, the USMS has had to rely increasingly on the private sector to meet its requirements for additional bedspace, a trend which will continue.

The responsibility for the detention of prisoners is challenging in its diversity and complexity. In addition to securing housing for federal detainees, Deputy U.S. Marshals must resolve issues such as: arranging for the hospitalization and care of prisoners with terminal illnesses or contagious diseases; finding lodging for dependent children of prisoners and alien material witnesses; and deciding whether the USMS will grant the transfer of prisoners to state authorities pursuant to state writs.

During the 109th Congress, the Office of Congressional Affairs hopes to address the agency's Southwest Border detention concerns through increased Congressional outreach. For further information about prisoner services and other programs of the USMS, please call the Office of Congressional Affairs at (202) 307-9220.