

~~FOR OFFICIAL USE ONLY~~**Muster 2008-09**  
**Revised**

**Week of Muster:** Upon Receipt

**Topic:** Ensuring Proper Documentation of the Border Search of Information – Revised Guidance

**Headquarters POC:** Operations, Tactical Operations Division  
(b)(6), (b)(7)  
(C)

**MESSAGE:**

All border search examinations of information contained in documents and electronic devices must be performed in accordance with the policy dated July 16, 2008, titled Border Search of Information, hereinafter referred to as “the policy”. The policy supersedes pre-existing guidance on the subject as articulated in Customs Directive 3340-006A, the Interim Guidance of July 5, 2007, and all other previously distributed issuances on this subject

The policy establishes procedures for searching, reviewing, retaining and sharing information contained in papers, books, pamphlets, and other printed or handwritten material, as well as computers, disks, hard drives, and other electronic or digital storage devices; possessed by an individual encountered by CBP at the border, to ensure compliance with customs, immigration and other Federal laws.

All detentions of documents, electronic devices, or copies of the information therein that remain within CBP for further examination require first line supervisory approval, with the exception of documents or copies detained for immigration matters. All detentions of documents, electronic devices, or copies of the information therein that are transferred to another agency for assistance require the approval of a second line supervisor.

For the purposes of this muster, **examination** is limited to border search. The policy and this muster do not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

For the purposes of this muster **detention** is defined as a temporary holding, of an original or copy of information for purposes of further examination.

For purposes of this muster, the copying, detaining, seizing and transfer of government issued **identification documents**, as defined in the policy, is not required to be recorded.

The following procedures will be required until system enhancements have been established to electronically track and record activities:

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- In all instances where an examination, detention, transfer, or seizure of information occurs in accordance with the policy, the codes defined below and in the attached document, Border Search of Information Documentation Codes, must be included in the narrative of the IO95, IO25, IO04, IOOI, IOIL, and/or the S/A/S as appropriate. *In order to ensure proper tracking, the code(s) MUST be the first item(s) in the narrative and MUST be in parentheses as shown.*
- In all instances where a document or a copy of the information therein is **detained for immigration matters** such as a determination of admissibility or future admissibility, or adverse actions the detention will be recorded in IO95.
- In all instances where an electronic device is **examined for immigration matters** such as a determination of admissibility or future admissibility, or adverse actions the examination will be recorded in IO95.
- In all instances where an electronic device or a copy of the information therein, is **examined**, for purposes other than immigration matters, and released concurrently with the passenger the examination will be recorded in an IO25, IO04, or IOOI a appropriate.
- In all instances where a document or a copy of the information therein is **detained**, for purposes other than immigration matters, the detention will be recorded in an IOIL.
- In all instances where an electronic device or a copy of the information therein is **detained** the detention will be recorded in an IOIL.
- In all instances where a document, electronic device, or a copy of the information therein is **detained and transferred** to another federal agency for translation, decryption, and/or subject matter assistance the specifics of the detention and transfer will be recorded in IOIL.
- In all instances where an original document or electronic device is **detained**, a paper file will be required.
- In all instances where a document, electronic device or copy of the information therein is seized the S/A/S report will include the appropriate documentation code (see attached, Border Search of Information Documentation Codes) as well as the specifics of the seizure as they relate to the policy.

**For instances involving immigration matters and requiring recording in IO95 as described above, the record must detail the actions taken, for example:**

*If a document or a copy of the information therein is detained by CBP for immigration matters, the statement below would be appropriate:*

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(b)(2) The subject's (or A copy of the subject's) \_\_\_\_\_ (specify papers, books, pamphlets, or other printed or handwritten material) related to admissibility or future admissibility is contained in \_\_\_\_\_ (specify system where retained, such as the A-file).

*If an electronic device is examined by CBP for immigration matters, the statement below would be appropriate:*

(b)(2) The subject's \_\_\_\_\_ (specify computer, disks, hard drives, and/or other electronic or digital storage devices, etc) was examined for information related to admissibility or future admissibility in accordance with agency procedures. The \_\_\_\_\_ (specify electronic device) was returned upon completion of the examination.

**For examinations requiring recording in IO25, IO04, or IOOI as described above the appropriate record must detail the actions taken, for example:**

*If an electronic device is examined by CBP for purposes other than immigration matters but not detained, the statement below would be appropriate:*

(b)(2) The subject's \_\_\_\_\_ (specify computers, disks, hard drives, and/or other electronic or digital storage devices, etc) was examined in accordance with agency procedures. The electronic device was returned upon completion of the examination.

**For instances requiring recording in IOIL as described above the appropriate record must detail the actions taken, for example:**

*If a copy of a document and/or electronic device is created and detained for further examination by CBP, the statement below would be appropriate:*

(b)(2) for documents/(b)(2) for electronic devices]  
A copy of the subject's \_\_\_\_\_ (specify papers, books, pamphlets, or other printed or handwritten material, computer, disks, hard drives, and/or other electronic or digital storage devices, etc ) was created and detained for further examination by CBP. The copy was provided to \_\_\_\_\_ (b)(2), (b)(7)(E) \_\_\_\_\_ for further examination. All copies were (destroyed or seized) on \_\_\_\_\_ (insert date).

