

**U.S. Customs and Border Protection
Detroit Field Operations**

**Border Search/Examination of Documents, Papers, and
Electronic Information (b)(2) & (b)(7)(E)**
Standard Operating Procedures
October 24, 2007

1. PURPOSE

The purpose of this document is to provide additional operational guidance on the review and retention of paper documents as well as information in electronic devices (e.g., laptop computers, cell phones, MP3 players) and electronic storage media (e.g., DVDs, CDs, diskettes, memory cards/sticks, thumbnail drives) (collectively, "electronic devices")

as outlined in Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information (b)(2) & (b)(7)(E) (Appendix 1)

The following procedures are to be adhered to in response to faxing, copying and otherwise obtaining any information from a traveler and transmitting the information to an alternate requesting government agency.

2. OVERVIEW

CBP's information handling authority under the customs laws is currently reflected in CD 3340-006A, *Procedures for Examining Documents and Papers*. (b)(2) & (b)(7)(E)

These procedures incorporate CBP authority under customs, immigration, and other laws.

3. PROCEDURES

Upon the notification to copy or transmit documentation or information to other agencies for consultation or for technical assistance, the following actions will be taken.

a) If the requesting official is on site:

1) Complete a CF 6051S to capture information concerning the documentation or information to be transmitted. (Appendix 2)

2) Complete the "Document and Electronic Media Transmittal Record" (6051 Addendum). (Appendix 3)

3) Obtain a signature on the "Document and Electronic Media Transmittal Record" from the representing agency official (Item 10).

4) Attach the "Document and Electronic Media Transmittal Record" to the CF 6051S and forward to the port coordinator or appropriate officer responsible for tracking the process locally.

5) The port coordinator or appropriate officer will enter the information onto the Detroit Field Office spreadsheet (see Appendix 4 and Section 4) and maintain the corresponding documentation. Both the Field Office and the port will monitor the spreadsheet entries to ensure the ports are in compliance with the required timelines outlined in the legal guidance section of the Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information (b)(2) & (b)(7)(E) (15 days from transmittal with no more than 7 day extensions).

b) If the requesting official is not on site:

1) Inform the requesting agency official that a "Chain of Custody Receipt" is required before the information may be transmitted.

2) Complete a CF 6051S to capture information concerning the documentation of information to be transmitted.

3) Fax or forward the "Document and Electronic Media Transmittal Record" to the requesting official for signature. Instruct the official that the form must be signed and returned either by fax or mail, prior to any transmission of information or documentation.

4) Upon the signed receipt of the "Document and Electronic Media Transmittal Record" from the requesting agency, complete a CF 6051S to capture information concerning the documentation or information to be transmitted.

5) Attach the "Document and Electronic Media Transmittal Record" to the CF 6051S and forward to the port coordinator or appropriate officer responsible for tracking the process locally.

6) The port coordinator or appropriate officer will enter the information onto the Detroit Field Office spreadsheet (see Appendix 4 and Section 4) and maintain the corresponding documentation. Both the Field Office and the port will monitor the spreadsheet entries to ensure the ports are in compliance with the required timelines outlined in the legal guidance section of the Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information (b)(2) & (b)(7)(E) (15 days from transmittal with no more than 7 day extensions).

4. TRACKING

To ensure uniformity, ports will use the Field Office tracking spreadsheet (Appendix 4) saved on (b)(2) & (b)(7)(E) drive. Ports will be required to submit the names of a primary and secondary officer who will be given access to the tracking spreadsheet. These officers will be required to maintain and update their entries in the spreadsheet.

5. NOTIFICATIONS

0006 No traveler information may be reviewed or retained in contravention of the above provisions, unless approved in advance by the Director, Field Operations, in consultation with the appropriate Associate/Assistant Chief Counsel.

Attachments

Appendix 1: Interim Procedures for Border Search/Examination of Documents, Papers, and Electronic Information (b)(2) & (b)(7)(E)

Appendix 2: CF 6051S

Appendix 3: Document and Electronic Media Transmittal Record (6051 Addendum)

Appendix 4: Detroit Field Office tracking spreadsheet

Appendix 1

**Interim Procedures for Border Search/Examination of Documents, Papers,
and Electronic Information** (b)(2) & (b)(7)(E)

The purpose of this document is to clarify operational guidance with respect to the review and retention of paper documents as well as information in electronic devices (e.g., laptop computers, cell phones, MP3 players) and electronic storage media (e.g., DVDs, CDs, diskettes, memory cards/sticks, thumbnail drives) (collectively, "electronic devices")¹ (b)(2) & (b)(7)(E)

(b)(2) & (b)(7)(E). CBP's information handling authority under the customs laws is currently reflected in CD 3340-006A, *Procedures for Examining Documents and Papers*. CBP also has broad authority respecting documents under the immigration laws, which has not been fully integrated into CBP policy.

