

U.S. Department of Homeland Security
Washington, DC 20229



U.S. Customs and
Border Protection

JUL 18 2008

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
DIRECTOR, PRE-CLEARANCE
OFFICE OF FIELD OPERATIONS

FROM: Assistant Commissioner *D.H. White*
Office of Field Operations

SUBJECT: New Policy regarding Border Search/Examination of Documents,
Papers, and Electronic Information

The Office of Field Operations in coordination with the Office of Chief Council and the Department of Homeland Security's Office of General Council has developed a new Policy to govern border search of information and handling procedures. The intention of this document is to provide 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. There are multiple directives and musters providing guidance on this issue today. Starting with this document, the intention is to consolidate these directives into one policy and a single follow on directive that will provide clear direction on this issue. This new policy does not limit officer's current ability examine, detain and/or seize documents and electronic devices. Rather it is intended to help explain what is allowed by policy. Key points on the Policy for Border Search of Documents are listed below:

- 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.
- Border searches must be performed by an officer or otherwise properly authorized officer with border search authority.
 - Officer, for the purpose of this new Policy, is defined as a Customs and Border Protection Officer, Border Patrol Agent, Air Interdiction Agent, Marine Interdiction Agent, Internal Affairs Agent, and any other official of CBP authorized to conduct border searches regarding the border search of information contained in documents and electronic devices.
 - Documents or electronic device or copies thereof, for the purpose of this new Policy, 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*.
- Officers may detain certain information contained in documents and/or electronic 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.

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- **To assist CBP in translation and decryption and subject matter assistance, CBP must document the request for translation and decryption and/or subject matter assistance.**
 - **CBP may seek translation and/or decryption assistance from other Federal agencies or entities absent individualized suspicion.**
 - **CBP may seek subject matter assistance from other Federal agencies or entities when they have reasonable suspicion of activities in violation of the laws enforced or administered by CBP.**
- **Federal Agencies or entities receiving a request from CBP for assistance in conducting a border search are to provide such assistance as expeditiously as possible.**
 - **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.**
 - **ICE is not considered to be a separate agency when making request for assistance.**
 - **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.**
 - **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 and will advise CBP.**

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)

Attachment: