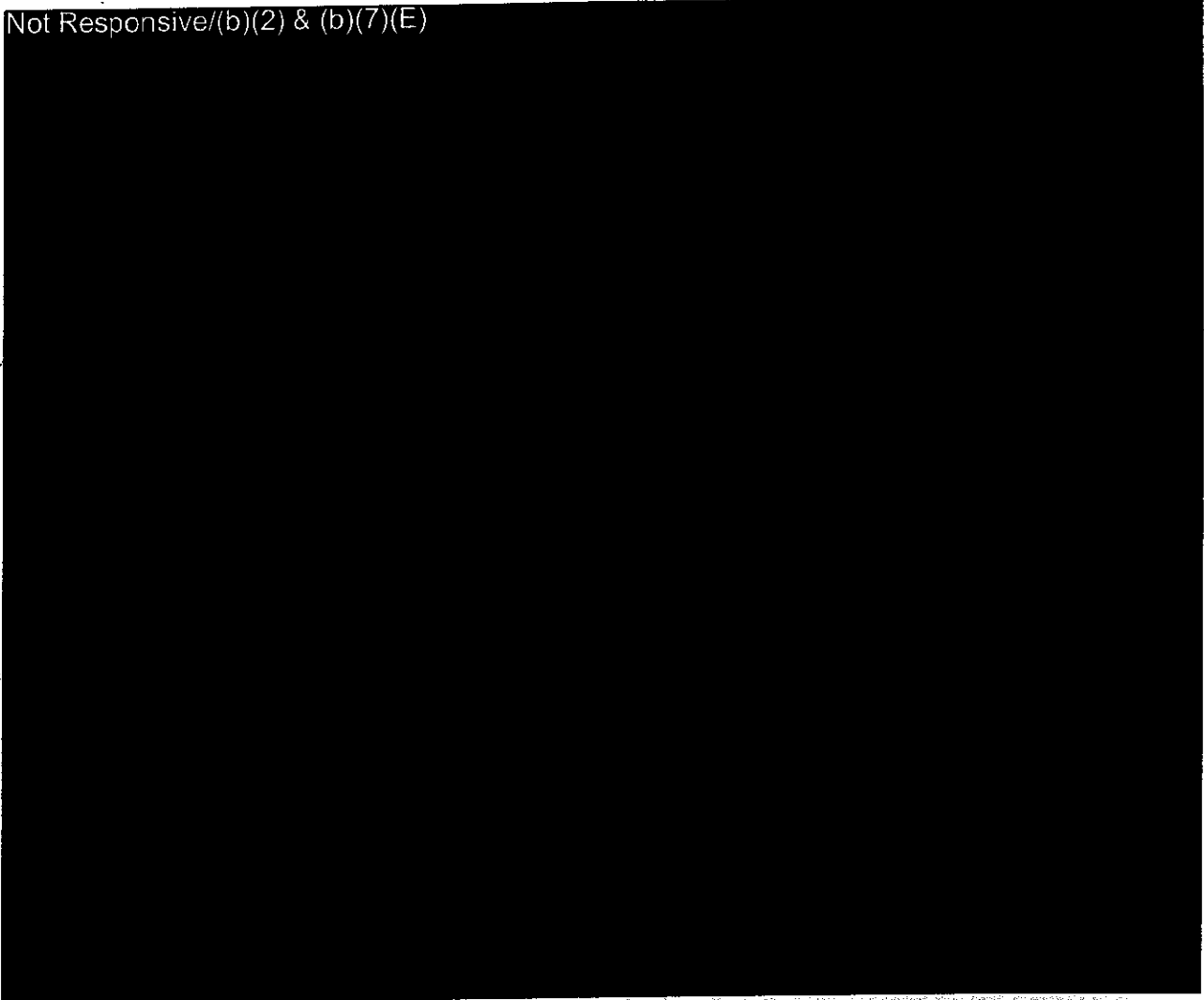
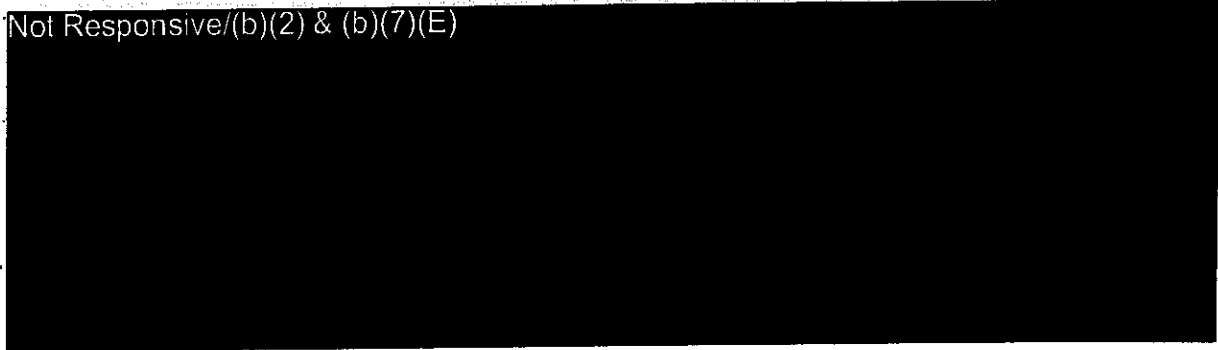


