

HOW THE OBAMA ADMINISTRATION INFLATES DEPORTATION STATISTICS

- Removal numbers have traditionally consisted of legal immigrants who have committed crimes, those who overstay visas, or illegal aliens caught inside the country.
 - The immigration statistics yearbook states that removals are the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal.
 - An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal.
- In the past, removal numbers did not include “returns,” who are Mexican nationals caught illegally crossing the border by the Border Patrol and returned.
 - According to the yearbook, returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal.
 - Most of the voluntary returns are of Mexican nationals who have been apprehended by the U.S. Border Patrol and are returned to Mexico.
- **The Obama administration has started counting certain “returns” as “removals” in order to artificially inflate the numbers and create a “record level” of deportations.** Specifically, those caught by the Border Patrol who are shuttled to a different town along the border before they are returned are being dishonestly counted as deportations. **This has falsely increased the number of total removals by more than 100,000 for the past two years.**
- **In fact, if we count removals and returns together historically, then the Obama administration numbers are not close to “record-setting.” In the 1990s, the totals of returns and removals were well over one million. For example, according to the yearbook of immigration statistics, in 1996, removals and returns numbered more than 1.6 million, up from more than 1.3 million in 1995.**
- In an October 2011 roundtable with Hispanic reporters, President Obama himself said the deportation numbers were artificially high because they include those caught at the border:

“The statistics are actually a little deceptive because what we’ve been doing is, with the stronger border enforcement, we’ve been apprehending folks at the borders and sending them back. That is counted as a deportation, even though they may have only been held for a day or 48 hours, sent back –that’s counted as a deportation.”¹

- On January 31, 2013, White House domestic policy chief Cecilia Muñoz – formerly the Senior Vice President for the Office of Research, Advocacy and Legislation at the National Council of La Raza – blamed Congress for the “record” number of deportations carried out by the Obama administration:

“The government’s job is to do what Congress tells it to do. Congress, under the immigration laws that we’ve got now, Congress requires us to remove people who are removable and gives DHS, frankly, a whole lot of resources to do that job. DHS’s job is to make sure they make the best possible decisions on how they use those resources.”

The Washington Post Reveals the Fraud

- In December 2010, the *Washington Post* revealed that U.S. Immigration and Customs Enforcement (ICE) had included more than 19,000 illegal immigrants who had exited the country in the previous fiscal year in its deportation statistics for the current (2010) fiscal year.
 - On February 22, 2010, ICE Detention and Removal Operations issued a memo stating that, despite record deportations of criminals, the overall number of removals was down.
 - According to the memo, while ICE was on pace to achieve “the Agency goal of 150,000 criminal alien removals” for the year ending September 30th, total deportations were set to barely top 310,000, “*well* under the Agency’s goal of 400,000” and nearly 20 percent below the 2009 total of 387,000.
 - The memo also explained how ICE would inflate the number: increasing detention space to hold more illegal immigrants while they await deportation proceedings; sweeping prisons and jails to find more candidates for deportation and offering early release for those willing to go quickly; and a surge in efforts to catch illegal immigrants who lied on immigration or visa applications or reentered the U.S. after being deported.
- The memo also encouraged field directors to “maximize” participation in the Mexican Interior Repatriation Program (MIRP), a bilaterally voluntary program

¹ <http://www.washingtontimes.com/news/2011/oct/5/napolitano-us-will-set-record-deportations-2011/#ixzz2JtRHHAhH>

that attempts to quickly return Mexican nationals found unlawfully in the Sonora Arizona desert region of the U.S. to their places of origin in the Mexican interior. The program is run by ICE, the Mexican Ministry of Foreign Affairs and the Mexican Ministry of the Interior.

- Under this program, aliens caught by U.S. Border Patrol agents are turned over to ICE to carry out the returns.
- Since MIRP's inception in 2004, the program had never started earlier than July 7th each year.
- In 2010, the first group returned to Mexico on June 1st. By starting in June, ICE tallied 6,527 returns that in the past would have been handled and counted by the U.S. Border Patrol.²
- In total, 23,384 Mexicans between June and September of that year accepted flights back to Mexico City and then a bus ticket to their home town at a cost of almost \$15 million.³ An ICE spokesman claimed the agency started the program early because of available funds and a timely agreement between the U.S. and Mexico.
- According to the *Washington Post*, internal emails showed that when ICE officials realized in the final weeks of the fiscal year, which ended September 30th, that ICE's numbers would fall short of the previous year's mark, they quietly directed immigration officers to bypass immigration courts whenever possible and encourage eligible foreign nationals to agree to voluntarily return to their countries without a negative mark on their immigration record.
 - **This allowed hundreds of immigrants who typically would have gone before an immigration judge to contest deportation offenses such as drunk driving, domestic violence and misdemeanor assault to leave the country without a statutory civil or criminal bar for applying for legal residence or traveling to the U.S. in the future.**
 - According to the emails, once ICE met its goals for 2010, it directed agents to stop offering voluntary returns and revert to business as usual.
- According to an October 1, 2010 email obtained by the *Washington Post*, an acting ICE assistant director cheered field directors on to the finish line: "We are just 106 shy of 390,000. However, we still get to count closed cases through