(b)(2) & (b)(7)(E)

(b)(2) & (b)(7)(E) These interim provisions incorporate CBP authority under customs, immigration, and other laws.

1. Initial Review.

Absent individualized suspicion, paper documents and electronic devices may be reviewed in the course of administering customs, immigration, or other laws enforced or administered by CBP.³

2. Copying and Transmitting

a. Consistent with existing policy, where technical assistance is necessary to determine the existence of a violation of customs, immigration, or other law enforced or administered by CBP, officers may copy and transmit documents and information in electronic devices to an appropriate agency or entity *without individualized suspicion*. This may be the case where translation is required to decipher the contents of a document.

b. Except as provided in the preceding subsection, officers may copy and transmit documents and information from electronic devices only where there is *reasonable suspicion* that (b)(2) & (b)(7)(E) the information may relate to, terrorist activities or other unlawful conduct. Reasonable suspicion is not required if (b)(2) & (b)(7)(E) consents to copying and transmission.

¹ The guidance in this memorandum does not pertain to notes, reports, or other impressions recorded by CBP officers in the course or as the product of a border encounter.

² (b)(2) & (b)(7)(E)

³ Note that existing provisions from CD 3340-006A, and the International Mail Operations and Enforcement Handbook, CIS HB 3200-006A, remain in place regarding the opening of sealed letter class mail, including the prohibition against reading correspondence therein. With respect to information other than letter class mail, officers may read correspondence that appears to bear upon a determination under the laws enforced or administered by CBP. In addition, existing guidance from CD 3340-006A remains in place, (b)(2) & (b)(7)(E), regarding attorney-client privileged information; any claim of attorney-client or attorney work product privilege with respect to information encountered in the border context should be coordinated with the appropriate Associate/Assistant Chief Counsel.

(b)(2) & (b)(7)(E)

3. Retention, Seizure, and Destruction.

- a. CBP may retain relevant information in DHS and CBP record systems such as TECS, the immigration A-file system, or related systems, to the extent authorized by law. Nothing in this policy guidance alters existing policies and procedures for retaining documents and information in the immigration A-file system or related systems.
- b. Copies of documents or information from electronic devices provided to another agency or entity for the purpose of rendering technical assistance shall be returned to CBP as expeditiously as possible.⁴ Where information is returned to CBP and determined to be of no relevance to customs, immigration, or any other laws enforced or administered by CBP, that information will be destroyed.
- c. There may be situations where an agency or entity, in furtherance of its respective mission, wishes to retain or disseminate copies of the information provided to it by CBP for technical assistance. Any such retention and/or dissemination will be governed by that agency or entity's existing legal authorities and policies, including concerning periodic reviews of retained materials to evaluate and ensure continued relevancy.

* * *

The above guidance does not alter the authority or ability of officers to seize, disseminate, or retain documents and information in electronic devices (b)(2) & (b)(7)(E) where there is probable cause to believe that such documents or information constitute evidence of a crime or are otherwise subject to seizure and forfeiture.

This guidance is intended to augment and clarify paragraphs 6.5.2, 6.5.3, and 6.9.11 of CBP Directive 3340-021B, *Responding to Potential Terrorists Seeking Entry Into the United States* (September 7, 2006). CBP officers and agents, in (b)(2) & (b)(7)(E) and otherwise, must give particular consideration to this guidance in determining how to implement (b)(2) & (b)(7)(E) from other agencies regarding the collection of information from a given traveler. Field offices are responsible for the development of an appropriate mechanism to ensure the proper tracking of information processed pursuant to this memorandum. No traveler information may be reviewed or retained in contravention of the above provisions, unless approved in advance by the Director, Field Operations in consultation with the appropriate Associate/Assistant Chief Counsel.

⁴ This period of time, unless otherwise approved by the DFO in consultation with the appropriate Associate/Assistant Chief Counsel, shall be not longer than 15 days from transmittal to the assisting agency, with that time period subject to extensions, in increments not longer than 7 days that are requested and justified by the assisting agency.

CUSTODY RECEIPT FOR SEIZED PROPERTY AND EVIDENCE

Instructions

NOTE: Narcotics, currency, monetary instruments, DEA samples, and evidence to be used in court must be transferred on a separate CF 6051S. Initiate a separate CF 6051S or D when this form is used for property transfer to the contractor. When initiating a separate CF 6051S or D, ensure that the line item number corresponds to the line item number in SEACATS.

BLOCK DESCRIPTIONS (Fill in all sections that apply)

Block 1. FPF No.

(b) (2)

Enter the 16-digit system generated FPF Case Number.

