United States Customs and Border Protection
(b)(2), (b)(7)(E)

STANDARD OPERATING PROCEDURE (SOP)
Proper Documentation - Border Search of Information

Documentation of the Border Search of Information

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 SOP, examination is limited to border search. The policy does not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

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

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

Make sure that the tear sheet and approving supervisor information for electronic media searches is included in your narrative.

- **Electronic devices:** BSI Code – what was examined – reason for exam – approving supervisor – tear sheet information

- **Document copies/detentions:** BSI code – what was copied/detained – reason for inspection and detention – who they were sent to (b)(2), (b)(7)(E) – what was done with docs after forwarding (destroyed at the port on [date], etc)

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

- 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, IO01, 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 IO01 if 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 \textit{detained by CBP for immigration matters}, the statement below would be appropriate:

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

If an electronic device is \textit{examined by CBP for immigration matters}, the statement below would be appropriate:

(b) (2) The subject’s \underline{\underline{\text{______________}}} (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 \underline{\underline{\text{______________}}} (specify electronic device) was returned upon completion of the examination.

For examinations requiring recording in IO25, IO04, or IO01 as described above the appropriate record must detail the actions taken, for example:

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

(b) (2) The subject’s \underline{\underline{\text{______________}}} (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 \textit{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) \textit{[for documents] (b)(2) \textit{[for electronic devices]}}

A copy of the subject’s \underline{\underline{\text{______________}}} (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 \underline{\underline{\text{______________}}} \textit{(b)(2); (b)(7)(E) \underline{\underline{\text{______________}}}} for further examination. All copies were (destroyed or seized) on \underline{\underline{\text{______________}}} (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 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:

[Only for documents] [Only 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).

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:

[Only for documents] [Only 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) or equivalent level manager may permit extensions in increments of seven days. Extensions are to be explained and recorded in the IOIL. The 15 day response time frame does not apply to ICE.
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.

The policy and reporting requirements contained in this SOP do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this SOP should NOT be used.

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
- A line entry into the Border Search information Log for the Port containing the item detained, the date and time when the data is detained, the officer, the shift supervisor, the assisting Agency, the date a response is received from the assisting Agency, the date the data is returned and the disposition of the data (returned, destroyed).
A. Background

CBP’s primary mission is to protect the American public against terrorists and their instruments of terror. The following information provides operational guidance regarding the review and retention of paper documents and information in electronic devices and electronic storage media (b)(2),(b)(7)(E)

B. References


2. CBP Memorandum, Border Search/Examination of Documents, Papers, and Electronic Information, dated July 5, 2007.


C. Definitions

1. Electronic devices includes laptop computers, cell phones, MP3 players.

2. Storage media includes DVDs, CDs, diskettes, memory cards/sticks, thumbnail drive.
D. Operational examination guidance for (b)(2), (b)(7)(E)

1. 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.

2. CBP officers may copy and transmit documents and information in electronic devices to appropriate agencies or entities without individualized suspicion when technical support is required, such as when translation services is required to decipher the contents of a document.

3. Except as provided in section D.2 of this SOP, officers may copy and transmit documents and information from electronic devices only where there is reasonable suspicion that (b)(2), (b)(7)(E) may be involved with, or have information relating to terrorist activities or unlawful conduct. Reasonable suspicion is not required if the (b)(2), (b)(7)(E) provides consent to copying and transmission. (b)(2), (b)(7)(E) presence on a government-operated and government-vetted terrorist watch list ordinarily will be sufficient to create reasonable suspicion of terrorism-related activities.

4. When technical assistance is required from an Entity outside of CBP, copies of documents or information shall be returned to CBP within 15 days from transmittal unless the Director, Field Operations in consultation with the appropriate legal counsel approves extensions in seven-day increments.

5. In cases where retention or dissemination of copies further the mission of another agency or entity, that agency or entity's legal authorities and policies will govern retention and/or dissemination.
6. Copies of documents or information returned to CBP when determined to be of no relevance to customs, immigration or other laws enforced or administered by CBP will be destroyed.

7. 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.

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

E. Operational examination guidance for (b)(2), (b)(7)(E)

1. CBP must guard the rights of individuals being inspected to ensure that their personal privacy is protected. Therefore, as a general rule, officers should not read personal correspondence contained in passengers' privately owned conveyances, baggage, or on their person, except, as specified in E.2 of this SOP.

2. As opposed to reading content, CBP officers may glance at documents and papers to see if they appear to be merchandise. This may include:

   a. Books, pamphlets, printed/manuscript material

   b. Monetary instruments

   c. Prohibited materials such as, copyright violations, obscene, treasonous or seditious material (i.e., inciting or producing imminent lawless action)

e. Materials related to the importation or exportation of merchandise including documents required to be filed to import or export merchandise.

3. If, after glancing at the documents or papers, an officer reasonably suspects that they relate to any of the categories listed in E.2. of this SOP, the officer may read the documents. He/she may continue to detain such documents for such further inquiry as may be reasonably necessary to make the determination whether to seize the documents. This may include referral to another agency necessary to assist in that determination.

4. If an officer has probable cause to believe that a document or paper is subject to seizure because it is prohibited, a fruit, instrumentality or evidence of a crime, or otherwise subject to forfeiture, it may be seized.

5. An officer must have probable cause to believe a document or paper is subject to seizure, to copy it. Documents and papers may be copied without probable cause when consent to do so is obtained from the person from whom the documents were seized, or if copying is incident to a lawful arrest.

6. In circumstances when the inspecting officer is uncertain whether probable cause exists, the officer will seek the assistance of a Supervisor. The Supervisor will go through the chain of command before contacting the Associate/Assistant Chief Counsel.
7. Passports (United States or foreign), Seaman's Papers, Airman Certificates, drivers licenses, state identification cards and similar governmental identification documents can be photocopied for legitimate, good-faith government purposes without any suspicion of illegality.

8. Certificates of Naturalization may never be copied (18 U.S.C. 1426(h)).

9. As part of a border search, an attorney's files can be examined for the presence of drugs, currency or other monetary instruments, sales slips, invoices, or other documents evidencing foreign purchases.

10. Occasionally, an attorney will claim that the attorney-client privilege prevents the search of his documents and papers at the border. Files and papers being brought into the country by an attorney are subject to a routine search for merchandise. Implicit in the authority to search for merchandise is the authority to search for papers that indicate or establish that a current importation of merchandise might be occurring. Records of an importation are not privileged. However, correspondence, court papers, and other legal documents may be privileged. If an officer has probable cause to believe a document may be evidence of a crime, seek advice from the Associate/Assistant Chief Counsel or the U.S. Attorney's office. (Note: The officer must proceed through the proper chain of command when seeking advice from the Associate/Assistant Chief Counsel.)

11. Whenever copies of documents are made, transfer of the copies should be accomplished through a chain of custody form (CBP Form 6051) or other documentation that will show each individual who has had custody and access to such copies.
12. If an officer reasonably suspects that a document or paper in a foreign language falls into a category that would allow it to be read, the document can be detained and forwarded to an appropriate translator, provided that such translations can be accomplished within a reasonable time.

13. The use of a facsimile (FAX) machine, when appropriate, is authorized. This same principle would apply to documents that need special expertise to determine their nature, such as documents relating to complex technology cases.

14. If after translation or review, probable cause to seize develops, the documents should be seized and/or copies retained. If not, the originals must be returned and all copies (e.g., fax) must be destroyed. The destruction must be appropriately documented.

15. [Redacted]

F. Proper Documentation of the examination of information contained in documents and electronic media

1. In all incidents where a substantive review (not merely reviewing travel or identity documents presented) of electronic media and/or documents occurred (no copying/detention/or seizure), the IO25/IO95 entries should include the phrase “electronic media (and/or document) review” in order to document that such a review occurred.
2. In incidents where electronic media and/or documents are copied, detained, or seized, the IO25/IO95 must document, as appropriate to the circumstances, that documents and/or electronic media were copied, detained, and/or seized and reference the appropriate IOIL or SAS number.

3. An IOIL is required in all non seizure incidents where electronic media or documents are copied or detained, even if not seized. The IOIL or the SAS must document the event using the following templates.

   a. If Electronic Device or Document Copied, but Not Detained for an Extended Period or Seized:

      The subject’s _______ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, a copy was made of the contents of the electronic device (and/or documents) for purposes of further examination and/or evaluation, and the electronic device (and/or documents) were returned to the subject.

   b. If Electronic Device or Document was Detained or Seized:

      The subject’s _______ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, detained for further examination and/or evaluation. Form 6051-D was completed, and a copy of the completed Form 6051-D was provided to the subject.
DATE: OCT 02 2008

TO: All U.S. Customs and Border Protection Personnel

SUBJECT: Standard Operating Procedures for Border Search of Information

The attached is the Standard Operating Procedures (SOP) setting forth written instructions and guidelines and procedures for border searches of information to include documents, books, pamphlets and other printed material as well as computers, disks, hard drives, and other electronic or digital storage devices at This Port Policy is effective immediately.

Questions related to the attached SOP are to be directed to Section Chief Passenger Operations, at

Attachments
STANDARD OPERATING PROCEDURES
PASSENGER OPERATIONS
(b)(2), (b)(7)(E)

SUBJECT:
Standard operating procedures at (b)(2), (b)(7)(E) for border searches of information to include documents, books, pamphlets and other printed material as well as computers, disks, hard drives, and other electronic or digital storage devices.

PURPOSE:
To provide instruction and guidance to U.S Customs and Border Protection (CBP) Officers assigned to the (b)(2), (b)(7)(E) regarding the border search of information contained in documents and electronic devices. More specifically, this policy sets forth the legal and policy guidelines within which officers may search, review, retain, and share certain information possessed by individuals who are encountered by CBP at the border, functional equivalent of the border, or extended border. This policy governs border search authority only; nothing in this policy limits the authority of CBP to act pursuant to other authorities such as a warrant or a search incident to arrest.

BACKGROUND:
CBP is responsible for ensuring compliance with customs, immigration, and other Federal laws at the border. To that end, officers may examine documents, books, pamphlets, and other printed material, as well as computers, disks, hard drives, and other electronic or digital storage devices. These examinations are part of CBP's long-standing practice and are essential to uncovering vital law enforcement information. For example, examinations of documents and electronic devices are a crucial tool for detecting information concerning terrorism, narcotics smuggling, and other national security matters; alien admissibility; contraband including child pornography, monetary instruments, and information in violation of copyright or trademark laws; and evidence of embargo violations or other import or export control laws. Notwithstanding this law enforcement mission, in the course of every border search, CBP will protect the rights of individuals against unreasonable search and seizure.

REFERENCES:
CBP Policy dated July 18, 2008 titled Border Search/Examinations of Documents, Papers and Electronic Information.

PROCEDURES:
Listed below are the procedures Officers should follow when conducting a border search for information. Procedures are as follows;

A. Review of Information in the course of Border Search
Border searches must be performed by an officer or otherwise properly authorized officer with border search authority, such as an (D)(2), (D)(7)(E). In the course of a border search, and absent individualized suspicion, officers can review and analyze the information transported by any individual attempting to enter, reenter, depart, pass
through, or reside in the United States, subject to the requirements and limitations provided herein. Nothing in this policy limits the authority of an officer to make written notes or reports or to document impressions relating to a border encounter.

B. Detention and Review in Continuation of Border Search

1. Detention and Review by Officers.
   Officers may detain documents and electronic devices, or copies thereof, for a reasonable period of time to perform a thorough border search. The search may take place on-site or at an off-site location. Except as noted in section D below, if after reviewing the information there is not probable cause to seize it, any copies of the information must be destroyed. All actions surrounding the detention will be documented by the officer and certified by the Supervisor.

2. Assistance by Other Federal Agencies or Entities.
   a. Translation and Decryption.
      Officers may encounter information in documents or electronic devices that is in a foreign language and/or encrypted. To assist CBP in determining the meaning of such information, CBP may seek translation and/or decryption assistance from other Federal agencies or entities. Officers may seek such assistance absent individualized suspicion. Requests for translation and decryption assistance shall be documented.
   b. Subject Matter Assistance.
      Officers may encounter information in documents or electronic devices that is not in a foreign language or encrypted, but that nevertheless requires referral to subject matter experts to determine whether the information is relevant to the laws enforced and administered by CBP. With supervisory approval, officers may create and transmit a copy of information to an agency or entity for the purpose of obtaining subject matter assistance when they have reasonable suspicion of activities in violation of the laws enforced by CBP. Requests for subject matter assistance shall be documented.
   c. Original documents and devices should only be transmitted when necessary to render the requested assistance.
   d. Responses and Time for Assistance.
      1) Responses Required.
         Agencies or entities receiving a request for assistance in conducting a border search are to provide such assistance as expeditiously as possible. Where subject matter assistance is requested, responses should include any findings, observations, and conclusions relating to the laws enforced by CBP.
      2) Time for Assistance.
         Responses from assisting agencies are expected in an expeditious manner so that CBP may complete its border search in a reasonable period of time. Unless otherwise approved by the principal field official such as the Director, Field Operations or Chief Patrol Agent, responses should be received within fifteen (15) days. This timeframe is to be explained in the request for assistance. If the assisting agency is unable to respond in that period of time, CBP may permit extensions in increments of seven (7) days. For purposes of this provision, ICE is not considered to be a separate agency.
e. Destruction.
Except as noted in section C below if after reviewing information, probable cause to seize the information does not exist, any copies of the information must be destroyed.

C. Detention and Sharing of Information Found in Border Searches

1. By CBP.
   a. Retention with Probable Cause.
      When officers determine there is probable cause of unlawful activity-based on a review of information in documents or electronic devices encountered at the border or on other facts and circumstances— they may seize and retain the originals and/or copies of relevant documents or devices, as authorized by law.
   b. Other Circumstances.
      Absent probable cause, CBP may only retain documents relating to immigration matters, consistent with the privacy and data protection standards of the system in which such information is retained.
   c. Sharing
      Copies of documents or devices, or portions thereof, which are retained in accordance with this section, may be shared by CBP with Federal, state, local, and foreign law enforcement agencies only to the extent consistent with applicable law and policy.
   d. Destruction
      Except as noted in this section, if after reviewing information, there exists no probable cause to seize the information; CBP will retain no copies of the information.

2. By Assisting Agencies and Entities.
   a. During Assistance.
      All documents and devices, whether originals or copies, provided to an assisting Federal agency may be retained by that agency for the period of time needed to provide the requested assistance to CBP.
   b. Return or Destruction.
      At the conclusion of the requested assistance, all information must be returned to CBP as expeditiously as possible. In addition, the assisting Federal agency or entity must certify to CBP that all copies of the information transferred to that agency or entity have been destroyed, or advise CBP in accordance with section 2(c) below.
      (i) In the event that any original documents or devices are transmitted, they must not be destroyed; they are to be returned to CBP unless seized based on probable cause by the assisting agency.
   c. Retention with Independent Authority.
      Copies may be retained by an assisting Federal agency or entity only if and to the extent that it has the independent legal authority to do so—for example, when the information is of national security or intelligence value. In such cases, the retaining agency must advise CBP of its decision to retain information on its own authority.
D. Review and Handling of Certain Types of Information

1. Business Information.
   Officers encountering business or commercial information in documents and electronic devices shall treat such information as business confidential information and shall take all reasonable measures to protect that information from unauthorized disclosure. Depending on the nature of the information presented, the Trade Secrets Act, the Privacy Act, and other laws may govern or restrict the handling of the information.

2. Sealed Letter Class Mail.
   Officers may not read or permit others to read correspondence contained in sealed letter class mail (the international equivalent of First Class) without an appropriate search warrant or consent. Only articles in the postal system are deemed "mail." Letters carried by individuals or private carriers such as DHL, UPS, or Federal Express, for example, are not considered to be mail, even if they are stamped, and thus are subject to a border search as provided in this policy.