² Becker, Andrew, "Unusual Methods Helped ICE Break Deportation Record, E-mails and Interviews Show," *Washington Post*, December 6, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/05/AR2010120503230.html>.

³ *Id.*

Monday, October 4th so... keep having your folks concentrate on closing those cases.”

- Prior to the Obama administration, when an alien exited the country in a fiscal year, but their case remained open, that departure was counted in the year in which it took place, or not at all.
 - Starting in 2009, ICE stopped counting deportations for the fiscal year ending September 30th in the first few days of October. Any deportations that take place in one fiscal year but are confirmed after October 5th are added to the next fiscal year’s statistics.
 - Based on the new accounting approach, ICE was able to 19,422 removals from 2009 in the 2010 statistics. In 2010, 373,440 other people were deported.
 - **If ICE had not included the 19,422 departures, removals would have fallen by almost 16,000 from the previous year and by about 20,000 in 2009.**
- At a news conference on October 6, 2010, ICE Director John Morton said that no unusual practices were used to break the previous year’s mark: “When the secretary tells you that the numbers are at an all-time high, that’s straight, on the merits, no cooking of the books. It’s what happened.” **However, Chris Crane, President of the ICE Union, stated that offering voluntary return was not a common practice and that it was “breaking the rules to break the record.”**
 - On October 5, 2011, Secretary Napolitano announced that a “record” 195,000 convicted criminals had been removed in 2010. **However, DHS’s Office of Immigration Statistics (OIS) reported that only 168,532 convicted criminal aliens were removed in 2010.**⁴ Napolitano also announced that there were 392,862 aliens removed from the country in 2010, **while OIS reported 387,242 removals.**
 - The primary reason for the difference is that Napolitano is using the numbers reported by ICE, which uses different methodology than the OIS whose numbers are arguably more accurate.
 - OIS has used a consistent methodology to calculate immigration statistics, while ICE has changed its methodology for the sole reason of meeting numerical outputs.

⁴ DHS Office of Immigration Statistics, Annual Report on Immigration Enforcement Actions: 2010, June 2011.

- The only possible reason to reject the OIS numbers is to give the appearance that DHS is deporting illegals in record numbers. Although OIS does not keep track of paroles and deferments, its numbers are a more accurate reflection of this administration's failure to enforce immigration laws.
- According to OIS statistics, the number of removals from 2009 has decreased by 7,923 and returns have decreased by 109,759. The number of arrests made by DHS has decreased 66% from about 1.8 million in 1999 to about 600,000 in 2010.⁵ While prosecutions increased slightly in the years prior to 2005, the general trend has been downward for at least ten years.

Padding the Numbers: The Alien Transfer Exit Program

- Since 2011, the Obama administration has counted removals from the Alien Transfer Exit Program (ATEP) as ICE deportations, which artificially inflates ICE removal numbers.⁶ According to a source in a Border Patrol field office, **“the only reason this group [in the ATEP] program is in detention at all is for the purpose of padding ICE’s year-end removal statistics.”**
 - Created in 2008, ATEP is a program that moves Mexican nationals apprehended in one Border Patrol Sector to another Sector before removing them to Mexico. There are no penalties or bars attached when illegal immigrants are sent back via ATEP and they can simply attempt re-entry. As a result, illegal immigrants who are subject to ATEP can return to the U.S. numerous times only to be counted as removals each successive time they reenter illegally and are apprehended at the border.⁷
 - From 2008 to 2011, apprehensions through ATEP were counted in the U.S. Border Patrol’s statistics, not ICE’s statistics. However, in 2011, the Obama administration started including ATEP apprehensions by CBP in ICE’s deportation statistics.
 - In the first seven months of 2012, ICE reported 221,656 arrests (ICE apprehensions in the interior of the country), yet reported 334,249 removals (deportations). The 112,000 additional removals were from the ATEP (72,030) and an unknown source (40,000).⁸ Thus, ICE removal statistics had over 112,000 deportations included that previously had never been counted in its deportation statistics.