Block 4. Detention seizure

Enter an "X" in the block if property had been DETAINED prior to

and attach Detention Notice (CF 6051D). List CF 6051D, if applicable.

Block 5. Date

Enter the date of seizure in month/day/year.

Block 6. Time

Enter time of incident in 24 hour format (e.g. 1600).

Block 7. FDIN/Misc. number)

Federal Drug Identification Number/Misc. (Other agency case

Block 8. Seized from

Enter the name, address and telephone number of the person whose property has been seized.

Block 9. Entry No.

Enter the Entry number.

Block 10. Seal and Other I.D. No.

Enter Baggage Claim Number, Evidence Bag Number, Customs seal, or any other identification attached to the property.

Block 11. Remarks

Enter any remarks which may be relevant or which may be of assistance in storing or maintaining the property. **Reference any previous CF 6051S serial number.**

Block 12. Send Correspondence to

Enter the local Customs office, SAIC, Port, or FPF address, as appropriate.

Block 13. Property

For non-S/A/S evidence, complete sections as appropriate (OI/IA use). Information entered in items 13a through 13d should be the same as entered in SEACATS. See examples below:

Line Item No.	Description	Packages No. / Type	Measurement Qty / UM	Line Item No.	Description	Packages No. / Type	Measurement Qty / UM
1	Cocaine 50 bricks in 5 boxes	5 / boxes	100 / Kg	2	Shirts	10 / Cartons	1000 / Ea.

Block 13a. Line Item No.

Group items by tariff number or SEACATS category code. Line item number corresponds to the line item number in SEACATS.

Block 13b. Description

Enter a brief description of the seized item.

Block 13c. Number & Type of Packages

Enter the number and type of packaging containing the property. (e.g. BX=box, BA=bale, EN=envelope)

Block 13d. Quantity and Unit of Measurement

The block contains the quantity of the seized item given in the units of measure entered in the Unit of Measurement block. For NARCOTICS, the net weight is entered.

Block 13e. Estimated Domestic Value

Enter the estimated domestic value of the item seized.

Block 14. Seizing Officer

Printed name and signature of Seizing Officer and date (the first officer taking custody of the property). This initiates the Chain of Custody for all items described in block 13. Signature is for ALL line items, including any CF 6051A continuation sheet(s).

Block 15. Acceptance Chain of Custody

Block 15a. Line Item No.

Enter the line item numbers from block 13 being accepted.

Block 15b. Description (e.g. 1,2,3 and 5; or 1-3, 5)
Specify item(s) being accepted. The word "ALL" or equivalent is NOT acceptable.

Block 15c. Print Name Print the name, title and organization of the individual accepting custody of item(s).

Block 15d. Signature Have the individual accepting custody of item(s) sign in this block.

Block 15e. Date Enter date custody is accepted.

Appendix 3

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**DOCUMENT AND ELECTRONIC MEDIA TRANSMITTAL RECORD**
(ADDENDUM TO THE DETENTION NOTICE AND CHAIN OF CUSTODY RECEIPT)

1. Name of Traveler From Whom Information Detained	2. Office of Detention and Date of Detention
3. Purpose of Transmittal <input type="checkbox"/> Technical Assistance – CBP requests technical assistance from the receiving entity, specifically as follows – _____ <input type="checkbox"/> National Security / Law Enforcement Consultation – CBP seeks the views of the receiving agency regarding whether the transmitted information constitutes evidence of terrorist activity or other unlawful conduct, or otherwise bears upon a determination under the laws enforced or administered by CBP.	
4. Description of Information Transmitted	
5. Name, Telephone, Fax, and E-mail of Recipient	6. Department, Agency, and Office of Recipient
7. Address of Recipient	
8. Transmitted By (Name, Office)	9. Transmitted By (Telephone, Fax, E-mail)
10. Retention, Seizure, and Destruction The recipient of this transmittal hereby agrees, as a condition of receipt, to render the requested assistance – to include reporting upon all findings, conclusions, or observations deriving from the information that pertain to the laws enforced or administered by CBP – in a diligent and expeditious manner, and in a period of time not to exceed 15 days. This time period is subject to extensions in increments not longer than 7 days that are requested and justified by the assisting agency. Upon the expiration of the period of time required for rendering of assistance, all transmitted information shall be returned to CBP, or destruction of all copies must be certified to CBP, unless the recipient asserts, in writing, a valid basis for its own independent authority to seize or continue retention of the transmitted information. <u>[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient:</u>	
<u>CBP Use Only – Final Disposition (Choose One):</u> (a) Information returned to CBP on date _____, or (b) Certification of destruction received by CBP on date _____, or (c) CBP received entity's asserted independent basis to seize or continue retention on date _____.	
<u>CBP Notes, Including Information Regarding Extension(s), If Applicable:</u> 	

