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# **Tight Immigration Policy Hits Roadblock of Reality**

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McALLEN, Tex. - In September, domestic security officials promised to tighten control of the border with Mexico by swiftly deporting all illegal immigrants seized there, ending the practice of releasing thousands of illegal immigrants to the streets each year because of shortages of beds in detention centers.

The move was hailed by President Bush and Republicans in Congress, who said the policy would deter the surging numbers of illegal immigrants who cross the murky swells of the Rio Grande here or scramble across the border in Arizona and California. But in this border town on the front lines of the efforts to combat illegal immigration, some Border Patrol agents say they continue to face an uphill battle, with too many illegal immigrants and too few detention beds.

In the first three months of the 2006 fiscal year, the number of illegal immigrants from countries other than Mexico who were caught crossing the border surged nearly 30 percent compared with the corresponding period last year, notwithstanding hopes that the policy would deter such would-be immigrants.

Despite the promise of nearly 2,000 more detention beds to ensure that illegal immigrants do not flee before being deported, thousands continue to be released with notices to appear in court.

One morning in January, a month when, typically, relatively few illegal immigrants cross the river, no detention beds were available for women here and none for families, Border Patrol officials said.

Nationally, 18,207 illegal immigrants, nearly 60 percent of the total apprehended, were released on their own recognizance in the first three months of this fiscal year.

But officials say progress is clearly being made. The number of illegal Brazilian immigrants apprehended soared last summer but plunged more than 90 percent in the month after the strict detention and deportation policy started. The number of illegal immigrants from Honduras who were caught dropped 33 percent.

Officials remain confident that the policy will be applied across the board by October, as planned.

Some Congressional analysts and immigration agents remain doubtful about meeting the deadline.

To illegal immigrants seized these days, the decision to release or deport often seems to depend on luck.

Sebastián Zapeta Toc, 25, a Guatemalan who paddled across the Rio Grande in an inner tube, was snared under the strict deportation policy, known as expedited removal. Mr. Zapeta Toc was told that he would be detained and deported without seeing an immigration judge.

"We're going to send you back to your country," a border agent, Jaime Sanchez, told him.

On the same day, 12 illegal Chinese immigrants, including three young women who dreamed of catching a bus to New York, were released with notices to appear in court. A woman from El Salvador who sorted coffee beans there, and three people from Eritrea were also released.

Statistics show that 70 percent of these immigrants, classified by domestic security officials as "other than Mexican" or "O.T.M.'s," fail to appear for their court dates.

Mexicans continue to arrive in much larger numbers than citizens of other countries. Apprehensions have remained mostly stable for three years, officials said, and 90 percent of illegal immigrants from Mexico are returned within hours of capture. But the number of non-Mexicans crossing the border illegally has soared after smugglers learned that illegal immigrants were being released upon being seized, officials said.

The officials said the number of illegal immigrants released with court notices would continue to decrease as new beds become available. Speedier deportations will also free up beds, they added.

A study released last fall by the Congressional Research Service, an arm of Congress, said officials would still "not have enough beds to accommodate every O.T.M." this year, even with the added slots.

Some immigration agents fear that the bed shortage will worsen in the spring and summer, when illegal immigrants' crossings typically increase. Officials acknowledge that the shortage of detention space has forced them to detain some groups of illegal immigrants, primarily Central Americans, who arrive in the largest numbers, while releasing others.

But even with the difficulties, officials say they are moving more aggressively than before.

The number of people processed through expedited removal increased to 10,607 in the first quarter of this fiscal year, up from 4,227 in the first quarter of last year, official figures show.

Although the number of illegal immigrants released on their own recognizance remains high, it is not as high as last year. In the 2005 fiscal year, 70 percent of illegal immigrants classified as "other than Mexican" were released.

" 'Catch and release' has been reduced dramatically," said the chief of the Border Patrol, David V. Aguilar.

Chief Aguilar said officials were working to address the shortage of detention space and to streamline deportations by encouraging nations to accept their citizens more readily when they are returned.

"The commitment has been to go from a situation of 'catch and release' to a situation of 'catch and remove,' " Chief Aguilar said. "And that's the direction we're moving in."

A spokeswoman for the White House, Erin Healy, said President Bush was encouraged by the decline in the number of Brazilians who have been seized.

"When illegal immigrants know they will be caught and sent home promptly," Ms. Healy said, "they're going to be less likely to cross the border illegally in the first place."

T. J. Bonner, the president of the union of Border Patrol agents, said many agents remained frustrated.

"They're claiming that they're placing everyone into expedited removal, and that that will solve the problem," Mr. Bonner said. "The truth is that we simply don't have the detention space to hang on to people in any substantive manner to deter anyone from coming into this country."

The problem has ballooned as tens of thousands of illegal immigrants from countries like Brazil and El Salvador, along with others as far afield as India and Romania, wade into the rushing river here in hopes of reaching the United States.

In the 2003 fiscal year, 49,545 illegal immigrants from countries other than Mexico were seized crossing the Southwestern border. By the 2005 fiscal year, which ended last September, the figure had jumped to 155,000. In addition, concerns have been growing about the possibility of border crossings by gang members and terrorists.

Border Patrol agents say smugglers have been quick to find loopholes in the new rules.

In recent months, some illegal immigrants have begun claiming to be from El Salvador because a court ruling from the 1980's, when civil war wracked that country, requires officials to allow Salvadorans to see judges before deportation. Domestic security officials are trying to change that.

And the shortage of detention space for families has led to an increase in the number of unrelated illegal immigrants who say they are families.

"It filters back," said Ed Payan, assistant chief of the Border Patrol station here. "They know who is being let go."

Such loopholes have left holes in what many frustrated agents had hoped would be a consistent, tough policy. The problem has led to startling divergences of fate for illegal immigrants in the hands of the Border Patrol.

Mauricio Peña and Floridalma Escalante Marroquín said they had made much of the long, hard journey through Mexico toward the United States together. Mr. Peña had hoped to find work in Houston. Ms. Escalante had hoped to reunite with a sister in Los Angeles. In January, they were caught heading into Texas. They figured they would be sent home.

But Mr. Peña, 19, is from Honduras. Ms. Escalante, 35, is from El Salvador. He was shipped to a detention center to be processed for deportation. Ms. Escalante was released to the streets, free to find her way in the United States.