⁵ *Id.*

⁶ Lamar Smith, Press Release, “Administration Cooks the Books to Achieve Deportation Numbers,” available at http://judiciary.house.gov/news/082412_Administration%20Cooks%20the%20Books.html

⁷ DHS, Apprehension by U.S. Border Patrol 2005-2011, at 1; available at <http://www.dhs.gov/xlibrary/assets/statistics/publications/ois-apprehensions-fs-2005-2010.pdf>

⁸ *Supra* n.6.

- In 2008, official ICE removals totaled 369,221; in 2009, 389,834; in 2010, 392,862; in 2011, 396,906; and in 2012, 409,849.
- However, when ATEP removals are subtracted from ICE's removals total, the 2011 number drops from 396,906 to roughly 360,319, and the 2012 number drops from 409,849 to 324,299.
- Therefore, if the ATEP removal numbers are subtracted from ICE's 2011 removal numbers, total removals are 2.5% below 2008 levels, 7.5% below 2009 levels, and 8.3% below 2010 levels.
- If the ATEP removal numbers are subtracted from ICE's 2012 removal numbers, total removals are 12% below 2008 levels, 16.9% below 2009 levels, and 17.5% below 2010.

Year	ICE Reported Total	Actual Total (excluding ATEP Removals)
2008	369,221	n/a
2009	389,843	n/a
2010	392,862	n/a
2011	396,906	360,319
2012	409,849	324,299

Padding the Numbers: The Mexican Interior Repatriation Program

- From 2009 through 2011, the Obama Administration resumed a voluntary humanitarian interior repatriation program called the Mexican Interior Repatriation Program (MIRP).⁹ First initiated in 2004, MIRP voluntarily returned Mexican nationals apprehended by the U.S. Border Patrol in the Yuma and Tucson sectors.
- Since 2008, MIRP statistics have been included in ICE's overall removal numbers. Without this program, the deportations statistics would be tallied by the U.S. Border Patrol instead of ICE.¹⁰
 - Since 2004, more than 116,000 Mexican nationals have been returned under MIRP.¹¹

⁹ National Immigration Reform, Analyzing Border Enforcement Operations, at 2; http://www.immigrationforum.org/images/uploads/2012/MIRP_Analysis_12-04.pdf.

¹⁰ <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/05/AR2010120503230.html>

- In 2009, MIRP returned 10,560 illegal Mexican nationals.¹² MIRP accounted for 2.7 percent of ICE removals (389,834).¹³
- In 2010, MIRP returned a record 23,384 illegal Mexican nationals.¹⁴ Over 6,500 of those illegal Mexican nationals were included by running the program five weeks longer than it had previously run.¹⁵ MIRP accounted for over 6 percent of ICE removals in 2010 (392,862).¹⁶
- In 2011, MIRP returned 8,893 illegal Mexican immigrants.¹⁷ MIRP accounted for just over 2 percent of ICE removals in 2011 (396,906).¹⁸
- When both ATEP and MIRP removals are subtracted from ICE’s published removal totals, the 2011 removal total drops from 396,906 to roughly 351,426 – 4.9% below 2008 levels, 10% below 2009 levels, and 11.5% below 2010 levels.

Year	ICE Reported Total	Actual Total (excluding ATEP and/or MIRP Removals)
2008	369,221	n/a
2009	389,843	379,274
2010	392,862	369,478
2011	396,906	351,426
2012	409,849	324,299

¹¹ U.S. Immigration and Customs Enforcement, Press Release, “United States, Mexico resume voluntary interior repatriation program,” available at <http://www.ice.gov/news/releases/1009/100930tucson.htm>

¹² House Appropriations Subcommittee Hearing, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS, available at <http://www.gpo.gov/fdsys/pkg/CHRG-112shrg64603/html/CHRG-112shrg64603.htm>

¹³ U.S. Immigration and Customs Enforcement, Deportations Statistics, at 1, available at <https://www.ice.gov/doclib/about/offices/ero/pdf/ero-removals1.pdf>

¹⁴ U.S. Immigration and Customs Enforcement, Press Release, “ICE announces results of repatriation program,” available at <http://www.ice.gov/news/releases/1009/100930tucson.htm>

¹⁵ *Supra*, n.12.

¹⁶ *Supra*, n.13.

¹⁷ Department of Homeland Security, Budget-in-Brief Fiscal Year 2013, at 97; available at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-budget-in-brief-fy2013.pdf>

¹⁸ *Supra*, n.13.