



-Mile Rule

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Background

8 U.S.C. § 1357(a)(3) addresses CBP offic authority to stop and conduct searches on vessels, trains,

Without further statutory guidance, regulations alone expansively

agency official sets a shorter distance.¹ CBP agents can also even enter private property without a warrant (excepting dwellings) within 25 miles of any border. In this 100-mile zone, CBP has claimed certain extra-constitutional powers. For instance, Border Patrol claims the authority to operate immigration checkpoints. Agents, nevertheless, cannot pull anyone over without "reasonable suspicion" of an immigration violation or crime (more than just a "hunch"). Similarly, courts have determined that outside of Ports of Entry Border Patrol cannot search vehicles in the 100-mile zone without a warrant or "probable cause" (a reasonable belief, based on the circumstances, that an immigration violation or crime has occurred). In practice, Border Patrol agents routinely ignore or misunderstand the limits of their legal authority, violating the constitutional rights of innocent people. Although the 100-mile border zone is not literally "Constitution-free," CBP frequently acts like it is.

As a result, two-thirds of the U.S. population, or approximately 200 million people, are potentially subject to so-

Consequences of CBP Operations Far Removed from the Border

As a result of regulations issued interpreting 8 U.S.C. § 1357(a)(3), CBP can and does conduct operations far removed from the border and on roads with no immediate border access, where encounters with non-border crossers, including U.S. citizens and permanent residents, are the norm, and notwithstanding that primary responsibility for interior enforcement rests with a different agency – Immigration and Customs Enforcement (ICE). These non-border operations by CBP may force residents to encounter CBP enforcement regularly while moving about their home county, including on their way to and from work. ***Allowing CBP to divert its attention from the border distracts from its primary mission and results in***

other constitutional violations. For example:

-Between 2006 and 2010 in the Rochester, NY, area, approximately 300 immigrants with legal status were arrested by Border Patrol agents, then released. The arrests coincided with an incentive program that rewarded agents with cash bonuses and Home Depot gift cards based on the number of arrests they made.⁵

-According to the ACLU of Arizona, in Tucson, community members report CBP agents entering courthouses and hospitals (including maternity wards) and approaching and interrogating hospital patients, motorists, and pedestrians. A patient at University of Arizona Medical Center was reportedly forced to deliver her child with a CBP agent in the room. CBP agents in Tucson

-In *United States v. Venzor-Castillo*, the Tenth Circuit ruled that a Border Patrol search 235 miles

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will increase *Id.* at 639.

-The Fifth Circuit regards the distance from the border as a vital element in evaluating the reasonableness of a Border Patrol stop. *See U.S. v. Rubio-*