*If an original document and/or electronic device is detained for further examination by CBP, the statement below would be appropriate:*

(b)(2) for documents/(b)(2) for electronic devices]  
The subject's \_\_\_\_\_ (document and/or electronic device) specifically \_\_\_\_\_ (specify papers, books, pamphlets, or other printed or handwritten material, computer, disks, hard drives, and/or other electronic or digital storage

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devices, etc ) was detained for further examination by CBP. The \_\_\_\_\_ (document and/or electronic device) was provided to \_\_\_\_\_ (insert name of Officer). Form 6051D was completed and a copy of the completed form was provided to the subject. The \_\_\_\_\_ (document and/or electronic device) was (returned to the subject or seized) on \_\_\_\_\_ (insert date).

*If a copy of a document and/or electronic device is detained by CBP for translation and/or decryption by another Federal agency, the statement below would be appropriate:*

**(b)(2)** for documents/**(b)(2)** for electronic devices]  
A copy of the subject's \_\_\_\_\_ (specify papers, books, pamphlets, and other printed or handwritten material, computers, disks, hard drives, and/or other electronic or digital storage devices, etc) was detained for \_\_\_\_\_ (translation/decryption) and provided to \_\_\_\_\_ (specify name of receiving individual and Federal agency). The Document and Electronic Device Information Control Record was completed and retained by CBP. All copies of the information were (destroyed or seized) on \_\_\_\_\_ (insert date).

*If an original document and/or electronic device is detained by CBP for translation and/or decryption by another Federal agency, the statement below would be appropriate:*

**(b)(2)** for documents/**(b)(2)** for electronic devices]  
The subject's \_\_\_\_\_ (document and/or electronic device) specifically \_\_\_\_\_ (specify papers, books, pamphlets, and other printed or handwritten material, computers, disks, hard drives, and/or other electronic or digital storage devices, etc) was detained for \_\_\_\_\_ (translation/decryption) and provided to \_\_\_\_\_ (specify name of receiving individual and other Federal agency). The Document and Electronic Device Information Control Record was completed and retained by CBP. Form 6051D was completed and a copy of the completed form was provided to the subject. The \_\_\_\_\_ (document and/or electronic device) was (returned to the subject or seized) on \_\_\_\_\_ (insert date).

*If a copy of a document and/or electronic device is detained by CBP for subject matter assistance from another Federal agency, the statement below would be appropriate:*

**(b)(2)** for documents/**(b)(2)** for electronic devices]  
Based on the following information \_\_\_\_\_ (articulate facts for reasonable suspicion, see reference information below) a copy of the subject's \_\_\_\_\_ (specify papers, books, pamphlets, or other printed or handwritten material, computers, disks, hard drives, and/or other electronic or digital storage devices, etc) was detained for subject matter assistance specifically, \_\_\_\_\_ (specify the assistance to be provided), and provided to \_\_\_\_\_ (specify name of receiving individual and other Federal agency). The Document and Electronic Device Information Control Record was completed and retained by CBP. All copies of the information were (destroyed or seized) on \_\_\_\_\_ (insert date).

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*If an original document and/or electronic device is detained by CBP for subject matter assistance from another Federal agency, the statement below would be appropriate:*

(b)(2) [redacted] for documents/(b)(2) [redacted] for electronic devices]

Based on the following information \_\_\_\_\_ (articulate facts for reasonable suspicion, see reference information below) the subject's \_\_\_\_\_ (specify papers, books, pamphlets, or other printed or handwritten material, computers, disks, hard drives, and/or other electronic or digital storage devices, etc) was detained for subject matter assistance specifically, \_\_\_\_\_ (specify the assistance to be provided), and provided to \_\_\_\_\_ (specify name of receiving individual and Federal agency). The Document and Electronic Device Information Control Record was completed and retained by CBP. Form 6051D was completed and a copy of the completed form was provided to the subject. The \_\_\_\_\_ (specific document and/or electronic device) was (returned to the subject or seized) on \_\_\_\_\_ (insert date).

**NOTE:** Responses from assisting agencies are expected in an expeditious manner, and should be received within 15 days. The Director, Field Operations (DFO), Chief Patrol Agent (CPA), or equivalent level manager may permit extensions in increments of seven days. Extensions are to be explained and recorded in the IOIL. (b)(2), (b)(7)(E) [redacted]

Reviews of copied or detained information should take place as expeditiously as possible. All copies of the information must be destroyed when no longer needed and the continued retention is not otherwise required to ensure compliance with customs, immigration and other Federal laws. Specific guidance on destruction procedures is provided in the CBP Information Systems Security Policies and Procedures Handbook, CIS HB 1400-05C.

(b)(2); (b)(7)(E) [redacted]

The paper file for detained original documents and/or electronic devices must include sufficient information to provide an audit trail for the custody of the detained items, such as:

- A signed copy of the 6051D, Detention Notice and Custody Receipt for Detained Property
- A signed copy of the Document and Electronic Device Information Control Record, if turned over to another Federal agency for assistance
- Documentation of return to subject (if applicable) such as a shipping document with proof of receipt or a signed acknowledgement of receipt from the individual

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**Factors for determining level of search or detention:**

(b)(2); (b)(7)(E)  
[Redacted]

Additionally there are four primary categories officers may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulate facts, when taken together with reasonable inferences from those facts, would lead a reasonable officer to suspect that a person may be in violation of customs, immigration and/or other Federal laws.

1. (b)(2); (b)(7)(E)  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thank you for your continued assistance. If you have any questions, please contact (b)(6);(b)(7)(C) [Redacted] or have a member of your staff contact (b)(6);(b)(7)(C) [Redacted]

**Presenters Note:** All CBP officers must bear in mind that the authority to search and enforce Federal laws at the border carries with it the responsibility for upholding the principles of professionalism, impartiality, and courtesy, and respect for the position of public trust. Please take this muster opportunity to stress the importance of professionalism when interacting with the public.