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Muster 2008-09

Week of Muster: Upon Receipt

Topic: Ensuring Proper Documentation of the Border Search of Information.

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 new policy dated July 16, 2008, titled Border Search of Information. This policy supersedes pre-existing guidance on the subject as articulated in Customs Directive 3340-006A and the Interim Guidance of July 5, 2007.

The new policy establishes procedures for searching, reviewing, retaining and sharing information contained in documents as 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 individuals who are encountered by CBP at the border to, ensuring compliance with customs, immigration and other federal laws. The following procedures will be required until system enhancements have been established to electronically track and record activities.

For the purposes of this muster, **examination** is limited to border search of information at secondary, or otherwise beyond primary.

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.

New Procedures in Furtherance of This Policy:

- In all incidents where a secondary exam is conducted and any portion of a document and/or an electronic device is examined, copied, detained, or transferred the proper border search of information documentation code will be included in the narrative of the secondary record (IO25, IO95, IO04, IOOI as appropriate) and the IOIL. The documentation codes are included on the attached documents, Matrix for Border Search of Information and Border Search of Information Documentation Codes.
- In all incidents where a document, or the information therein, is **detained or seized** an IOIL will be required.

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- In all incidents where an electronic device, or the information therein, is **examined, detained, or seized** an IOIL will be required.
- In all instances where an original document or electronic device is detained for further examination, a paper file will be required.

The IOIL and/or the SAS must detail the actions taken, for example:

- *If an electronic device is examined by a CBP officer 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.

- *If a copy of alien information relating to immigration matters is detained for present and future admissibility decisions and/or determination of benefits, the statement below would be appropriate:*

(b)(2) 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) related to admissibility or eligibility for benefits is contained in _____ (specify system where retained).

- *If a copy of document (excluding travel document) and/ or electronic device are created and detained for further examination by CBP, the statement below would be appropriate:*

(b)(2) A copy of the subject's _____ (specify papers, books, pamphlets, and other printed or handwritten material, as well as computers, disks, hard drives, and other electronic or digital storage devices etc) was created and detained for further examination by a CBP Officer. The copy was provided to _____ (insert name of Officer) for further examination.

All copies were (destroyed or seized) on, _____ (Insert date).

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

(b)(2) The subject's _____ (document or electronic device) specifically _____ (specify papers, books, pamphlets, and other printed or handwritten material, computers, disks, hard drives, and/or other electronic or digital

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storage devices, etc) was detained for further examination by a CBP Officer. Form 6051D was completed and a copy of the completed form was provided to the subject.

The document was (returned to the subject, or seized) on _____ (insert date).

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

(b)(2) 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 other Federal agency or entity). The Document and Electronic Device Information Control Record was completed and retained by CBP.

All copies of the information were (destroyed, returned to the subject, or seized) on _____ (insert date).

NOTE: Responses from assisting agencies are expected in an expeditious manner, responses should be received within 15 days. The CBP principal field official may permit extensions in increments of seven days. Extensions are to be recorded.

- *If original document (excluding travel document) and or electronic device is detained for translation and/or decryption by another Federal agency, the statement below would be appropriate:*

(b)(2) The subject's _____ (document 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 or entity). 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 was (returned to the subject, or seized) on _____ (insert date).

NOTE: Responses from assisting agencies are expected in an expeditious manner, responses should be received within 15 days. The CBP principal field official may permit extensions in increments of seven days. Extensions are to be recorded.

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- *If a copy of document (excluding travel document) and or electronic device is detained for subject matter assistance by another Federal agency, the statement below would be appropriate:*

(b)(2) Based on the following information _____ (articulate facts for reasonable suspicion, see reference information below) a copy of the subject's document 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 subject matter assistance, specifically, _____ (specify the assistance to be provided). The information was provided to _____ (specify name of receiving individual and other Federal agency or entity). The Document and Electronic Device Information Control Record was completed and retained by CBP.

All copies of the information were (destroyed, returned to the subject or seized) on _____ (insert date).

NOTE: Responses from assisting agencies are expected in an expeditious manner, responses should be received within 15 days. The CBP principal field official may permit extensions in increments of seven days. Extensions are to be recorded.

- *If original documents (excluding travel documents) and or electronic devices are detained for subject matter assistance by another Federal agency, the statement below will be used:*

(b)(2) Based on the following information _____ (articulate facts for reasonable suspicion, see reference information below) the subject's document 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 subject matter assistance, specifically _____ (specify the assistance to be provided). The information was provided to _____ (specify name of receiving individual and other Federal agency or entity). 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 was (returned to the subject, or seized) on _____ (insert date).

NOTE: Responses from assisting agencies are expected in an expeditious manner, responses should be received within 15 days. The CBP principal field official may permit extensions in increments of seven days. Extensions are to be recorded.

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The paper file for detained original documents and/or electronic devices must include:

- CBP's copy of the CF 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

Information will be destroyed when no longer needed and its continued retention is not otherwise required to ensure compliance with Customs, Immigration and other Federal Laws and Regulations. "Hard Copy" materials will be destroyed by shredding, burning, pulping, or pulverizing, such as to assure destruction beyond recognition and reconstruction. After destruction, materials may be disposed of with normal waste. Electronic records may be deleted in accordance with policies or procedures issued or approved by the CBP OIT. Electronic storage media (compact discs, personal computers, etc.) shall be sanitized appropriately by overwriting or degaussing.

Factors for determining level of search or detention:

The presence on a government-operated and government-vetted terrorist watch list ordinarily will be sufficient to create reasonable suspicion of terrorism-related activities for officers to detain documents or electronic device or copies thereof for further inspection.

Additionally there are four primary categories officers 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 these 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]

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(b)(2),(b)(7)(E)

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

Presenters Note: All CBP Officers must bear in mind that the authority to search and enforce federal law 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.

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