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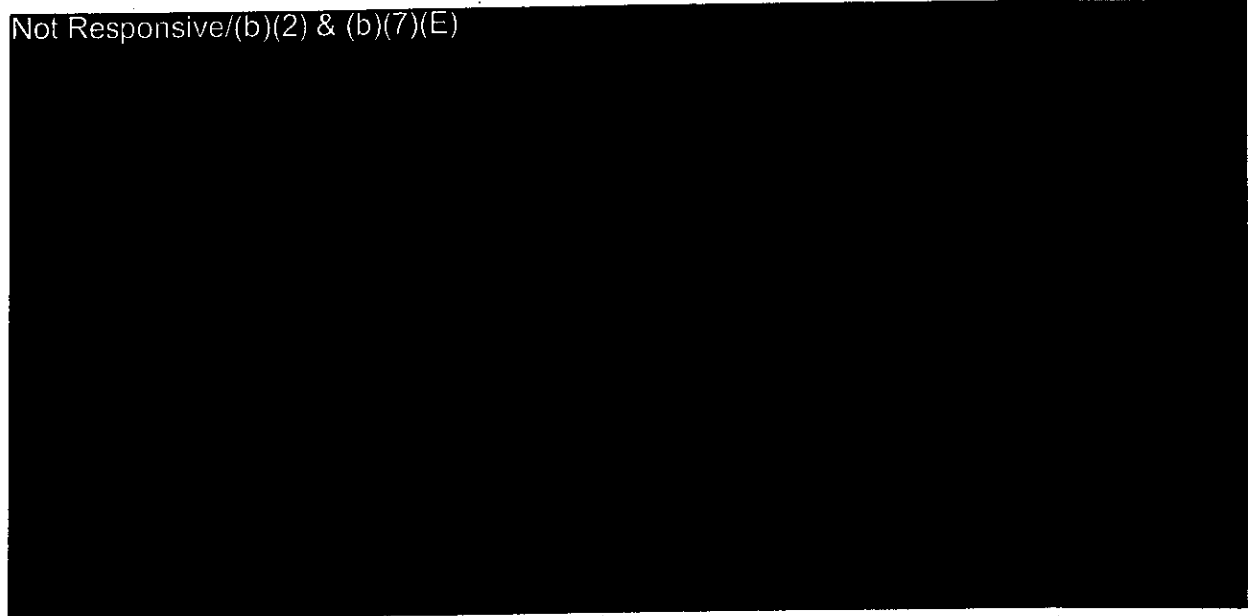


8 DURATION OF DETENTION.

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9 OFFICER SAFETY.

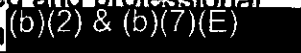
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10 SEARCH PROCEDURES.

10.1 Searches may, under certain conditions, be necessary to meet enforcement and/or security, or safety concerns. Under section 287(c) of the INA, officers have the authority to conduct a search of the person and personal effects of a passenger seeking admission if the officer has reason to suspect that the search may disclose evidence that would render the applicant inadmissible. All searches of detainees in CBP custody shall be conducted in a manner that is safe, secure, humane, dignified and professional.

Note: Officers conducting personal searches will be allowed to retain (b)(2) & (b)(7)(E)



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



10.2 Pat down searches shall be conducted in designated search rooms that have been specifically designed and equipped for such purposes. Pat down searches of passengers at the Passport Control hard secondary located at FIS-South shall be

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

10.3 All officers are to be aware of and comply with the enforcement standard on body searches and the CBP Personal Search Policy. Below are some of the policy guidelines and procedures for searches conducted at the Miami International Airport during the time of entry of a traveler for admission.

10.3.1 If a person is temporarily detained by CBP and must be placed in a secure area, CBP officers shall conduct a patdown in accordance with the guidelines established in Chapters 2 and 3 of the Personal Search Handbook and Chapter 43 of the Enforcement Handbook.

10.3.2 When a person has undergone a personal search in accordance with this SOP, the search shall be recorded in the appropriate (b)(2) & (b)(7)(E) record using the *Reason for Search* code (b)(2) & (b)(7)(E)

10.3.3 This SOP does not supersede the authority of a CBP Officer to conduct an immediate patdown or to secure a weapon if an officer suspects that a person may be armed.