3. Attorney-Client Privileged Material.
   Occasionally, an individual claims that the attorney-client privilege prevents the search of his or her information at the border. Although legal materials are not necessarily exempt from a border search, they may be subject to special handling procedures. Correspondence, court documents, and other legal documents may be covered by attorney-client privilege. If an officer suspects that the content of such a document may constitute evidence of a crime or otherwise pertain to a determination within the jurisdiction of CBP, the officer must seek advice from the Associate/Assistant Chief Counsel or the appropriate U.S. Attorney's office before conducting a search of the document.

4. Identification Documents.
   Passports, Seaman's Papers, Airman Certificates, driver's licenses, state identification cards, and similar government identification documents can be copied for legitimate government purposes without any suspicion of illegality.

Questions related to the attached SOP are to be directed to (b)(6), (b)(7)(C). Section Chief Passenger Operations, at (b)(6), (b)(7)(C).
DATE: OCT 02 2008

TO: All U.S. Customs and Border Protection Personnel

SUBJECT: Standard Operating Procedures for Ensuring Proper Documentation of Border Search of Information

The attached is the Standard Operating Procedures (SOP) setting forth written instructions and guidelines and procedures for proper documentation of border searches of information at the (b)(2), (b)(7)(E). This Port Policy is effective immediately.

Questions related to the attached SOP are to be directed to (b)(6), (b)(7)(C) Section Chief Passenger Operations, at (b)(2), (b)(7)(E), (b)(6), (b)(7)(C)

Attachments
STANDARD OPERATING PROCEDURES
PASSENGER OPERATIONS
(b)(2), (b)(7)(E)

SUBJECT:
Standard Operating Procedures at (b)(2), (b)(7)(E) for Ensuring Proper Documentation of Border Search of Information

PURPOSE:
To provide instruction and guidance to U.S. Customs and Border Protection (CBP) Officers assigned to the (b)(2), (b)(7)(E) regarding the proper documentation of border searches of information. These procedures will be required until system enhancements have been established to electronically track and record activities.

BACKGROUND:
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, for ensuring compliance with Customs, Immigration and other Federal Laws.

REFERENCES:
CBP Policy dated July 16, 2008 titled “Policy Regarding Border Search of Information”
CBP Policy dated July 18, 2008 titled “Border Search/Examinations of Documents, Papers and Electronic Information”
Memorandum dated July 31, 2008 titled “Ensuring Proper Documentation of the Border Search of Information”
Muster 2008-09 titled “Ensuring Proper Documentation of the Border Search of Information-Revised Guidance”

DEFINITIONS:
For the purposes of this SOP the following terms are defined

A. Examination is limited to border search of information at secondary, or otherwise beyond primary.
B. Detention is defined as a temporary holding, of an original or copy of information for purposes of further examination.
PROCEDURES:
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, electronic devices, 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 approval of the second line supervisor. The copying, detaining, seizing and transfer of government issued identification documents, as defined in the policy, is not required to be recorded.

Listed below are the procedures Officers should follow when conducting and documenting a border search for information. Procedures are as follows;

A. Factors for Determining the Level of Search and Detention of Information
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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
B. Documentation Based on the Inspectional Activity

Documentation of the search and or detention of information are correlated to the type of inspectional activity the documents are being detained or seized. Proper documentation based upon the inspectional activity is as follows;

1. Border Search for Information
   a. No individualized suspicion is required
   b. No Supervisor approval is required
   c. Record details of search information in IO25, IO95, IOOI and IOIL as appropriate.

2. Retain Information for Immigration Matters
   a. No individualized suspicion is required
   b. 1st line Supervisor approval is required
   c. Record details of search information in IO25, IO95, IOOI and IOIL as appropriate. The IOIL must include a statement that information was retained in the A-file.

3. Detain Information for Continuation of Border Search
   a. No individualized suspicion is required
   b. 1st line Supervisor approval is required
   c. Record details of search information and detention in IOIL. The record must be updated by the receiving CBP Officer to include the final disposition and date of determination. Complete a 6051D when retaining electronic devices or original documents.

4. Detain and Transfer Information for translation and/or decryption
   a. No individualized suspicion is required
   b. 2nd line Supervisor approval is required
   c. Record details of search information and detention/transfer in IOIL. The record must be updated by the receiving CBP Officer to include extensions, the final disposition and date of determination. Complete the Control Record (See attached). Complete a 6051D when retaining electronic devices or original documents.

5. Detain and Transfer Information for Subject Matter Assistance
   a. Reasonable suspicion is required
   b. 2nd line Supervisor approval is required
   c. Record details of search information, the articulable facts for reasonable suspicion and detention/transfer in IOIL. The record must be updated by the receiving CBP Officer to include extensions, the final disposition and date of determination. Complete the Control Record (See attached). Complete a 6051D when retaining electronic devices or original documents.
6. Seize and Retain Information
   a. Probable cause is required
   b. 1st line Supervisor approval is required
   c. Record details of search information in S/A/S

C. Required Details Documenting the Border Search of Information in TECS
In all instances where an examination, detention, transfer, or seizure of information occurs in accordance with the policy, the codes defined on the Border Search of Information Code list, must be included in the narrative of the IO95, IO25, IO04, IOO1, IOIL, and/or the S/A/S as appropriate. In order to ensure the proper tracking, the code(s) must be the first item(s) in the narrative and must be in parenthesis.

- 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 IOO1 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:

(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 IO01 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 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 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).

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) for documents, (b) (2) 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. The 15 day response time frame does not apply to ICE.

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.
The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

Questions related to the attached SOP are to be directed to [Section Chief Passenger Operations, at [ ]](b)(6).
BORDER SEARCH OF INFORMATION (BSI)

STANDARD OPERATING PROCEDURES

(b)(2); (b)(7)(E)

12302008

U.S. CUSTOMS AND BORDER PROTECTION

FIELD OPERATIONS

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, for 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.

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 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.

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.

New Procedures in Furtherance of This Policy:

- 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 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.**

**PAPER FILE REQUIRED**

- In all instances where an *original document or electronic device* is *detained*, a paper file will be required.
DEC 2008 UPDATE BULLETS:

On December 11, 2008, U.S. Customs and Border Protection (CBP), Office of Field Operations (FO) provided additional guidance on the recordation of examinations covered by the Border Search of Information (BSI) policy. Please ensure all CBP uniformed personnel are aware of the following:

- **The recording of ALL BSI examinations REQUIRE the creation of an Incident Log (IOIL) report.** This requirement will reduce duplication of statistical data, allow modifications and corrections and require approval by a supervisor for proper IOIL examination record content.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that occurred. **The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.**

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Muster 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Muster 2008-09 are not required to be directly behind the code, but are to be incorporated in the body of the exam narrative. **The approving CBP Supervisor certifies** the TECS narrative accurately represents the selection of the proper code.

- The narrative accurately identifies the specific BSI format (document or media device) that was examined/copied/detained, and describes specifically what the document media device was. (Laptop, cell phone, SIM card, paper note, etc.)

- Other secondary records (IO04/IO95/IO25/IO01) created as part of the secondary referral/examination process may include the information regarding the BSI examination and should reference the corresponding IOIL number.
IMMIGRATION MATTERS

IO95 – SECONDARY INSPECTION SYSTEM

- 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.

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:

(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.
INCIDENT LOGS AND SECONDARY INSPECTION SYSTEMS

IO25 / IO04 / IOAA – SECONDARY INSPECTION SYSTEMS
&
IOIL – SECONDARY INSPECTION SYSTEM
&
IOAA – SEIZURE INPUT

IO04, IOIL, IO25 – Secondary Inspection System

- 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 IOIL as appropriate.

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.

SEIZURES – S/A/S IOAA

- 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.

IOIL

- 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.
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 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:
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).

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) for documents/ (b) (2) 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. The 15 day response time frame does not apply to ICE.

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.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

**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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
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.
## Border Search of Information

<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>A document or a copy of information therein is detained for immigration</td>
<td>(b)</td>
</tr>
<tr>
<td>matters the detention will be recorded in IO95.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is examined for immigration matters the examination</td>
<td></td>
</tr>
<tr>
<td>will be recorded in IO95.</td>
<td></td>
</tr>
<tr>
<td>An electronic device or copy of the information therein, is examined,</td>
<td></td>
</tr>
<tr>
<td>for purposes other than immigration matters and release concurrently</td>
<td></td>
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<tr>
<td>with the passenger the examination will be recorded in an IO25, IO04</td>
<td></td>
</tr>
<tr>
<td>or IO01.</td>
<td></td>
</tr>
<tr>
<td>A document or a copy of the information therein is detained, for</td>
<td></td>
</tr>
<tr>
<td>purposes other than immigration matters the detention will be</td>
<td></td>
</tr>
<tr>
<td>recorded in IO11.</td>
<td></td>
</tr>
<tr>
<td>An original document is detained, for purposes other than immigration</td>
<td></td>
</tr>
<tr>
<td>matters the detention will be recorded in IO11.</td>
<td></td>
</tr>
<tr>
<td>A copy of information within an electronic device is detained the</td>
<td></td>
</tr>
<tr>
<td>detention will be recorded in IO11.</td>
<td></td>
</tr>
<tr>
<td>An electronic device is detained the detention will be recorded in</td>
<td></td>
</tr>
<tr>
<td>IO11.</td>
<td></td>
</tr>
<tr>
<td>A copy of document is detained for translation and/or decryption by</td>
<td></td>
</tr>
<tr>
<td>another Federal agency.</td>
<td></td>
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<tr>
<td>A copy an electronic device is detained for translation and/or</td>
<td></td>
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<tr>
<td>decryption by another Federal agency.</td>
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<tr>
<td>An original document is detained for translation and/or decryption by</td>
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<tr>
<td>another Federal agency.</td>
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<tr>
<td>another Federal agency.</td>
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<tr>
<td>A copy of a document is detained for subject matter assistance by</td>
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<tr>
<td>another Federal agency.</td>
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<tr>
<td>An electronic device is detained for subject matter assistance by</td>
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<tr>
<td>another Federal agency.</td>
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<tr>
<td>An original document is detained for subject matter assistance by</td>
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<tr>
<td>another Federal agency.</td>
<td></td>
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<tr>
<td>An electronic device is detained for subject matter assistance by</td>
<td></td>
</tr>
<tr>
<td>another Federal agency.</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** Please be sure to begin each secondary inspection narrative with the code in parenthesis – such as (b) (2)
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, for 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, IO01 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.

- 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 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.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>If electronic devices are examined by a CBP officer for purposes other</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>than immigration matters but not detained</td>
<td></td>
</tr>
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<td>If a copy of alien information relating to immigration matters is</td>
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<tr>
<td>detained by CBP for immigration matters</td>
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<tr>
<td>If an electronic device is examined by CBP For immigration matters</td>
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<tr>
<td>If a copy of documents (excluding travel documents) and/or electronic</td>
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<tr>
<td>devices are created and detained for further examination by a CBP</td>
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<td>Officer Documents</td>
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<tr>
<td>Electronic Device</td>
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<td>If original documents (excluding travel documents) and/or electronic</td>
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<td>devices are detained for further examination by a CBP Officer Documents</td>
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<td>Electronic Device</td>
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<td>If a copy of documents (excluding travel documents) and or electronic</td>
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<tr>
<td>devices are detained for translation and/or decryption by another</td>
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<tr>
<td>Federal agency Documents</td>
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<td>Electronic Device</td>
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<td>If a copy of documents (excluding travel documents) and or electronic</td>
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<td>devices are detained for subject matter assistance by another Federal</td>
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<td>agency Documents</td>
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<td>Electronic Device</td>
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<td>If original documents (excluding travel documents) and or electronic</td>
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<td>devices are detained for subject matter assistance by another Federal</td>
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<tr>
<td>agency Documents</td>
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<tr>
<td>Electronic Device</td>
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</tbody>
</table>

See following pages for each type of scenarios, and the process to complete each.
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:**

**(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 IO01 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 IO10L 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) or documents/ (b)(2) or 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) or documents/ (b)(2) or 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 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).

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) for documents/[b] (2) 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, 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.

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. Articulable 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.

(b)(2), (b)(7)(E)
(b)(2), (b)(7)(E)
(b)(2), (b)(7)(E)
(b)(2), (b)(7)(E)
DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

DOCUMENT AND ELECTRONIC DEVICE INFORMATION CONTROL RECORD

<table>
<thead>
<tr>
<th>1. Name of Traveler/PP# From Whom Information Detained</th>
<th>2. Office of Detention and Date of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

3. Purpose of Request for Transmittal/Transfer to

- **Translation and Decryption** – CBP requests translation and decryption from the receiving entity, specifically as follows –
  
- **Subject Matter Assistance** – CBP requests subject matter assistance from the receiving entity, specifically as follows

4. Description of Information – Original ___ / Copy ___

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.

[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient:

CBP Use Only – Final Disposition (Choose One):

- (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 ________________

CBP Notes, Including Information Regarding Extension(s), If Applicable:

- For Official Use Only -
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, for 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.

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 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.

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.

New Procedures in Furtherance of This Policy:

- 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, IO01, 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.**

**PAPER FILE REQUIRED**

- In all instances where an **original document or electronic device** is **detained**, a paper file will be required.
IMMIGRATION MATTERS

IO95 – SECONDARY INSPECTION SYSTEM

- 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.

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:

(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.
INCIDENT LOGS AND SECONDARY INSPECTION SYSTEMS

IO25 / IO04 / IOAA – SECONDARY INSPECTION SYSTEMS
&
IOIL – SECONDARY INSPECTION SYSTEM
&
IOAA – SEIZURE INPUT

IO04, IOIL, IO25 – Secondary Inspection System

- 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 IOIL as appropriate.

For examinations requiring recording in IO25, IO04, or IO01 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.

SEIZURES – S/A/S IOAA

- 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.

IOIL

- 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.
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 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:*
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:

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).

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:

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. The 15 day response time frame does not apply to ICE.

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 HD 1400-05C.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
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.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>A document or a copy of information therein is detained for immigration</td>
<td>(b)</td>
</tr>
<tr>
<td>matters the detention will be recorded in IO95.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is examined for immigration matters the examination</td>
<td>(b)</td>
</tr>
<tr>
<td>will be recorded in IO95.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device or copy of the information therein, is examined,</td>
<td>(b)</td>
</tr>
<tr>
<td>for purposes other than immigration matters and release concurrently</td>
<td>(2)</td>
</tr>
<tr>
<td>with the passenger the examination will be recorded in an IO25, IO04 or</td>
<td></td>
</tr>
<tr>
<td>IO01</td>
<td></td>
</tr>
<tr>
<td>A document or a copy of the information therein is detained, for</td>
<td>(b)</td>
</tr>
<tr>
<td>purposes other than immigration matters the detention will be recorded</td>
<td>(2)</td>
</tr>
<tr>
<td>in IOIL.</td>
<td></td>
</tr>
<tr>
<td>An original document is detained, for purposes other than immigration</td>
<td>(b)</td>
</tr>
<tr>
<td>matters the detention will be recorded in IOIL.</td>
<td>(2)</td>
</tr>
<tr>
<td>A copy of information within an electronic device is detained the</td>
<td>(b)</td>
</tr>
<tr>
<td>detention will be recorded in IOIL.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is detained the detention will be recorded in IOIL.</td>
<td>(b)</td>
</tr>
<tr>
<td>A copy of document is detained for translation and/or decryption by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>A copy an electronic device is detained for translation and/or</td>
<td>(b)</td>
</tr>
<tr>
<td>decryption by another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>An original document is detained for translation and/or decryption by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is detained for translation and/or decryption by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>A copy of a document is detained for subject matter assistance by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is detained for subject matter assistance by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>An original document is detained for subject matter assistance by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
<tr>
<td>An electronic device is detained for subject matter assistance by</td>
<td>(b)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td>(2)</td>
</tr>
</tbody>
</table>

NOTE: Please be sure to begin each secondary inspection narrative with the code in parenthesis – such as (b) (2).
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, for 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, IO01 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.

- 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 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.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>If electronic devices are examined by a CBP officer but not detained</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If a copy of alien information relating to immigration matters is detained for present and future admissibility decisions and/or determination of benefits</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If a copy of documents (excluding travel documents) and/or electronic devices are created and detained for further examination by a CBP Officer</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If original documents (excluding travel documents) and/or electronic devices are detained for further examination by a CBP Officer</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If a copy of documents (excluding travel documents) and/or electronic devices are detained for translation and/or decryption by another Federal agency</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If original documents (excluding travel documents) and/or electronic devices are detained for translation and/or decryption by another Federal agency</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If a copy of documents (excluding travel documents) and/or electronic devices are detained for subject matter assistance by another Federal agency</em></td>
<td>(b) (2)</td>
</tr>
<tr>
<td><em>If original documents (excluding travel documents) and/or electronic devices are detained for subject matter assistance by another Federal agency</em></td>
<td>(b) (2)</td>
</tr>
</tbody>
</table>

See following pages for each type of scenarios, and the process to complete each.
If an electronic device is examined by a CBP officer but not detained, the statement below would be appropriate:

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. (b)(2)
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:

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

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retain alien information relating to immigration matters for present and future admissibility decisions and determination of benefits</td>
<td>No individualized suspicion required</td>
<td>1st line Supervisor</td>
<td>Record details of search information in IO25, IO95, IO04, IO01, and IOIL as appropriate. The IOIL must include a statement that information was retained in the A-file. (b) (2)</td>
</tr>
</tbody>
</table>
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:

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 Office) for further examination. (b) (2)

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

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

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detain documents, written materials, and/or electronic devices or copies of the information within for the continuation of a border search to be conducted by a CBP Officer</td>
<td>No individualized suspicion required</td>
<td>1st line Supervisor</td>
<td>Record details of search of information and detention in IOIL. The record must be updated by the receiving CBP Officer to include the final disposition and date of determination. Complete a 6051D when detaining electronic devices or original documents. (Copy: D Original: D)</td>
</tr>
</tbody>
</table>
If original document (excluding travel document) and/or electronic device is detained for further examination by CBP, the statement below would be appropriate:

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 further examination by a CBP Officer. Form 6051D was completed and a copy of the completed form was provided to the subject. 

(b)(2)

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

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

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**Table:**

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
</table>
| Detain documents, written materials, and/or electronic devices or copies of the information within for the continuation of a border search to be conducted by a CBP Officer | No individualized suspicion required | 1st line Supervisor | Record details of search of information and detention in IOIL. The record must be updated by the receiving CBP Officer to include the final disposition and date of determination. Complete a 6051D when detaining electronic devices or original documents. (Copy) [Original]
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:

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. (b) (2)

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

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

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.

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detain and transfer documents, written materials, and/or electronic devices or copies of the information within for translation and/or decryption by another Federal agency or entity</td>
<td>No individualized suspicion required</td>
<td>2nd line Supervisor</td>
<td>Record details of search of information and detention/transfer in IOEL. The record must be updated by the controlling CBP Officer to include extensions, the final disposition and date of determination. Complete the Control Record. Complete a 6051-D when detaining electronic devices or original documents. (Copy: D/10 Original: D/2)</td>
</tr>
</tbody>
</table>

| 2nd line Supervisor | Extensions to 15 day period -- Principal Field Official | Intermo Field Official | Control Record | Complete a 6051-D when detaining electronic devices or original documents. |
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:

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. (b)(2)

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

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

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.

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
</table>
| Detain and transfer documents, written materials, and/or electronic devices or copies of the information within for translation and/or decryption by another Federal agency or entity | No individualized suspicion required | 2nd line Supervisor Extensions to 15 day period - Principal Field Official | Record details of search of information and detention/transfer in IOL. The record must be updated by the controlling CBP Officer to include extensions, the final disposition and date of determination. Complete the Control Record. Complete a 6051D when detaining electronic devices or original documents. (Copy: (b)(2) Original: (b)(2)
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:

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:

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. (b)(2)

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.

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detain and transfer documents, written materials, and/or electronic devices or copies of the information within for subject matter assistance from another Federal agency or entity</td>
<td>Reasonable Suspicion</td>
<td>2nd line supervisor</td>
<td>Record the details of the search of information, the articulable facts for reasonable suspicion, the specific request for assistance and the detention/transfer in IOL. The record must be updated by the controlling CBP Official to include extensions, the final disposition and date of determination. Complete the Control Record. Complete a 6051D when transferring electronic devices or original documents.</td>
</tr>
</tbody>
</table>
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. Articulable 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.
**DEPARTMENT OF HOMELAND SECURITY**  
U.S. Customs and Border Protection

**DOCUMENT AND ELECTRONIC DEVICE INFORMATION CONTROL RECORD**

<p>| | |</p>
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<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>1. Name of Traveler/PP# From Whom Information Detained</td>
<td>2. Office of Detention and Date of Detention</td>
</tr>
<tr>
<td>3. Purpose of Request for Transmittal/Transfer to</td>
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<tr>
<td></td>
<td></td>
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<tr>
<td>□ Translation and Decryption – CBP requests translation and decryption from the receiving entity, specifically as follows –</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td>□ Subject Matter Assistance – CBP requests subject matter assistance from the receiving entity, specifically as follows</td>
<td></td>
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<td></td>
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<tr>
<td>4. Description of Information – Original _____ / Copy_____</td>
<td></td>
</tr>
<tr>
<td>5. Name, Telephone, Fax, and E-mail of Recipient</td>
<td>6. Department, Agency, and Office of Recipient</td>
</tr>
<tr>
<td>7. Address of Recipient</td>
<td></td>
</tr>
<tr>
<td>8. Transmitted By (Name, Office)</td>
<td>9. Transmitted By (Telephone, Fax, E-mail)</td>
</tr>
<tr>
<td>10. Retention, Seizure, and Destruction</td>
<td></td>
</tr>
</tbody>
</table>

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.

[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient:

**CBP Use Only – Final Disposition (Choose One):**

(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 ____________________________ .

**CBP Notes, Including Information Regarding Extension(s), If Applicable:**

--- For Official Use Only ---
1. PURPOSE

On July 16, 2008, a new policy, titled “Border Search of Information” (BSI) was implemented. This policy establishes procedures for searching, reviewing, retaining and sharing information contained in documents such as papers, books, pamphlets, and other printed or handwritten materials, 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 ensure compliance with customs, immigration, and other Federal laws. This policy is designed to ensure compliance with applicable laws, rules, and regulations. This policy supersedes pre-existing guidance on the subject as articulated in Customs Directive 3340-006A and the Interim Guidance of July 5, 2007.

This document provides guidelines for searching, retaining, detaining, transferring, and/or seizing information contained in documents and/or electronic devices, encountered during searches conducted based on border search authority, as well as recordkeeping requirements mandated by the newly established BSI policy. This policy governs border search authority only; nothing in this policy limits the authority of CBP officers to act pursuant to other authorities such as a warrant or a search incident to arrest. Nothing in this policy limits the authority of an officer to make written notes or reports or to document impressions relating to a border encounter.

2. DEFINITIONS

For the purposes of this policy, “examination” is limited to border search. This policy does not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

For the purposes of this policy, the term “detention” is defined as a temporary holding, of an original or copy of information for the purposes of further examination.

For the purpose of this policy, the terms “document” and/or “electronic device” are defined as papers, books, pamphlets, and other printed or handwritten material, as well as computers, disks, hard drives, and other electronic or digital storage device or copies.
For the purposes of this policy, the copying, detaining, seizing, and transferring of government issued identification documents is not required to be recorded.

For the purposes of this policy, the term "officer" is defined as a Customs and Border Protection Officer, Border Patrol Agent, Air and Marine Interdiction Agent, Internal Affairs Agent, and any other official of CBP authorized to conduct border searches.

For the purposes of this policy, the term "outside agency" is defined as any agency outside CBP, with the exception of Immigration and Customs Enforcement (ICE), Border Patrol (BP), and Air and Marine Interdiction (A&M).

3. PROCEDURES

Border searches in secondary typically involve the routine examination of documents. Therefore, a simple review of documents (not copied, seized, or detained) does not require reporting in accordance with this policy.

In all incidents however, whereby a secondary exam is conducted and any portion of a document and or an electronic device is examined, copied, detained, seized, or transferred the proper Border Search of Information (BSI) documentation code will be included in the narrative section of the secondary record (IOIL, S/A/S). The documentation codes are included below and in the attached document; Border Search of Information Documentation Codes. In order to ensure proper tracking, the code(s) must be the first item(s) in the narrative and must be in parentheses.

All detentions of documents, electronic devices, or copies of the information therein that remain with 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 therein that are transferred to another agency for assistance require the approval of a second line supervisor.

In all instances where a document or a copy of the information therein is detained for immigration matters, the detention will be recorded in IOIL or S/A/S.

In all instances where an electronic device is examined for immigration matters, the examination will be recorded in IOIL or S/A/S.
In all instances where an electronic device or 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 IOIL or S/A/S, as 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 IOIL or S/A/S.

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 or S/A/S.

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 Border Search of Information Documentation Code, as well as the specifics of the seizure as they relate to the policy.

In all instances where a paper file is required, a form CBP6051D will be completed. Additionally, a Document and Electronic Device Information Control Record (see Appendix 2) will be completed and a copy placed in the Control Record binder. A Control Record Log Sheet will also be completed by the officer preparing the Control Record. The officer completing the Control Record will be responsible for monitoring the time constraints of the transfer and will advise a supervisor of any issues that should arise. (Note: a form CBP6051D is not required for the transfer of information to [(b)(2), (b)(7)(E) however the appropriate system module in TECS, i.e. IOIL, S/A/S must reflect the appropriate BSI code in the narrative section for the transfer of information).

Upon initiation of a form CBP6051D, the port will notify [b](6), [b](7)(C) at the [b](2), [b](7)(E) via email, with copies to [b](6), [b](7)(C) [b](6), [b](7)(C) providing the date the form was initiated, the receiving agency, and a list of items provided.
4. BORDER SEARCH OF INFORMATION CODES

The following codes are to be reflected in parenthesis as the first item of the narrative section of the appropriate system module in TECS, i.e. IOIL, S/A/S.

For the purposes of this policy, the Border Search of Information documentation codes are defined as follows:

(b) (2) - document or a copy of information therein is detained for immigration matters, detention recorded in IOIL or S/A/S.

(b) (2) - electronic device is examined for immigration matters, examination recorded in IOIL or S/A/S.

(b) (2) - electronic device or copy of the information therein is examined for purposes other than immigration matters and released concurrently with passenger, examination recorded in IOIL or S/A/S.

(b) (2) - document or a copy of the information therein is detained for purposes other than immigration matters, detention recorded in IOIL or S/A/S.

(b) (2) - original document is detained for purposes other than immigration matters, detention recorded in IOIL or S/A/S.

(b) (2) - copy of information within an electronic device is detained, detention recorded in IOIL or S/A/S.

(b) (2) - electronic device is detained, detention recorded in IOIL or S/A/S.

(b) (2) - copy of document is detained for translation and/or decryption by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - copy of an electronic device is created and detained for translation and/or decryption by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - original document is detained for translation and/or decryption by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - electronic device is detained for translation and/or decryption by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - copy of a document is detained for subject matter assistance by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - electronic device is detained for subject matter assistance by another Federal agency, recorded in IOIL or S/A/S.
(b) (2) - original document is detained for subject matter assistance by another Federal agency, recorded in IOIL or S/A/S.

(b) (2) - electronic device is detained for subject matter assistance by another Federal agency, recorded in IOIL or S/A/S.

5. TRACKING, RETENTION, AND DESTRUCTION OF INFORMATION FOUND IN BORDER SEARCHES

The port will track the form CBP6051D. Responses from the receiving agencies on the use of the shared information are expected in an expeditious manner, responses should be received within 15 days. The Director, Field Operations, or equivalent level manager may permit extensions in increments of 15 days. Extensions are to be explained and recorded in the IOIL. The 15 day response time frame does not apply to ICE. If the receiving agency requests an extension beyond the 15 days and every 7 days thereafter, the port will submit the extension request via email to (b)(6), (b)(7)(C).

The request will contain the last name, date of initial detention, the IOIL/SAS number, form CBP6051D number, the requesting agency, and the reason for the extension. The request will be processed and notification of approval or denial will be returned to the port. In instances where the agency does not respond to CBP in association with a deadline or extension, the information will be forwarded via email to the same email group addressed above at the Field Office.

The port file for detained original documents and/or electronic devices must include; CBP's copy of form CBP6051D, a signed copy of the Document and Electronic Device Information Control Record (if turned over to another Federal agency for assistance), and 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.

Reviews of copied or detained information should take place as expeditiously as possible. All copies of the 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. Electronic storage media (compact discs, personal computers etc.) shall be sanitized appropriately by overwriting or degaussing.
Attachments

Border Search of Information Documentation Codes

Document and Electronic Device Information Control Record

Form CBP6051D

Document and Electronic Media Transmittal Record

Control Record Log Sheet

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)

<table>
<thead>
<tr>
<th>1. Name of Traveler From Whom Information Detained</th>
<th>2. Office of Detention and Date of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Purpose of Transmittal</td>
<td></td>
</tr>
<tr>
<td>☐ Technical Assistance – CBP requests technical assistance from the receiving entity, specifically as follows –</td>
<td></td>
</tr>
<tr>
<td>☐ 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.</td>
<td></td>
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<tr>
<td>4. Description of Information Transmitted</td>
<td></td>
</tr>
<tr>
<td>5. Name, Telephone, Fax, and E-mail of Recipient</td>
<td>6. Department, Agency, and Office of Recipient</td>
</tr>
<tr>
<td>7. Address of Recipient</td>
<td></td>
</tr>
<tr>
<td>8. Transmitted By (Name, Office)</td>
<td>9. Transmitted By (Telephone, Fax, E-mail)</td>
</tr>
</tbody>
</table>
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.

[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient:

CBP Use Only – Final Disposition (Choose One):

(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 ___________________________.

CBP Notes, Including Information Regarding Extension(s), If Applicable:
<table>
<thead>
<tr>
<th>Subject Name</th>
<th>Date of Transmittal</th>
<th>Form CBP6051D Tracking Number</th>
<th>Agency Information Sent To</th>
<th>15 day due date</th>
<th>Date of Return</th>
<th>Date of Destruction</th>
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1 PURPOSE
Ensure that officers and supervisors apply the most current methods and procedures for conducting BSI exams and detentions.

2 REFERENCES

CBP Directive 3340-049 dated 08/20/2009: Border Search of Electronic Devices Containing Information

ELECTRONIC MEDIA DETENTION AND REQUESTS FOR EXTENSION dated 10/30/2009

DOCUMENT AND ELECTRONIC DEVICE INFORMATION CONTROL RECORD

BSI Matrix dated 07/22/2008

Memorandum dated 07/31/2008: Ensuring Proper Documentation of the Border Search of Information

Electronic Media Tracking in TECS (IOEM) Module Instructions dated 07/2009

BSI Log Sheet

3 OVERVIEW

CBP will ensure that the proper reporting requirements for (b)(2), (b)(7)(E) are being followed in accordance with CBP policy.

4 WORK PROCEDURES

- Notify duty supervisor before you start electronic device search. The duty supervisor must be available/present during the electronic device searches and will explain the procedure and give his/her name and contact telephone number to the passenger. Note: In order to view a passenger’s sensitive legal material, medical records or a journalist’s work-related information, consult with CBP Associate/Assistant Chief Counsel office in (b)(2); (b)(7)(E) as well as notify the Area Port Director and Assistant Port Director, Passenger Operations.
• Tear sheets
  o Use the link (http://www.cbp.gov/xp/cgov/travel/admissibility/) to access the electronic version to the tear sheet.
  o Tear sheets must be provided to all individuals whose electronic media was reviewed. Per HQ, provide a tear sheet to the individual in each instance electronic media was handled.
    ▪ To avoid confusion, the officer should notify the passenger and perhaps annotate the tear sheet if the “What Happens Now” block is applicable to their incident.

• IOEM Function Code
  o IOEM is a new TECs function code created for the tracking of Electronic Media Examinations.
  o Use of IOEM is mandatory beginning September 1, 2009
    ▪ Because of programming issues, until further notice, both IOEM and IOIL must be used to document electronic media examinations. (When systems updates are completed, IOEM will effectively replace IOIL when recording electronic media examinations.
    ▪ IO25, IO95 secondary examination recording is still required.
  o When Electronic Media is seized outright, without detention, both an SAS and IOEM must be completed.
  o If a personal search is conducted as part of an examination involving electronic media (no SAS), a separate IOIL must be completed to capture the personal search.
  o IOEM does not impact examination of hard copy (paper) materials.
    ▪ Examination of paper media need only be documented in IOIL.

• Detention Tracking and Time Frame Approval
  o CBP initiated detentions require approval by a supervisor.
    ▪ Detentions that extend beyond 5 days require Port Director approval.
    ▪ Detention extending beyond 15 days, require DFO approval.
- Re-approval must occur in increments of no more than seven days.

- All approvals, re-approvals, and updates must be recorded in the system.

- Use the established media detention log to identify detentions requiring extension approval or re-approval.
  
  - The Field Office will also be tracking recorded incidents.
REFERENCE:

PURPOSE:
This SOP provides guidelines and procedures for examining documents of (b)(2), (b)(7)(E) during all CBP operations at the functional equivalent of the border.

For all other travelers see Interim Procedures of July 5, 2007 (Border Search/Examination of Documents, Papers, and Electronic Information) for (b)(2), (b)(7)(E).

BACKGROUND:
U.S. Customs and Border Protection will protect the rights of individuals against unreasonable search and seizure while still accomplishing its enforcement mission.

PROCEDURES: All CBP officers at the (b)(2), (b)(7)(E) port of Entry shall comply with the following procedures.

Note: For all viewing of electronic media, approval from a GS 13 CBPO or above is required. Detention and/or seizing of electronic media must be approved by the area port director. All officers shall observe the chain of command when such requests are required.

CBP Officers May Glance at Documents and Papers.

As opposed to reading content, Customs officers may glance at documents and papers to see if they appear to be merchandise. This may include:

- Books, pamphlets, printed/manuscript material
- Monetary instruments.
• Prohibited materials such as, copyright violations, obscene, treasonous or seditious material (i.e., inciting or producing imminent lawless action).
• Prohibited matter being imported in violation of 19 U.S.C. 1305, stolen property under the National Stolen Property Act, 18 U.S.C. 2314, or evidence of embargo violations.
• Materials related to the importation or exportation of merchandise including documents required to be filed to import or export merchandise.

**Attorney-Client Privilege**

As part of a border search, an attorney's files can be examined for the presence of drugs, currency or other monetary instruments, sales slips, invoices, or other documents evidencing foreign purchases. Records of an importation are not privileged. However, correspondence, court papers, and other legal documents may be privileged. If an officer has probable cause to believe a document may be evidence of a crime, seek advice from a supervisor who will consult the Associate/Assistant Chief Counsel.

**Foreign Language Documents or Documents Requiring Special Expertise**

If an officer reasonably suspects that a document or paper in a foreign language falls into a category that would allow it to be read, the document can be detained and forwarded to an appropriate translator, provided that such translations can be accomplished within a reasonable time.

The use of a facsimile (FAX) machine, when appropriate, is authorized. This same principle would apply to documents that need special expertise to determine their nature, such as documents relating to complex technology cases.

If after translation or review, probable cause to seize develops, the documents should be seized and/or copies retained. If not, the originals must be returned and all copies (e.g., fax) must be destroyed. The destruction must be appropriately documented.

(b)(2), (b)(7)(E)
Reasonable Suspicion Required for Reading and Continued Detention.

If, after glancing at the documents or papers, an officer reasonably suspects that they relate to any of the categories listed above, the officer may read the documents. He/she may continue to detain such documents for such further inquiry as may be reasonably necessary to make the determination whether to seize the documents.

This may include referral to another agency necessary to assist in that determination.

Probable Cause Required for Seizures.

If an officer has probable cause to believe that a document or paper is subject to seizure because it is prohibited, a fruit, instrumentality or evidence of a crime, or otherwise subject to forfeiture, it may be seized.

Probable Cause or Consent Required to Copy.

An officer must have probable cause to believe a document or paper is subject to seizure, to copy it. Documents and papers may be copied without probable cause when consent to do so is obtained from the person from whom the documents were seized, or if copying is incident to a lawful arrest.

In circumstances when the inspecting Customs officer is uncertain whether probable cause exists, the officer may contact a supervisor who may consult Associate/Assistant Chief Counsel.

Identification Documents can be Photocopied

Passports (United States or foreign), Seaman's Papers, Airmen Certificates, drivers licenses, state identification cards and similar governmental identification documents can be photocopied for legitimate, good-faith government purposes without any suspicion of illegality. A CF 6051 is required to see who has access and custody of the copies.

Remember, Certificates of Naturalization may never be copied (18 U.S.C. 1426(h)).

Chain of Custody Required for Copies

Whenever copies of documents are made, transfer of the copies should be accomplished through a chain of custody form (CF-6051) or other documentation that will show each individual who has had custody and access to such copies.
Recording inspection results when media and documents have been reviewed, copied and/or seized

In all incidents where a substantive review (not merely reviewing travel or identity documents presented) of electronic media and/or documents occurred (no copying/detention/or seizure), the IO25/IO95 entries should include the phrase “electronic media (and/or document) review” in order to document that such a review occurred.

If electronic device or document is copied, but not detained for an extended period or seized the IOIL will include the following statement:

The subject’s ___________ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, a copy was made of the contents of the electronic device (and/or documents) for purposes of further examination and/or evaluation, and the electronic device (and/or documents) were returned to the subject.

If electronic device or document was detained or seized the IOIL or SAS will include the following statement:

The subject’s ___________ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, detained for further examination and/or evaluation. Form 6051-D was completed, and a copy of the completed Form 6051 was provided to the subject.
BORDER SEARCH OF INFORMATION (BSI)

CBP DIRECTIVE NO. 3340-049
TECS II - ELECTRONIC MEDIA TRACKING SOP

(b)(2); (b)(7)(E)
Port of Entry
09022009
Caveats:

1. Beginning September 1, 2009 (this function is not working yet, but will be pushed to all officers soon) we are required to input all searches of electronic equipment into IOEM instead of IOIL. Attached is a guide on IOEM.
   a. If a Seizure is done, it will still be required to go into IOEM
   b. If you feel an IOIL is required to document the inspection (personal search, suspicious inspection, passenger protest, etc.), you will need to do an IOIL and an IOEM. You do not need to put in the BSI codes in the IOIL.

2. Whenever a search of this type is done, you must give the traveler the Tear Off sheet entitled “Inspection of Electronic Devices”, even if it is returned to the subject. If it is returned, you do not need to provide them with a 6051D, POC, etc.

3. Directive Highlights

   a. In the course of a border search, with or without individualized suspicion, an Officer may examine electronic devices and may review and analyze the information encountered at the border, subject to the requirements and limitations provided herein and applicable law

   b. Searches of electronic devices will be documented in appropriate CBP systems of records and should be conducted in the presence of a supervisor. In circumstances where operational considerations prevent a supervisor from remaining present for the entire search, or where a supervisory presence is not practicable, the examining Officer shall, as soon as possible, notify the appropriate supervisor about the search and any results thereof

   c. Searches of electronic devices should be conducted in the presence of the individual whose information is being examined unless there are national security, law enforcement, or other operational considerations that make it inappropriate to permit the individual to remain present. Permitting an individual to be present in the room during a search does not necessarily mean that the individual will be permitted to witness the search itself. If permitting an individual to witness the search itself could reveal law enforcement techniques or potentially compromise other operational considerations, the individual will not be permitted to observe the search itself.

   d. Officers may encounter materials that appear to be legal in nature, or an individual may assert that certain information is protected by attorney-client or attorney work product privilege. Legal materials are not necessarily exempt from a border search, but they may be subject to the following special handling procedures: If an Officer suspects that the
content of such a material may constitute evidence of a crime or otherwise pertain to a determination within the jurisdiction of CBP, the Officer must seek advice from the CBP Associate/Assistant Chief Counsel before conducting a search of the material, and this consultation shall be noted in appropriate CBP systems of records. CBP counsel will coordinate with the U.S. Attorney’s Office as appropriate.

c. Officers encountering business or commercial information in electronic devices shall treat such information as business confidential information and shall protect that information from unauthorized disclosure.

f. Approval of and Time Frames for Detention. Supervisory approval is required for detaining electronic devices, or copies of information contained therein, for continuation of a border search after an individual’s departure from the port or other location of detention. Port Director, Patrol Agent in Charge, or other equivalent level manager approval is required to extend any such detention beyond five (5) days. Extensions of detentions exceeding fifteen (15) days must be approved by the Director Field Operations, Chief Patrol Agent, Director, Air Operations, Director, Marine Operations, or other equivalent manager, and may be approved and re-approved in increments of no more than seven (7) days. Approvals for detention and any extension thereof shall be noted in appropriate CBP systems of records.

g. Custody Receipt. If CBP determines it is necessary to detain temporarily an electronic device to continue the search, the Officer detaining the device shall issue a completed Form 6051D to the individual prior to the individual’s departure.
STANDARD OPERATING PROCEDURES
(b)(2): (b)(7)(E)

Border Search of Electronic Devices Containing Information
DATE: September 02, 2009

Special Notes:

➢ This Directive does not govern searches of shipments containing commercial quantities of electronic devices (e.g., a shipment of hundreds of laptop computers transiting from the factory to the distributor).

➢ This Directive applies to searches performed by or at the request of CBP. With respect to searches performed by U.S. Immigration and Customs Enforcement (ICE), ICE Special Agents exercise concurrently-held border search authority that is covered by ICE’s own policy and procedures. When CBP detains, seizes, or retains electronic devices, or copies of information therefrom, and turns such over to ICE for analysis and investigation (with appropriate documentation), ICE policy will apply once it is received by ICE.

➢ Electronic Device. Includes any devices that may contain information, such as computers, disks, drives, tapes, mobile phones and other communication devices, cameras, music and other media players, and any other electronic or digital devices.

➢ Destruction. For electronic records, destruction is deleting, overwriting, or degaussing in compliance with CBP Information Systems Security Policies and Procedures Handbook, CIS HB 1400-05C.

Procedures

➢ In the course of a border search, with or without individualized suspicion, an Officer may examine electronic devices and may review and analyze the information encountered at the border, subject to the requirements and limitations provided herein and applicable law.

➢ Searches of electronic devices will be documented in appropriate CBP systems of records and should be conducted in the presence of a supervisor. In circumstances where operational considerations prevent a supervisor from remaining present for the entire search, or where a supervisory presence is not practicable, the examining Officer shall, as soon as possible, notify the appropriate supervisor about the search and any results thereof.
 Searches of electronic devices should be conducted in the presence of the individual whose information is being examined unless there are national security, law enforcement, or other operational considerations that make it inappropriate to permit the individual to remain present. Permitting an individual to be present in the room during a search does not necessarily mean that the individual will be permitted to witness the search itself. If permitting an individual to witness the search itself could reveal law enforcement techniques or potentially compromise other operational considerations, the individual will not be permitted to observe the search itself.

5.2 Review and Handling of Privileged or Other Sensitive Material.

5.2.1 Officers may encounter materials that appear to be legal in nature, or an individual may assert that certain information is protected by attorney-client or attorney work product privilege. Legal materials are not necessarily exempt from a border search, but they may be subject to the following special handling procedures: If an Officer suspects that the content of such a material may constitute evidence of a crime or otherwise pertain to a determination within the jurisdiction of CBP, the Officer must seek advice from the CBP Associate/Assistant Chief Counsel before conducting a search of the material, and this consultation shall be noted in appropriate CBP systems of records. CBP counsel will coordinate with the U.S. Attorney’s Office as appropriate.

5.2.2 Other possibly sensitive information, such as medical records and work-related information carried by journalists, shall be handled in accordance with any applicable federal law and CBP policy. Questions regarding the review of these materials shall be directed to the CBP Associate/Assistant Chief Counsel, and this consultation shall be noted in appropriate CBP systems of records.

5.2.3 Officers encountering business or commercial information in electronic devices shall treat such information as business confidential information and shall protect that information from unauthorized disclosure. Depending on the nature of the information presented, the Trade Secrets Act, the Privacy Act, and other laws, as well as CBP policies, may govern or restrict the handling of the information. Any questions regarding the handling of business or commercial information may be directed to the CBP Associate/Assistant Chief Counsel.

5.2.4 Information that is determined to be protected by law as privileged or sensitive will only be shared with federal agencies that have mechanisms in place to protect appropriately such information.

5.3 Detention and Review in Continuation of Border Search of Information

5.3.1 Detention and Review by CBP
An Officer may detain electronic devices, or copies of information contained therein, for a brief, reasonable period of time to perform a thorough border search. The search may take place on-site or at an off-site location, and is to be completed as expeditiously as possible. Unless extenuating circumstances exist, the detention of devices ordinarily should not exceed five (5) days.

5.3.1.1 Approval of and Time Frames for Detention. Supervisory approval is required for detaining electronic devices, or copies of information contained therein, for continuation of a border search after an individual's departure from the port or other location of detention. Port Director, Patrol Agent in Charge, or other equivalent level manager approval is required to extend any such detention beyond five (5) days. Extensions of detentions exceeding fifteen (15) days must be approved by the Director Field Operations, Chief Patrol Agent, Director, Air Operations, Director, Marine Operations, or other equivalent manager, and may be approved and re-approved in increments of no more than seven (7) days. Approvals for detention and any extension thereof shall be noted in appropriate CBP systems of records.

5.3.1.2 Destruction. Except as noted in section 5.4 or elsewhere in this Directive, if after reviewing the information pursuant to the time frames discussed in section 5.3, there is not probable cause to seize it, any copies of the information must be destroyed, and any electronic device must be returned. Upon this determination that there is no value to the information copied from the device, the copy of the information is destroyed as expeditiously as possible, but no later than seven (7) days after such determination unless circumstances require additional time, which must be approved by a supervisor and documented in an appropriate CBP system of records and which must be no later than twenty one (21) days after such determination. The destruction shall be noted in appropriate CBP systems of records.

5.3.1.3 Notification of Border Search. When a border search of information is conducted on an electronic device, and when the fact of conducting this search can be disclosed to the individual transporting the device without hampering national security or law enforcement or other operational considerations, the individual may be notified of the purpose and authority for these types of searches, how the individual may obtain more information on reporting concerns about their search, and how the individual may seek redress from the agency if he or she feels aggrieved by a search.

5.3.1.4 Custody Receipt. If CBP determines it is necessary to detain temporarily an electronic device to continue the search, the Officer detaining the device shall issue a completed Form 6051D to the individual prior to the individual's departure.

5.3.2 Assistance by Other Federal Agencies.
5.3.2.1 The use of other federal agency analytical resources outside of CBP and ICE, such as translation, decryption, and subject matter expertise, may be needed to assist CBP in reviewing the information contained in electronic devices or to determine the meaning, context, or value of information contained in electronic devices.

5.3.2.2 Technical Assistance – With or Without Reasonable Suspicion. Officers may sometimes have technical difficulties in conducting the search of electronic devices such that technical assistance is needed to continue the border search. Also, in some cases Officers may encounter information in electronic devices that requires technical assistance to determine the meaning of such information, such as, for example, information that is in a foreign language and/or encrypted (including information that is password protected or otherwise not readily reviewable). In such situations, Officers may transmit electronic devices or copies of information contained therein to seek technical assistance from other federal agencies. Officers may seek such assistance with or without individualized suspicion.

5.3.2.3 Subject Matter Assistance by Other Federal Agencies – With Reasonable Suspicion. In addition to encountering information in electronic devices that is in a foreign language, encrypted, or requires technical assistance, Officers may encounter information that requires referral to subject matter experts in other federal agencies to determine the meaning, context, or value of information contained therein as it relates to the laws enforced and administered by CBP. Therefore, Officers may transmit electronic devices or copies of information contained therein to other federal agencies for the purpose of obtaining subject matter assistance when they have reasonable suspicion of activities in violation of the laws enforced by CBP. While many factors may result in reasonable suspicion, the presence of an individual on a government-operated and government-vetted terrorist watch list will be sufficient to create reasonable suspicion of activities in violation of the laws enforced by CBP.

5.3.2.4 Approvals for seeking translation, decryption, and subject matter assistance. Requests for translation, decryption, and subject matter assistance require supervisory approval and shall be properly documented and recorded in CBP systems of records. If an electronic device is to be detained after the individual’s departure, the Officer detaining the device shall execute a Form 6051D and provide a copy to the individual prior to the individual’s departure. All transfers of the custody of the electronic device will be recorded on the Form 6051D.

5.3.2.5 Electronic devices should be transmitted only when necessary to render the requested translation, decryption, or subject matter assistance. Otherwise, a copy of such information should be transmitted in lieu of the device in accord with this Directive.

5.3.2.6 When information from an electronic device is transmitted to another federal agency for translation, decryption, or subject matter assistance, the individual will be notified of this transmission unless CBP determines, in consultation with the receiving agency or other agency as appropriate, that notification would be contrary to national security or law enforcement or other operational interests. If CBP’s transmittal seeks
assistance regarding possible terrorism, or if the individual is on a government-operated and government-vetted terrorist watch list, the individual will not be notified of the transmittal or his or her presence on a watch list. When notification is made to the individual, the Officer will annotate the notification in CBP systems of records and on the Form 6051D.

5.3.3 Responses and Time for Assistance

5.3.3.1 Responses Required. Agencies receiving a request for assistance in conducting a border search are to provide such assistance as expeditiously as possible. Where subject matter assistance is requested, responses should include all appropriate findings, observations, and conclusions relating to the laws enforced by CBP.

5.3.3.2 Time for Assistance. Responses from assisting agencies are expected in an expeditious manner so that CBP may complete the border search in a reasonable period of time. Unless otherwise approved by the Director Field Operations, Chief Patrol Agent, Director, Air Operations, Director, Marine Operations, or equivalent level manager, responses from an assisting agency should be received within fifteen (15) days. If the assisting agency is unable to respond in that period of time, the Director Field Operations, Chief Patrol Agent, Director, Air Operations, Director, Marine Operations, or equivalent level manager may permit extensions in increments of seven (7) days.

5.3.3.3 Revocation of a Request for Assistance. If at any time a CBP supervisor involved in a request for assistance is not satisfied with the assistance being provided, the timeliness of assistance, or any other articulable reason, the request for assistance may be revoked, and the CBP supervisor may require the assisting agency to return to CBP all electronic devices that had been provided to the assisting agency, and any copies thereof, as expeditiously as possible, except as noted in 5.4.2.3. Any such revocation shall be documented in appropriate CBP systems of records. When CBP has revoked a request for assistance because of the lack of a timely response, CBP may initiate the request with another agency pursuant to the procedures outlined in this Directive.

5.3.3.4 Destruction. Except as noted in section 5.4.1 below or elsewhere in this Directive, if after reviewing information, probable cause to seize the information does not exist, CBP will retain no copies of the information.

5.4 Retention and Sharing of Information Found in Border Searches

5.4.1 Retention and Sharing of Information Found in Border Searches

5.4.1.1 Retention with Probable Cause. Officers may seize and retain an electronic device, or copies of information from the device, when, based on a review of the electronic device encountered or on other facts and circumstances, they determine there is probable cause to believe that the device, or copy of the contents thereof, contains evidence of or is the fruit of a crime that CBP is authorized to enforce.
5.4.1.2 **Retention of Information in CBP Privacy Act-Compliant Systems.** Without probable cause to seize an electronic device or a copy of information contained therein, CBP may retain only information relating to immigration, customs, and other enforcement matters if such retention is consistent with the privacy and data protection standards of the system of records in which such information is retained. For example, information collected in the course of immigration processing for the purposes of present and future admissibility of an alien may be retained in the A-file, Central Index System, TECS, and/or ENFORCE or other systems as may be appropriate and consistent with the policies governing such systems.

5.4.1.3 **Sharing Generally.** Nothing in this Directive limits the authority of CBP to share copies of information contained in electronic devices (or portions thereof), which are retained in accordance with this Directive, with federal, state, local, and foreign law enforcement agencies to the extent consistent with applicable law and policy.

5.4.1.4 **Sharing of Terrorism Information.** Nothing in this Directive is intended to limit the sharing of terrorism-related information to the extent the sharing of such information is mandated by statute, Presidential Directive, or DHS policy. Consistent with 6 U.S.C. 122(d)(2) and other applicable law and policy, CBP, as a component of DHS, will promptly share any terrorism information encountered in the course of a border search with elements of the federal government responsible for analyzing terrorist threat information. In the case of such terrorism information sharing, the element receiving the information will be responsible for providing CBP with all appropriate findings, observations, and conclusions relating to the laws enforced by CBP. The receiving entity will be responsible for managing retention and disposition of information it receives in accordance with its own legal authorities and responsibilities.

5.4.1.5 **Safeguarding Data During Storage and Transmission.** CBP will appropriately safeguard information retained, copied, or seized under this Directive and during transmission to another federal agency. Appropriate safeguards include keeping materials in locked cabinets or rooms, documenting and tracking copies to ensure appropriate disposition, and other safeguards during transmission such as password protection or physical protections. Any suspected loss or compromise of information that contains personal data retained, copied, or seized under this Directive must be immediately reported to the Port Director, Patrol Agent in Charge or equivalent level manager and the CBP Office of Internal Affairs.

5.4.1.6 **Destruction.** Except as noted in this section or elsewhere in this Directive, if after reviewing information, there exists no probable cause to seize the information, CBP will retain no copies of the information.

5.4.2 **Retention by Agencies Providing Translation, Decryption, or Subject Matter Assistance**

5.4.2.1 **During Assistance.** All electronic devices, or copies of information contained therein, provided to an assisting federal agency may be retained by that agency for the
period of time needed to provide the requested assistance to CBP or in accordance with section 5.4.2.3 below.

5.4.2.2 Return or Destruction. At the conclusion of the requested assistance, all information must be returned to CBP as expeditiously as possible, and the assisting agency must advise CBP in accordance with section 5.3.3 above. In addition, the assisting federal agency should destroy all copies of the information transferred to that agency unless section 5.4.2.3 below applies. In the event that any electronic devices are transmitted, they must not be destroyed; they are to be returned to CBP unless seized by the assisting agency based on probable cause or retained per 5.4.2.3.

5.4.2.3 Retention with Independent Authority. If an assisting federal agency elects to continue to retain or seize an electronic device or information contained therein, that agency shall assume responsibility for processing the retention or seizure. Copies may be retained by an assisting federal agency only if and to the extent that it has the independent legal authority to do so—for example, when the information relates to terrorism or national security and the assisting agency is authorized by law to receive and analyze such information. In such cases, the retaining agency should advise CBP of its decision to retain information under its own authority.

5.5  Reporting Requirements

5.5.1 The Officer performing the border search of information shall be responsible for completing all after-action reporting requirements. This responsibility includes ensuring the completion of all applicable documentation such as the Form 6051D when appropriate, and creation and/or updating records in CBP systems. Reports are to be created and updated in an accurate, thorough, and timely manner. Reports must include all information related to the search through the final disposition including supervisory approvals and extensions when appropriate.

5.5.2 In instances where an electronic device or copy of information contained therein is forwarded within CBP as noted in section 5.3.1, the receiving Officer is responsible for recording all information related to the search from the point of receipt forward through the final disposition.

5.5.3 Reporting requirements for this Directive are in addition to, and do not replace, any other applicable reporting requirements.

5.6 Management Requirements

5.6.1 The duty supervisor shall ensure that the Officer completes a thorough inspection and that all notification, documentation, and reporting requirements are accomplished.
5.6.2 The appropriate CBP Second line supervisor shall approve and monitor the status of the detention of all electronic devices or copies of information contained therein.

5.6.3 The appropriate CBP Second line supervisor shall approve and monitor the status of the transfer of any electronic device or copies of information contained therein for translation, decryption, or subject matter assistance from another federal agency.

5.6.4 The Director, Field Operations, Chief Patrol Agent, Director, Air Operations, Director, Marine Operations, or equivalent level manager shall establish protocols to monitor the proper documentation and recording of searches conducted pursuant to this Directive and the detention, transfer, and final disposition of electronic devices or copies of information contained therein in order to ensure compliance with the procedures outlined in this Directive.

6 MEASUREMENT. CBP Headquarters will continue to develop and maintain appropriate mechanisms to ensure that statistics regarding border searches of electronic devices, and the results thereof, can be generated from CBP systems using data elements entered by Officers pursuant to this Directive.

7 AUDIT. CBP Management Inspection will develop and periodically administer an auditing mechanism to review whether border searches of electronic devices are being conducted in conformity with this Directive.

8 NO PRIVATE RIGHT CREATED. This Directive is an internal policy statement of U.S. Customs and Border Protection and does not create or confer any rights, privileges, or benefits on any person or party.

9 DISCLOSURE. This Directive may be shared with the public.


Acting Commissioner
U.S. Customs and Border Protection
CUSTOMS and BORDER PROTECTION
Standard Operating Procedure (SOP)
Border Search of Information (BSI)

(b)(2); (b)(7)(E)

March 20, 2009
U.S. Customs and Border Protection

➤ Purpose ................................................................. 3
➤ Definitions ............................................................ 3
➤ Primary Procedures ............................................... 4
➤ Recording .............................................................. 5
➤ Codes ...................................................................... 6
➤ Factors Determining Search .................................... 9
➤ Addendum and Memorandums ................................. 10
U.S. CUSTOMS and BORDER PROTECTION
Standard Operating Procedure (SOP)
Border Search of Information (BSI)

(b)(2); (b)(7)(E)

PURPOSE

The purpose of this document is to provide specific guidance on properly writing and recording results in conjunction with the Border Search of Information. (Appendix 1).

Border Search of Information (BSI): For the purpose of this document, Border Search examinations of information of documentation and electronic devices must be performed in accordance with the policy dated July 16, 2008, titled “Border Search of Information”.

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.

DEFINITIONS

Examination is limited to border search. The policy does not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

Detention is defined as a temporary holding, of an original or copy of information for purposes of further examination.

Copying, detaining, seizing and transfer of government issued identification documents, as defined in the policy, is not required to be recorded.
PRIMARY PROCEDURES

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

• 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 as 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.
RECORDING

Required format for capturing the data associated with BSI examinations as recorded in TECS applications and the frequency by which the record should be updated when there is a detention.

The following direction must be followed:

- The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TECS. This requirement will reduce duplication of statistical data, allow modifications and corrections and require approval by a supervisor for proper IOIL examination record content.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that occurred. The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Muster 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Muster 2008-09 are not required to be directly behind the code, but are to be incorporated in the body off the exam narrative. The approving CBP Supervisor certifies the TECS narrative accurately represents the selection of the proper code.

- The narrative accurately identifies the specific BSI format (document or media device) that was examined/copied/detained, and describes specifically what the document/media device was. (Laptop, cell phone, SIM card, paper note, etc.)

- When a media device is detained you MUST have a supervisor approval and update the IOIL with the status of the detention after each extension approval so the current status of the detention is available. If the device was transferred to another agency who is detaining it under their authority you MUST update the IOIL to reflect the status of the detention and which agency is involved. Weekly follow ups with the other agency are to be updated in the IOIL with the status, status date and reason it is still detained by the other agency.

11/30/09
CODES

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:

(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 IO1L 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)
(b)(2),(b)(7)(E) ____________ for further examination. All copies were (destroyed or seized) on ________________ (insert date).

11/30/09
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 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).

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) for documents/ (b) (2) 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. The 15 day response time frame does not apply to ICE.

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.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be
construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

**FACTORS DETERMINING SEARCH**

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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Artic able 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.
ADDENDUM

Subject: Border Search of Information

It appears there are still questions concerning Border Search of Information and how to properly document and track it. Please take a few minutes to review the attached documents that were previously sent to the field. A few things to remember:

- Government issued ID’s such as driver licenses, passports, visas, LPR cards, etc are exempt from this policy since there is no right to privacy with a government issued document.
- When a non-government issued document is copied an IOIL entry must be created and the copied document tracked.
- When an electronic device is examined (laptop, camera, cell phone, etc.), an IOIL must be created.
- When a document is copied and turned over to an assisting agency (for example: for translation), in addition to the IOIL, the document must be tracked using the BSI Control Record Form and the assisting agency has 15 days to respond.
- When an electronic device or original document is turned over to another agency to be examined, in addition to the IOIL, they must be tracked using the BSI Control Record Form in addition to the 6051D.
- ICE has the same border search authority as CBP. Therefore, they are can retain and detain items on their authority.
- When a document is required to be tracked, the approving supervisor or manager for the IOIL will be the responsible party to ensure this policy is adhered to. Follow-up and appropriate annotations will need to be entered.

When we pass copies of information discovered during a border search to another agency, in order for that agency to retain the information they must advise CBP of this decision and demonstrate to CBP it has the independent legal authority to do so.

These are the main questions that have been asked recently. Please ensure your managers, supervisors and officers are fully aware of the BSI policy. Please call me if you have any questions.

11/30/09
MEMORANDUM FOR: Directors, Field Operations  
Acting Director, Pre-Clearance  
Office of Field Operations

FROM: Executive Director  
Office of Field Operations

SUBJECT: Clarification To Ensure Proper Documentation of Border Search of Information (BSI) in TECS Applications

The purpose of the document is to clarify the required format for capturing the data associated with BSI examinations recorded in TECS applications and the frequency by which the record should be updated when there is a detention.

The following direction must be followed:

- The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TEC5. This requirement will reduce duplication of statistical data, allow modifications and corrections, and require approval by a supervisor for proper IOIL examination record section.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that occurred. The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Master 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Master 2008-09 are not required to be directly behind the code, but are to be incorporated in the body of the entire narrative. The approving CCRP Supervisor certifies the TEC5 narrative accurately represents the selection of the proper code.

- The narrative securely identifies the specific BSI format (document or media device) that was examined/copied/collected, and describes specifically what the document/media device was. (Laptop, cell phone, SIM card, paper case, etc.)
When a media device is detained you MUST have a supervisor approval and update the IOIL with the status of the detention after each extension approval so the current status of the detention is available. If the device was transferred to another agency who is detaining it under their authority, you MUST update the IOIL to reflect the status of the detention and which agency is involved. Weekly follow-ups with the other agency are to be updated in the IOIL with the status, status case and reason it is still detained by the other agency.

As part of the Securing America’s Borders at Ports of Entry (SABPOE) strategic plan, this effort is linked to 11 - Situational Awareness and Information Sharing Strategic Initiative and Milestone 11.2 - Develop and fully implement tools and processes for officers.

If you have any questions, please contact (b)(6),(b)(7)(C) have a member of your staff contact (b)(6),(b)(7)(C)
### DOCUMENT AND ELECTRONIC DEVICE INFORMATION CONTROL RECORD

<table>
<thead>
<tr>
<th>1. Name of Traveler From Whom Information Detained</th>
<th>2. Office of Detention and Date of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>3. Purpose of Request for Transmittal/Transfer to</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Translation and Decryption – CBP requests translation and decryption from the receiving entity, specifically as follows:</td>
</tr>
<tr>
<td>☐ Subject Matter Assistance – CBP requests subject matter assistance from the receiving entity, specifically as follows</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>

<table>
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<tr>
<th>4. Description of Information – Original ___ / Copy ___</th>
</tr>
</thead>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Name, Telephone, Fax, and E-mail of Recipient</th>
<th>6. Department, Agency, and Office of Recipient</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
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</table>

<table>
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<tr>
<th>7. Address of Recipient</th>
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</thead>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>8. Transmitted By (Name, Office)</th>
<th>9. Transmitted By (Telephone, Fax, E-mail)</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>10. Retention, Seizure, and Destruction</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient: 

CBP Use Only – Final Disposition (Choose One):

(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 ____________________________.

CBP Notes, Including Information Regarding Extension(s), If Applicable:

11/30/09
MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
DIRECTOR, PRE-CLEARANCE
OFFICE OF FIELD OPERATIONS

FROM: Assistant Commissioner
Office of Field Operations

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

The Office of Field Operations (OFO) is forwarding a mandatory master module. The
information provided in the attached document should be disseminated to all Ports of Entry for
inclusion in master discussions to be held immediately. This document should be distributed
at the master to all Customs and Border Protection Officers.

All border search examinations of information contained in documents and electronic devices
must be performed in accordance with the new policy dated July 16, 2007, titled Border Search
of Information. This policy supersedes pre-existing guidance on the subject as articulated in

The new policy establishes procedures for searching, reviewing, retaining, and sharing
information contained in documents, such as papers, pamphlets, and other printed or
handwritten material, as well as computers, disks, hard drives, and other electronic or digital
storage devices; possession by individuals who are encountered by CBP at the border, for
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.

My expectation is that all DEO’s will review monthly the information contained in documents
and electronic devices. The Executive Director for Policy, Planning, Analysis, and Evaluation
will provide me with a monthly report by port of entry. It is imperative that data integrity is
maintained for all border search authority related matters. I have also requested that a formal
training package be developed and delivered during the Fall of 2008, thereby ensuring we are
consistent in how we document border search examinations.

Thank you for your continued assistance. If you have any questions, please contact [Redacted].

Attachments

11/30/09
- 14 -
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
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<tbody>
<tr>
<td>A document or a copy of information therein is detained for immigration</td>
<td>(b)  (2)</td>
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<tr>
<td>matters the detention will be recorded in IO95.</td>
<td></td>
</tr>
<tr>
<td>An electronic device is examined for immigration matters the examination</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>will be recorded in IO95.</td>
<td></td>
</tr>
<tr>
<td>An electronic device or copy of the information therein, is examined,</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>for purposes other than immigration matters and release concurrently</td>
<td></td>
</tr>
<tr>
<td>with the passenger the examination will be recorded in an IO25, IO04 or</td>
<td></td>
</tr>
<tr>
<td>IO01</td>
<td></td>
</tr>
<tr>
<td>A document or a copy of the information therein is detained, for</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>purposes other than immigration matters the detention will be recorded</td>
<td></td>
</tr>
<tr>
<td>in IOIL.</td>
<td></td>
</tr>
<tr>
<td>An original document is detained, for purposes other than immigration</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>matters the detention will be recorded in IOIL.</td>
<td></td>
</tr>
<tr>
<td>A copy of information within an electronic device is detained the</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>detention will be recorded in IOIL.</td>
<td></td>
</tr>
<tr>
<td>An electronic device is detained the detention will be recorded in</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>IOIL.</td>
<td></td>
</tr>
<tr>
<td>A copy of document is detained for translation and/or decryption by</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td></td>
</tr>
<tr>
<td>A copy an electronic device is detained for translation and/or decryption</td>
<td>(b) (2)</td>
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<tr>
<td>by another Federal agency.</td>
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<tr>
<td>An original document is detained for translation and/or decryption by</td>
<td>(b) (2)</td>
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<tr>
<td>another Federal agency.</td>
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<tr>
<td>An electronic device is detained for translation and/or decryption by</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td></td>
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<tr>
<td>A copy of a document is detained for subject matter assistance by</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>another Federal agency.</td>
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<tr>
<td>An electronic device is detained for subject matter assistance by</td>
<td>(b) (2)</td>
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<tr>
<td>another Federal agency.</td>
<td></td>
</tr>
<tr>
<td>An original document is detained for subject matter assistance by</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>another Federal agency.</td>
<td></td>
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<tr>
<td>An electronic device is detained for subject matter assistance by</td>
<td>(b) (2)</td>
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<tr>
<td>another Federal agency.</td>
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11/30/09
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:

- 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, IO01, 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.

11/30/09
• 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 IO0I 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:

(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 IO0I 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:

11/30/09
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 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

11/30/09
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).

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) for documents/ [b] (2) 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. The 15 day response time frame does not apply to ICE.

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.

The policy and reporting requirements contained in this matter do not require CBP to document actions taken solely by another Federal agency acting under their own
authority, however, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

**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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
Subject: FW: MEMO: Clarification To Ensure Proper Documentation of Border Search of Information (BSI) in TECS Applications

Attachments: MEMO - clarification to revised muster 2008-09.pdf

Port Directors,

The attached muster has already been posted on the muster tracking site but please ensure your officers and supervisors are aware of this new requirement. The muster addresses the requirement for capturing the data associated with BSI examinations as recorded in TECS applications and the frequency by which the record should be updated when there is a detention. The first bullet listed in the muster will have the biggest impact on operations:

- "The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TECS".....

This new requirement places the onus on the approving supervisor to ensure BSI examinations are conducted, recorded, and tracked according to policy.

There was an additional attachment listing BSI searches conducted after Dec. 12th that did not include an IOIL. The list is not attached to this message since only one port will need to create an IOIL record.

Please contact me if you have any questions.

From: [b](6),(b)(7)(C)
Sent: Wednesday, December 24, 2008 9:49 AM
To: [b](5),(b)(7)(C)
Subject: FW: MEMO: Clarification To Ensure Proper Documentation of Border Search of Information (BSI) in TECS Applications

All,

Per the attached memo, all BSI examinations now require creation of an IOIL report. Hq has advised us that we need to go back to Dec 12th and create IOILs for all BSI searches that don't have one.

11/30/09
I've attached a list of the BSI searches I found in IO04, IO25, and IO95 records that don’t have an IOIL. (Password protected. [b](2),(b)(7)(E) An IOIL will need to be created for each record.

Please let me know the IOIL number once each record is completed.

Thanks,

From: [b](6),(b)(7)(C)
Sent: Friday, December 12, 2008 8:30 AM
To: [b](2)
CC: [b](6),(b)(7)(C)
[b](6),(b)(7)(C)
Subject: MEMO: Clarification To Ensure Proper Documentation of Border Search of Information (BSI) in TECS Applications

December 11, 2008

MEMORANDUM FOR: Directors, Field Operations
Acting Director, Pre-Clearance
Office of Field Operations

FROM: Executive Director [b](6),(b)(7)(C)
Office of Field Operations

SUBJECT: Clarification To Ensure Proper Documentation of Border Search of Information (BSI) in TECS Applications

The purpose of the document is to clarify the required format for capturing the data associated with BSI examinations as recorded in TECS applications and the frequency by which the record should be updated when there is a detention.

The following direction must be followed:

- The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TECS. This requirement will reduce duplication of statistical data, allow modifications and corrections and require approval by a supervisor for proper IOIL examination record content.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that
The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Muster 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Muster 2008-09 are not required to be directly behind the code, but are to be incorporated in the body of the examination narrative. The approving CBP Supervisor certifies the TECS narrative accurately represents the selection of the proper code.

- The narrative accurately identifies the specific BSI format (document or media device) that was examined/copied/detained, and describes specifically what the document/media device was. (Laptop, cell phone, SIM card, paper note, etc.)

- When a media device is detained you MUST have a supervisor approval and update the IOIL with the status of the detention after each extension approval so the current status of the detention is available. If the device was transferred to another agency who is detaining it under their authority, you MUST update the IOIL to reflect the status of the detention and which agency is involved. Weekly follow ups with the other agency are to be updated in the IOIL with the status, status date and reason it is still detained by the other agency.

As part of the Securing America’s Borders at Ports of Entry (SABPOE) strategic plan, this effort is linked to 11 - Situational Awareness and Information Sharing Strategic Initiative and Milestone 11.2 – Develop and fully implement tools and processes for officers.

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).

WARNING: This document is designated FOR OFFICIAL USE ONLY. It contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOOU information, and is not to be released to the public or personnel who do not have a valid “need-to-know” without prior approval from OFO Office of Operations, Operations, Tactical Operations Division at 202-344-1059.
CUSTOMS and BORDER PROTECTION
Standard Operating Procedure (SOP)
Border Search of Information (BSI)

(b)(2); (b)(7)(E)

March 04, 2009
U.S. Customs and Border Protection

- Purpose ................................................................. 3
- Definitions ........................................................... 3
- Primary Procedures ............................................... 4
- Recording ............................................................. 5
- Codes ..................................................................... 6
- Factors Determining Search ..................................... 9
- Addendum and Memorandums ................................. 10
U.S. CUSTOMS and BORDER PROTECTION
Standard Operating Procedure (SOP)
Border Search of Information (BSI)
(b)(2); (b)(7)(E)

PURPOSE

The purpose of this document is to provide specific guidance on properly writing and recording results in conjunction with the Border Search of Information. (Appendix 1).

Border Search of Information (BSI): For the purpose of this document, Border Search examinations of information of documentation and electronic devices must be performed in accordance with the policy dated July 16, 2008, titled “Border Search of Information”.

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.

DEFINITIONS

Examination is limited to border search. The policy does not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

Detention is defined as a temporary holding, of an original or copy of information for purposes of further examination.

Copying, detaining, seizing and transfer of government issued identification documents, as defined in the policy, is not required to be recorded.
PRIMARY PROCEDURES

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

• 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 as 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.
RECORDING

Required format for capturing the data associated with BSI examinations as recorded in TECS applications and the frequency by which the record should be updated when there is a detention.

The following direction must be followed:

- The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TECS. This requirement will reduce duplication of statistical data, allow modifications and corrections and require approval by a supervisor for proper IOIL examination record content.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that occurred. The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Muster 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Muster 2008-09 are not required to be directly behind the code, but are to be incorporated in the body of the exam narrative. The approving CBP Supervisor certifies the TECS narrative accurately represents the selection of the proper code.

- The narrative accurately identifies the specific BSI format (document or media device) that was examined/copied/detained, and describes specifically what the document/media device was. (Laptop, cell phone, SIM card, paper note, etc.)

- When a media device is detained you MUST have a supervisor approval and update the IOIL with the status of the detention after each extension approval so the current status of the detention is available. If the device was transferred to another agency who is detaining it under their authority like you MUST update the IOIL to reflect the status of the detention and which agency is involved. Weekly follow ups with the other agency are to be updated in the IOIL with the status, status date and reason it is still detained by the other agency.
CODES

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:

(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 IO01 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) (b)(2),(b)(7),(E) for further examination. All copies were (destroyed or seized) on ____________ (insert date).

11/30/09
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 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) {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).

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) for documents {b} (2) 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. The 15 day response time frame does not apply to ICE.

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.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be
construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

FACTORS DETERMINING SEARCH

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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
ADDENDUM

Subject: Border Search of Information

It appears there are still questions concerning Border Search of Information and how to properly document and track it. Please take a few minutes to review the attached documents that were previously sent to the field. A few things to remember:

- Government issued ID’s such as driver licenses, passports, visas, LPR cards, etc are exempt from this policy since there is no right to privacy with a government issued document.
- When a non-government issued document is copied an IOIL entry must be created and the copied document tracked.
- When an electronic device is examined (laptop, camera, cell phone, etc.), an IOIL must be created.
- When a document is copied and turned over to an assisting agency (for example: for translation), in addition to the IOIL, the document must be tracked using the BSI Control Record Form and the assisting agency has 15 days to respond.
- When an electronic device or original document is turned over to another agency to be examined, in addition to the IOIL, they must be tracked using the BSI Control Record Form in addition to the 6051D.
- ICE has the same border search authority as CBP. Therefore, they are can retain and detain items on their authority.
- When a document is required to be tracked, the approving supervisor or manager for the IOIL will be the responsible party to ensure this policy is adhered to. Follow-up and appropriate annotations will need to be entered.

When we pass copies of information discovered during a border search to another agency, in order for that agency to retain the information they must advise CBP of this decision and demonstrate to CBP it has the independent legal authority to do so.

These are the main questions that have been asked recently. Please ensure your managers, supervisors and officers are fully aware of the BSI policy.
Please call me if you have any questions.

(b)(6); (b)(7)(C); (b)(2)(b)(7)(E)
The purpose of the document is to clarify the required format for capturing the data associated with BSI examinations recorded in TECS applications and the frequency by which the record should be updated when there is a detention.

The following direction must be followed:

- The recording of all BSI examinations will require the creation of an Inspection Operations Incident Log (IOIL) report in TECS. This requirement will reduce duplication of statistical data, allow modifications and corrections and require approval by a supervisor for proper IOIL examination record format.

- The selection of the correct code for any examination that involves the BSI of documents, papers, and electronic media must reflect the type of examination that occurred. The code MUST be the first item in the narrative and MUST be in parentheses. If more than one type of media is examined, subsequent code(s) should be used.

- The narrative following the code should be a chronological sequence of events that relate what transpired in the examination. Revised Muster 2008-09 provided example statements that could be used in the body of the narrative to accurately describe the code selected.

- The example statements provided in Muster 2008-09 are not required to be directly behind the code, but are to be incorporated in the body of the entire narrative. The approving CRP Supervisor certifies the TECS narrative accurately represents the selection of the proper code.

- The narrative accurately identifies the specific BSI format (document or media device) that was examined/copied/detained, and describes specifically what the document/media device was. (Laptop, cell phone, SIM card, paper note, etc.)
• When a media device is detained you MUST have a supervisor approval and update the IOI, with the status of the detention after each extension approval so the current status of the detention is available. If the device was transferred to another agency who is detaining it under their authority, you MUST update the IOI, to reflect the status of the detention and which agency is involved. Weekly follow ups with the other agency are to be updated in the IOI, with the status, status date and reason it is still detained by the other agency.

As part of the Securing America’s Borders at Ports of Entry (SABPOP) strategic plan, this effort is linked to 11. - Situational Awareness and Information Sharing Strategic Initiative and Milestone 11.2 - Develop and fully implement tools and processes for officers.

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)
<table>
<thead>
<tr>
<th>1. Name of Traveler From Whom Information Detained</th>
<th>2. Office of Detention and Date of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Purpose of Request for Transmittal/Transfer to</td>
<td></td>
</tr>
<tr>
<td>□ Translation and Decryption – CBP requests translation and decryption from the receiving entity, specifically as follows –</td>
<td></td>
</tr>
<tr>
<td>□ Subject Matter Assistance – CBP requests subject matter assistance from the receiving entity, specifically as follows</td>
<td></td>
</tr>
<tr>
<td>4. Description of Information – Original ___ / Copy ___</td>
<td></td>
</tr>
<tr>
<td>5. Name, Telephone, Fax, and E-mail of Recipient</td>
<td>6. Department, Agency, and Office of Recipient</td>
</tr>
<tr>
<td>7. Address of Recipient</td>
<td></td>
</tr>
<tr>
<td>8. Transmitted By (Name, Office)</td>
<td>9. Transmitted By (Telephone, Fax, E-mail)</td>
</tr>
<tr>
<td>10. Retention, Seizure, and Destruction</td>
<td></td>
</tr>
</tbody>
</table>

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.

[Recipient to sign and return copy of signed transmittal to CBP] → Signature of Recipient

CBP Use Only – Final Disposition (Choose One):
(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 __________________________

CBP Notes, Including Information Regarding Extension(s), If Applicable:

11/30/09
MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
DIRECTOR, PRE-CLEARANCE
OFFICE OF FIELD OPERATIONS

FROM: Assistant Commissioner
Office of Field Operations

SUBJECT: Training Proper Documentation of the Border Search of Information.

The Office of Field Operations (OFO) is forwarding a mandatory course module. The
information provided in the attached document should be disseminated to all Ports of Entry for
inclusion in future discussions to be held immediately. This document should be distributed at
the earliest to all Custom and Border Protection Officers.

All border search examinations of information contained in documents and electronic devices
must be performed in accordance with the new policy dated Jul 16, 2008, titled Border Search:
of Information. This policy supersedes pre-existing guidance on the subject as reflected in

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, for
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.

My expectation is that all OFO’s will “review monthly the information contained in documents
and electronic devices. The Executive Director for Policy, Planning, Analysis and Evaluation
will provide me with a monthly report by port of entry. It is imperative that data integrity is
maintained for all border search authority related matters. I have also requested that a formal
training package be developed and disseminated during the Fall of 2008; thereby ensuring we are
consistent in how we document border search examinations.

I thank you for your continued assistance. If you have any questions, please contact

[Redacted] or have a member of your staff contact.

[Redacted]

Attachments

FOR OFFICIAL USE ONLY

11/30/09

- 14 -
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>A document or a copy of information therein is detained for immigration matters the detention will be recorded in IO95.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An electronic device is examined for immigration matters the examination will be recorded in IO95.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An electronic device or copy of the information therein, is examined, for purposes other than immigration matters and release concurrently with the passenger the examination will be recorded in an IO25, IO04 or IO01</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>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.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An original document is detained, for purposes other than immigration matters the detention will be recorded in IOIL.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>A copy of information within an electronic device is detained the detention will be recorded in IOIL.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An electronic device is detained the detention will be recorded in IOIL.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>A copy of document is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>A copy an electronic device is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An original document is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>An electronic device is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
<tr>
<td>A copy of a document is detained for subject matter assistance by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
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<td>(b) (2)</td>
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<tr>
<td>An electronic device is detained for subject matter assistance by another Federal agency.</td>
<td>(b) (2)</td>
</tr>
</tbody>
</table>

11/30/09
Week of Muster:
Upon Receipt

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

Headquarters POC:
Operations, Tactical Operations Division

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 detainee 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:

- 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, IO01, IO11, 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.

11/30/09
• 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:

(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:

11/30/09
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)
(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 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

11/30/09
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).

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) for documents/ (b) (2) 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. The 15 day response time frame does not apply to ICE.

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.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own

11/30/09

- 19 -
authority, however, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.

Thank you for your continued assistance. If you have any questions, please contact or have a member of your staff contact

11/30/09
Border Search of Information

STANDARD OPERATING PROCEDURE

TACTICAL OPERATIONS

(b)(2); (b)(7)(E)

July 23, 2009

PURPOSE:

1. The purpose of this memo is to provide standard operating procedures for CBP Officers assigned in the (b)(2); (b)(7)(E) regarding positive matches of (b)(2); (b)(7)(E) and the steps required to comply with reporting requirements.

BACKGROUND:

1. Under the guidelines of Customs directive (b)(2); (b)(7)(E) (b)(2); (b)(7)(E) (b)(2); (b)(7)(E) we are initiating a clear local policy that defines the basic document recording and forwarding that must be accomplished to comply with the national directive. The original version of this directive was created in April 2009, but was rescinded; the improved revision was issued on July 22, 2009. This directive enumerates the requirements for the collection, processing, and disposition of information obtained (b)(2); (b)(7)(E) (b)(2); (b)(7)(E)
PROCEDURES:

1. Upon completion of a

   A. (b)(2),(b)(7)(E)

   B. (b)(2),(b)(7)(E)

   C. (b)(2),(b)(7)(E)

   D. (b)(2),(b)(7)(E)
Port Code: ___________________________  Port Name: ___________________________
Date / Time of Inspection: ______________
Name of Subject: ___________________________
Approving Supervisor: ___________________________
CBP Officer / Contact Phone Number: ___________________________
Additional Remarks: ___________________________
________________________________________
________________________________________
REFERENCE:

PURPOSE:
This SOP provides guidelines and procedures for examining documents of (b)(2), (b)(7)(E) during all CBP operations at the functional equivalent of the border.

(b)(2), (b)(7)(E) see Interim Procedures of July 5, 2007 (Border Search/Examination of Documents, Papers, and Electronic Information) for (b)(2), (b)(7)(E)

BACKGROUND:
U.S. Customs and Border Protection will protect the rights of individuals against unreasonable search and seizure while still accomplishing its enforcement mission.

PROCEDURES: All CBP officers shall comply with the following procedures.

Note: For all viewing of electronic media, approval from a GS 13 CBPO or above is required. Detention and/or seizing of electronic media must be approved by the area port director. All officers shall observe the chain of command when such requests are required.

CBP Officers May Glance at Documents and Papers.

As opposed to reading content, Customs officers may glance at documents and papers to see if they appear to be merchandise. This may include:

- Books, pamphlets, printed/manuscript material
- Monetary instruments.
• Prohibited materials such as, copyright violations, obscene, treasonous or seditious material (i.e., inciting or producing imminent lawless action).
• Prohibited matter being imported in violation of 19 U.S.C. 1305, stolen property under the National Stolen Property Act, 18 U.S.C. 2314, or evidence of embargo violations.
• Materials related to the importation or exportation of merchandise including documents required to be filed to import or export merchandise.

Attorney-Client Privilege

As part of a border search, an attorney's files can be examined for the presence of drugs, currency or other monetary instruments, sales slips, invoices, or other documents evidencing foreign purchases. Records of an importation are not privileged. However, correspondence, court papers, and other legal documents may be privileged. If an officer has probable cause to believe a document may be evidence of a crime, seek advice from a supervisor who will consult the Associate/Assistant Chief Counsel.

Foreign Language Documents or Documents Requiring Special Expertise

If an officer reasonably suspects that a document or paper in a foreign language falls into a category that would allow it to be read, the document can be detained and forwarded to an appropriate translator, provided that such translations can be accomplished within a reasonable time.

The use of a facsimile (FAX) machine, when appropriate, is authorized. This same principle would apply to documents that need special expertise to determine their nature, such as documents relating to complex technology cases.

If after translation or review, probable cause to seize develops, the documents should be seized and/or copies retained. If not, the originals must be returned and all copies (e.g., fax) must be destroyed. The destruction must be appropriately documented.
Reasonable Suspicion Required for Reading and Continued Detention.

If, after glancing at the documents or papers, an officer reasonably suspects that they relate to any of the categories listed above, the officer may read the documents. He/she may continue to detain such documents for such further inquiry as may be reasonably necessary to make the determination whether to seize the documents.

This may include referral to another agency necessary to assist in that determination.

Probable Cause Required for Seizures.

If an officer has probable cause to believe that a document or paper is subject to seizure because it is prohibited, a fruit, instrumentality or evidence of a crime, or otherwise subject to forfeiture, it may be seized.

Probable Cause or Consent Required to Copy.

An officer must have probable cause to believe a document or paper is subject to seizure, to copy it. Documents and papers may be copied without probable cause when consent to do so is obtained from the person from whom the documents were seized, or if copying is incident to a lawful arrest.

In circumstances when the inspecting Customs officer is uncertain whether probable cause exists, the officer may contact a supervisor who may consult Associate/Assistant Chief Counsel.

Identification Documents can be Photocopied

Passports (United States or foreign), Seaman's Papers, Airman Certificates, drivers licenses, state identification cards and similar governmental identification documents can be photocopied for legitimate, good-faith government purposes without any suspicion of illegality. A CF 6051 is required to see who has access and custody of the copies.

Remember, Certificates of Naturalization may never be copied (18 U.S.C. 1426(h)).

Chain of Custody Required for Copies

Whenever copies of documents are made, transfer of the copies should be accomplished through a chain of custody form (CF-6051) or other documentation that will show each individual who has had custody and access to such copies.
Recording inspection results when media and documents have been reviewed, copied and/or seized

In all incidents where a substantive review (not merely reviewing travel or identity documents presented) of electronic media and/or documents occurred (no copying/detention/seizure), the IO25/IO95 entries should include the phrase "electronic media (and/or document) review" in order to document that such a review occurred.

If electronic device or document is copied, but not detained for an extended period or seized the IOIL will include the following statement:

The subject’s ____________ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, a copy was made of the contents of the electronic device (and/or documents) for purposes of further examination and/or evaluation, and the electronic device (and/or documents) were returned to the subject.

If electronic device or document was detained or seized the IOIL or SAS will include the following statement:

The subject’s ____________ (specify cell phone, sim card, laptop, thumb drive, document etc) was examined, and, in accordance with agency procedure, detained for further examination and/or evaluation. Form 6051-D was completed, and a copy of the completed Form 6051 was provided to the subject.
Standard Operating Procedure for the \( (b)(2); (b)(7)(E) \) concerning \( 5774 \)
Border Search of Information
August 13, 2008

The following information is being forwarded concerning the Port's Policy of the officer's ability to examine, detain and/or seize documents and electronic devices.

1. In all incidents where a secondary examination or inspection of documents or electronic devices is conducted information concerning the search will be included in the secondary narrative IO95 and IO04.
2. In all incidents where a document or the information therein is detained or seized an IOIL will be required and mandated.
3. In all incidents where an electronic device or the information therein is examined, detained, or seized and IOIL will be required and mandated.
4. In instances where an original document or electronic device is detained for further examination or determination a paper file will be required.

When created an IOIL and/or SAS must detail the following wording of action(s) taken, for example.

If an electronic device is examined by an officer and examined only not detained the wording below would be used.

The subjects (Item listed here) you specify the computer, disks or other electronic devices etc, was examined in accordance with agency procedures. The device was returned upon completion of the examination (list results).

If a copy of alien information which relates to an immigration matter is detained for present and future admissibility decisions and/or determination of benefits the wording that follows would be used.

A copy of the subjects (item is listed here) specify books, printed material etc, related to the subject's admissibility or eligibility for benefits is contained in (specify where it will be kept).

If other documents or electronic storage or devices will be kept for further examination by CBP the wording below would be used.

A copy of the subjects (Item is listed here) material such as hand written material, pamphlets, maps, disks, hard drives, or any other electronic device, 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).
In the event that an original document and/or an electronic device is detained for further examination by CBP the wording below would be used.

The subject's (document or electronic device) specifically (specify what the document or device is) 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 or seized) on _______ insert date.

In the event that a document or device is detained or seized for translation or decryption by another Federal agency the wording below would be used.

A copy of the subject's (describe item here) specify the material exactly, 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 principle field office may permit extensions in increments of seven days. All extensions are to be recorded.

If the case turns to where a document or device is detained by another Federal Agency the wording below would be used.

The subject's (describe item here) specifically _______ 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 _______ date.

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 Regulation. "Hard Copy" materials will be destroyed by
shredding, burning, pulping or pulverizing 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 the CBP-OIT Electronic storage media 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. Articulable 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.

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.
## Border Search of Information Documentation Codes

<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>If electronic devices are examined by a CBP officer but not detained</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If a copy of alien information relating to immigration matters is detained for present and future admissibility decisions and/or determination of benefits</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If a copy of documents (excluding travel documents) and/or electronic devices are created and detained for further examination by a CBP Officer</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If original documents (excluding travel documents) and/or electronic devices are detained for further examination by a CBP Officer</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If a copy of documents (excluding travel documents) and/or electronic devices are detained for translation and/or decryption by another Federal agency</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If original documents (excluding travel documents) and/or electronic devices are detained for translation and/or decryption by another Federal agency</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If a copy of documents (excluding travel documents) and/or electronic devices are detained for subject matter assistance by another Federal agency</td>
<td>(b) 2</td>
</tr>
<tr>
<td>If original documents (excluding travel documents) and/or electronic devices are detained for subject matter assistance by another Federal agency</td>
<td>(b) 2</td>
</tr>
</tbody>
</table>
## MATRIX for BORDER SEARCH of INFORMATION

<table>
<thead>
<tr>
<th>Inspection Activity</th>
<th>Level of Suspicion</th>
<th>Approval</th>
<th>Interim Documentation (Codes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Border search of information contained in documents, written materials, and/or electronic devices</td>
<td>No individualized suspicion required</td>
<td>None</td>
<td>Record details of search information in IO25, IO95, IO404, IO101 and IO101 as appropriate [D(2)]</td>
</tr>
<tr>
<td>Retain alien information relating to immigration matters for present and future admissibility decisions and determination of benefits</td>
<td>No individualized suspicion required</td>
<td>1st line Supervisor</td>
<td>Record details of search information in IO25, IO95, IO404, IO101 and IO101 as appropriate The IOIL must include a statement that information was retained in the A-file [D(2)]</td>
</tr>
<tr>
<td>Detain documents, written materials, and/or electronic devices or copies of the information within for the continuation of a border search to be conducted by a CBP Officer</td>
<td>No individualized suspicion required</td>
<td>1st line Supervisor</td>
<td>Record details of search of information and detention in IOIL. The record must be updated by the receiving CBP Office to include the final disposition and date of determination. Complete a 6051D when detaining electronic devices or original documents. (Copy: [D]) Original: [D(2)]</td>
</tr>
<tr>
<td>Detain and transfer documents, written materials, and/or electronic devices or copies of the information within for translation and/or decryption by another Federal agency or entity</td>
<td>No individualized suspicion required</td>
<td>2nd line Supervisor</td>
<td>Record details of search of information and detention/transfer in IOIL. The record must be updated by the controlling CBP Office to include extensions, the final disposition and date of determination. Complete the Control Record. Complete a 6051D when detaining electronic devices or original documents. (Copy: [D]) Original: [D(2)]</td>
</tr>
<tr>
<td>Detain and transfer documents, written materials, and/or electronic devices or copies of the information within for subject matter assistance from another Federal agency or entity</td>
<td>ReasonableSuspicion</td>
<td>2nd line Supervisor</td>
<td>Record the details of the search of information, the articulable facts for reasonable suspicion, the specific request for assistance and the detention/transfer in IOIL. The record must be updated by the controlling CBP Office to include extensions, the final disposition and date of determination. Complete the Control Record. Complete a 6051D when transferring electronic devices or original documents. (Copy: [D]) Original: [D(2)]</td>
</tr>
<tr>
<td>Seize and retain documents, written materials, and/or electronic devices.</td>
<td>Probable Cause</td>
<td>1st line Supervisor</td>
<td>S/A/S</td>
</tr>
</tbody>
</table>
# Department of Homeland Security

## U.S. Customs and Border Protection

### Document and Electronic Device Information Control Record

<table>
<thead>
<tr>
<th>Column</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of Traveler From Whom Information Detained</td>
</tr>
<tr>
<td>2</td>
<td>Office of Detention and Date of Detention</td>
</tr>
<tr>
<td>3</td>
<td>Purpose of Request for Transmission or Transfer to</td>
</tr>
<tr>
<td>4</td>
<td>Description of Information – Original Copy</td>
</tr>
<tr>
<td>5</td>
<td>Name, Telephone, Fax, and E-mail of Recipient</td>
</tr>
<tr>
<td>6</td>
<td>Department, Agency, and Office of Recipient</td>
</tr>
<tr>
<td>7</td>
<td>Address of Recipient</td>
</tr>
<tr>
<td>8</td>
<td>Transmitted By (Name, Office)</td>
</tr>
<tr>
<td>9</td>
<td>Transmitted By (Telephone, Fax, E-mail)</td>
</tr>
<tr>
<td>10</td>
<td>Retention, Seizure, and Destruction</td>
</tr>
</tbody>
</table>

The recipient of this transmission 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.

**Recipient to sign and return copy of signed transmission to CBP**

**Signature of Recipient**

**CBP Use Only – Final Disposition (Choose One)**

(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 ____________________________

**CBP Notes: Include Information Regarding Extension(s), if Applicable:**
U.S. Customs and Border Protection

Policy Regarding Border Search of Information

July 14, 2008

This policy provides guidance to U.S. Customs and Border Protection (CBP) Officers, Border Patrol Agents, Air and Marine Agents, Internal Affairs Agents, and any other official of CBP authorized to conduct border searches (for purposes of this policy, all such officers and agents are hereinafter referred to as "officers") regarding the border search of information contained in documents and electronic devices. More specifically, this policy sets forth the legal and policy guidelines within which officers may search, review, retain, and share certain information possessed by individuals who are encountered by CBP at the border, functional equivalent of the border, or extended border. This policy governs border search authority only; nothing in this policy limits the authority of CBP to act pursuant to other authorities such as a warrant or a search incident to arrest.

A. Purpose

CBP is responsible for ensuring compliance with customs, immigration, and other federal laws at the border. To that end, officers may examine documents, books, pamphlets, and other printed material, as well as computers, disks, hard drives, and other electronic or digital storage devices. These examinations are part of CBP's long-standing practice and are essential to uncovering vital law enforcement information. For example, examinations of documents and electronic devices are a crucial tool for detecting information concerning terrorism, narcotics smuggling, and other national security matters, alien admissibility, contraband including child pornography, monetary instruments, and information in violation of copyright or trademark laws, and evidence of embargo violations or other import or export control laws.

Notwithstanding this law enforcement mission, in the course of every border search, CBP will protect the rights of individuals against unreasonable search and seizure. Each operational office will maintain appropriate mechanisms for internal audit and review of compliance with the procedures outlined in this policy.

B. Review of Information in the Course of Border Search

Border searches must be performed by an officer or otherwise properly authorized officer with border search authority, such as an ICE Special Agent. In the course of a border search, and absent individualized suspicion, officers can review and analyze the information transported by any individual attempting to enter, reenter, depart, pass through, or reside in the United States, subject to the requirements and limitations provided herein. Nothing in this policy limits the authority of an officer to make written notes or reports or to document impressions relating to a border encounter.
C. Detention and Review in Continuation of Border Search

(1) Detention and Review by Officers. Officers may detain documents and electronic devices, or copies thereof, for a reasonable period of time to perform a thorough border search. The search may take place on-site or at an off-site location. Except as noted in section D below, if after reviewing the information there is not probable cause to seize it, any copies of the information must be destroyed. All actions surrounding the detention will be documented by the officer and certified by the Supervisor.

(2) Assistance by Other Federal Agencies or Entities.

(a) Translation and Decryption. Officers may encounter information in documents or electronic devices that is in a foreign language or encrypted. To assist CBP in determining the meaning of such information, CBP may seek translation and/or decryption assistance from other Federal agencies or entities. Officers may seek such assistance absent individualized suspicion. Requests for translation and decryption assistance shall be documented.

(b) Subject Matter Assistance. Officers may encounter information in documents or electronic devices that is not in a foreign language or encrypted, but that nonetheless requires referral to subject matter experts to determine whether the information is relevant to the laws enforced and administered by CBP. With supervisory approval, officers may request the agency or entity for the purpose of obtaining subject matter assistance when they have reasonable suspicion of activities in violation of the laws enforced by CBP. Requests for subject matter assistance shall be documented.

(c) Original documents and devices should only be transmitted when necessary to render the requested assistance.

(d) Responses and Time for Assistance.

(1) Responses Required. Agencies or entities receiving a request for assistance in conducting a border search are to provide such assistance as expeditiously as possible. Where subject matter assistance is requested, responses should include any findings, observations, and conclusions relating to the laws enforced by CBP.

(2) Time for Assistance. Responses from assisting agencies are expected in an expeditious manner so that CBP may complete its border search in a reasonable period of time. Unless otherwise approved by the principal field official such as the Director, Field
Operations or Chief Patrol Agent, responses should be received within fifteen (15) days. This timeframe is to be explained in the request for assistance. If the assisting agency is unable to respond in that period of time, CBP may permit extensions in increments of seven (7) days. For purposes of this provision, ICE is not considered to be a separate agency.

(c) **Deletion.** Except as noted in section D below, if after reviewing information, probable cause to seize the information does not exist, any copies of the information must be destroyed.

D. Retention and Sharing of Information Found in Border Searches

(1) **By CBP.**

(a) **Retention with Probable Cause.** When officers determine there is probable cause of unlawful activity—based on a review of information in documents or electronic devices encountered at the border or on other facts and circumstances—they may seize and retain the originals and/or copies of relevant documents or devices, as authorized by law.

(b) **Other Circumstances.** Absent probable cause, CBP may only retain documents relating to immigration matters, consistent with the privacy and data protection standards of the system in which such information is retained.

(c) **Sharing.** Copies of documents or devices, or portions thereof, which are retained in accordance with this section, may be shared by CBP with Federal, state, local, and foreign law enforcement agencies only to the extent consistent with applicable law and policy.

(d) **Deletion.** Except as noted in this section, if after reviewing information, there exists no probable cause to seize the information, CBP will retain no copies of the information.

(2) **By Assisting Agencies and Entities.**

(a) **During Assistance.** All documents and devices, whether originals or copies, provided to an assisting Federal agency may be retained by that agency for the period of time needed to provide the requested assistance to CBP.

(b) **Return or Deletion.** At the conclusion of the requested assistance, all information must be returned to CBP as expeditiously as possible. In addition, the assisting Federal agency or entity must certify to CBP that all
copies of the information transferred to that agency or entity have been destroyed, or advise CBP in accordance with section 2(c) below.

(i) In the event that any original documents or devices are transmitted, they must not be destroyed; they are to be returned to CBP unless seized based on probable cause by the assisting agency.

(c) **Retention with Independent Authority.** Copies may be retained by an assisting Federal agency or entity only if and to the extent that it has the independent legal authority to do so — for example, when the information is of national security or intelligence value. In such cases, the retaining agency must advise CBP of its decision to retain information on its own authority.

E. **Review and Handling of Certain Types of Information**

(1) **Business Information.** Officers encountering business or commercial information in documents and electronic devices shall treat such information as business confidential information and shall take all reasonable measures to protect that information from unauthorized disclosure. Depending on the nature of the information presented, the Trade Secrets Act, the Privacy Act, and other laws may govern or restrict the handling of the information.

(2) **Sealed Letter Class Mail.** Officers may not read or permit others to read correspondence contained in sealed letter class mail (the international equivalent of First Class) without an appropriate search warrant or consent. Only articles in the postal system are deemed "mail." Letters carried by individuals or private carriers such as DHL, UPS, or Federal Express, for example, are not considered to be mail, even if they are stamped, and thus are subject to a border search as provided in this policy.

(3) **Attorney-Client Privileged Material.** Occasionally, an individual claims that the attorney-client privilege prevents the search of his or her information at the border. Although legal materials are not necessarily exempt from a border search, they may be subject to special handling procedures.

Correspondence, court documents, and other legal documents may be covered by attorney-client privilege. If an officer suspects that the content of such a document may constitute evidence of a crime or otherwise pertain to a determination within the jurisdiction of CBP, the officer must seek advice from the Associate/Assistant Chief Counsel or the appropriate U.S. Attorney's office before conducting a search of the document.
copies of the information transferred to that agency or entity have been destroyed, or advise CBP in accordance with section 2(c) below.

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(4) **Identification Documents**—Passports, Seaman’s Papers, Airman Certificates, driver’s licenses, state identification cards, and similar government identification documents can be copied for legitimate government purposes without any suspicion of illegality.

**F. No Private Right Created**

This document is an internal policy statement of CBP and does not create any rights, privileges, or benefits for any person or party.
Name of Issuing Authority (Division, Directorate, etc)

Homeland Security
STANDARD OPERATING PROCEDURES

WARNING: This document is FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with Department of Homeland Security Management Directive 11042.1 and is not to be released to the public or other personnel who do not have a "need-to-know" without the prior approval of an authorized official of United States Customs and Border Protection.

<table>
<thead>
<tr>
<th>SUBJECT:</th>
<th>SOP:</th>
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<tbody>
<tr>
<td>Border Search of Information</td>
<td>(b)(2); (b)(7)(E)</td>
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</table>

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<tr>
<th>REMARKS:</th>
<th>Updated:</th>
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<tbody>
<tr>
<td>None</td>
<td>112409</td>
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</tbody>
</table>
I. PURPOSE:
The purpose of this SOP is to implement procedures at the Port of Entry in conjunction with Field Operations and CBP Policy and procedures.

II. SCOPE:
The procedures defined in this SOP apply to all operational areas of the Port of Entry.

III. CANCELLATIONS:
None

IV. REFERENCES:

Border search of Information Binder January 2009

V. RESPONSIBILITIES:
Supervisors are responsible to ensure these procedures are implemented and adhered to in their respective area of operations (B)(6)(B)(7)(C) the BSI Coordinator and responsible for these procedures.

VI. FORMS:
None

VII. DEFINITIONS:
None

VIII. ATTACHMENTS:
Border search of Information Binder January 2009
PROcedures:

Supervisory Responsibilities:

It is the responsibility of the Shift Supervisor to ensure CBP Officers are in compliance with this SOP as well as with CBP Directive 3340-049 Border Search of Electronic Devices and the Border Search of Information Policy (BSI).

Border Search of Information (BSI):

As outlined in the directive, CBP Officers must report any BSI conducted to the Shift Supervisor AND complete the required reporting. The detention of BSI materials defined in the directive (photos copied, manually transcribed, original documents, electronic devices, copies of electronic devices) must be approved by the shift supervisor PRIOR to detention.

Important definitions commonly used when conducting duties related to Border Search of Information:

Examination is limited to border search. This policy does not apply to acts pursuant to other authorities such as a warrant or search incident to arrest.

Detention is defined as a temporary holding, of an original or copy of information for purposes of further examination.

Identification Documents such as passports, driver’s licenses, state identification cards and similar government identification documents can be copied for legitimate purposes without any suspicion of illegality.

The directive outlines defines articulable facts as: when facts 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.

Four primary categories officers may use to determine whether to detain documents or electronic device or copies thereof for further inspection are as follows:

(b)(2), (b)(7)(E)
**CBP Officer Reporting Responsibilities and Codes** Reporting requirements outlined apply to all instances of BSI, refer to attached CBP BSI Policy and BSI Code spreadsheet for detailed instructions and appropriate verbiage to be utilized.

**OIL Requirements:**

Approving supervisors are responsible to ensure when completing the OIL report, the first item contained in the narrative MUST be the BSI Code (see attached BSI Code list). The most commonly used BSI Codes at the **(b)(2),(b)(7)(E)** are listed below:

The second item of information contained in the narrative MUST be the appropriate "canned" paragraph contained within the directive (attached). For Example:
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 retained for further examination by CBP. The copy was provided for further examination. After review of device information, it was determined that there was no useful information to retain. All copies were (destroyed or seized) on (insert date). The cellular telephone was returned to

The BSI code should be written in parenthesis around the BSI code or hyphens separating the alphanumeric characters.

If the CBP Officer determines there is no useful information to report then it should be annotated at the end of the IOI. If it appears that there is useful information, updates on the status of the information must be provided regularly (refer to BSI Policy). If electronic information is to be turned over to an outside agency, the attached BSI Control Form MUST be completed and updated (Refer to BSI Policy) on regular basis until final disposition. If any other type of BSI turned over to an outside agency, regular updates (Refer to BSI Policy) must be received until final disposition. In all cases, the associated IOI will be updated regularly to document the status of the BSI collected.

The body of the narrative should be concise; do not include extraneous information. Include the 5 W's: who, what, when, where, why. What did the officer do with the BSI material (copied manually, copied via printer, photo copied, no information was detained, returned BSI material to violator, etc.). When, self-explanatory. Where, self-explanatory. Why, what reasonable suspicion did the officer have to conduct the BSI?

**SAS Requirements:**

Applying supervisors will ensure BSI examinations in conjunction with a seizure or arrest MUST be reported in the SAS. A BSI code is NOT necessary as the search is incident to an arrest and/or seizure.

The body of the narrative should be concise; do not include extraneous information. Include the 5 W's: who, self-explanatory. What did the officer do with the BSI material (copied manually, copied via printer, photo copied, no information was detained, returned BSI material to violator, etc.). When, self-explanatory. Where, self-explanatory. Why, what reasonable suspicion did the officer have to conduct the BSI?

**REMEMBER:**

Due to the sensitivity surrounding the Border Search of Information, CBP Officers must knowledgeable and have thorough understanding of CBP's Border Search of Information Policy and associated directives. This local SOP is relative to situations normally encountered at the (b)(2)(D)(7)(E) and is NOT all inclusive. Further questions for clarification should directed to your immediate supervisor.
All border search examinations of information contained in documents and electronic devices must be performed in accordance with the new policy dated July 16, 2000, titled Border Search of Information. This policy supersedes pre-existing guidance on the subject as articulated in Customs Directive D406A 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 CHP at the border, for 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.
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 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.

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.

New Procedures in Furtherance of This Policy:

- 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, IO01, 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.

**PAPER FILE REQUIRED**
- In all instances where an original document or electronic device is detained, a paper file will be required.
IMMIGRATION MATTERS

IO95 – SECONDARY INSPECTION SYSTEM

• 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.

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:

(b) 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) 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.
INCIDENT LOGS AND SECONDARY INSPECTION SYSTEMS

**IO25 / IO04 / IOAA – SECONDARY INSPECTION SYSTEMS**

&

**IOIL – SECONDARY INSPECTION SYSTEM**

&

**IOAA – SEIZURE INPUT**

**IO04, IOIL, IO25** – Secondary Inspection System

- 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 IOIL** as appropriate.

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.

**SEIZURES – S/A/S IOAA**

- 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.

**IOIL**

- 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.
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 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).

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) for documents/(b) (2) 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. The 15 day response time frame does not apply to ICE.

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, CIB HB 1400-05C.

The policy and reporting requirements contained in this muster do not require CBP to document actions taken solely by another Federal agency acting under their own authority. However, for purposes of responding to inquiries it may be prudent to record these actions when they occur in conjunction with a CBP border search or could be construed as related to a CBP border search. If an IOIL is created to document such actions the documentation codes contained in this muster should NOT be used.

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

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 may use to determine whether to detain documents or electronic device or copies thereof for further inspection. Articulable 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.
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.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
</tr>
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<tbody>
<tr>
<td><strong>A document or a copy of information therein</strong> is detained for immigration matters the detention will be recorded in IO95.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>An electronic device</strong> is examined for immigration matters the examination will be recorded in IO95.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>An electronic device or copy of the information</strong> therein, is examined, for purposes other than immigration matters and release concurrently with the passenger the examination will be recorded in an IO25, IO04 or IO01</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>A document or a copy of the information therein</strong> is detained, for purposes other than immigration matters the detention will be recorded in an IOIL.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>An original document</strong> is detained, for purposes other than immigration matters the detention will be recorded in IOIL.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>A copy of information within an electronic device</strong> is detained the detention will be recorded in IOIL.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>An electronic device</strong> is detained the detention will be recorded in IOIL.</td>
<td>(b) 2</td>
</tr>
<tr>
<td><strong>A copy of document</strong> is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) 2</td>
</tr>
<tr>
<td>A copy an <strong>electronic device</strong> is detained for translation and/or decryption by another Federal agency.</td>
<td>(b) 2</td>
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<tr>
<td><strong>An original document</strong> is detained for translation and/or decryption by another Federal agency.</td>
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<tr>
<td><strong>An electronic device</strong> is detained for translation and/or decryption by another Federal agency.</td>
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<tr>
<td><strong>A copy of a document</strong> is detained for subject matter assistance by another Federal agency.</td>
<td>(b) 2</td>
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<tr>
<td><strong>An electronic device</strong> is detained for subject matter assistance by another Federal agency.</td>
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<tr>
<td><strong>An electronic device</strong> is detained for subject matter assistance by another Federal agency.</td>
<td>(b) 2</td>
</tr>
</tbody>
</table>

**NOTE:** Please be sure to begin each secondary inspection narrative with the code in parenthesis – such as (b) (2).