10.3.4 This SOP does not supersede the authority of a CBP officer to conduct a lawful search incident to an arrest.

10.3.5 If an officer reasonably suspects merchandise or contraband is present as a result of the patdown search pursuant to paragraph 7.1, the CBP officer may conduct a more intrusive search to confirm or dispel suspicions, in accordance with the guidelines established in Chapter 4 of the Personal Search Handbook.

10.3.6 To ensure safety, prior to placing a person into a detention cell, officers shall empty the detainee's pockets of all sharp objects that may be used as weapons as well as all rope-like objects that the passenger could use to injure him/herself. Examples of these things are:

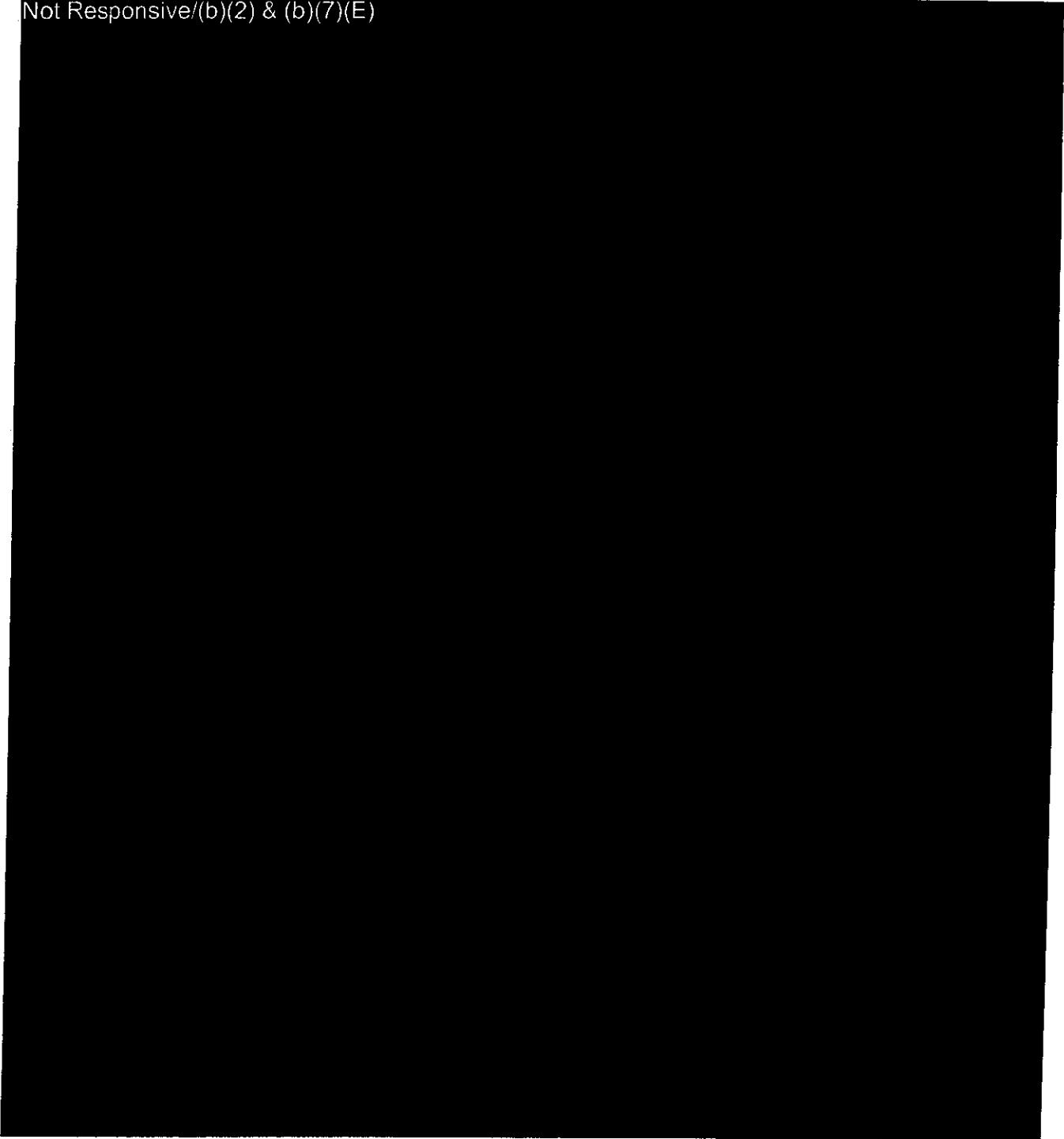
(b)(2) & (b)(7)(E)

10.3.7 A CBP officer may remove and examine (b)(2) & (b)(7)(E) to ensure there are no hidden items. The items shall be returned to the individual and may

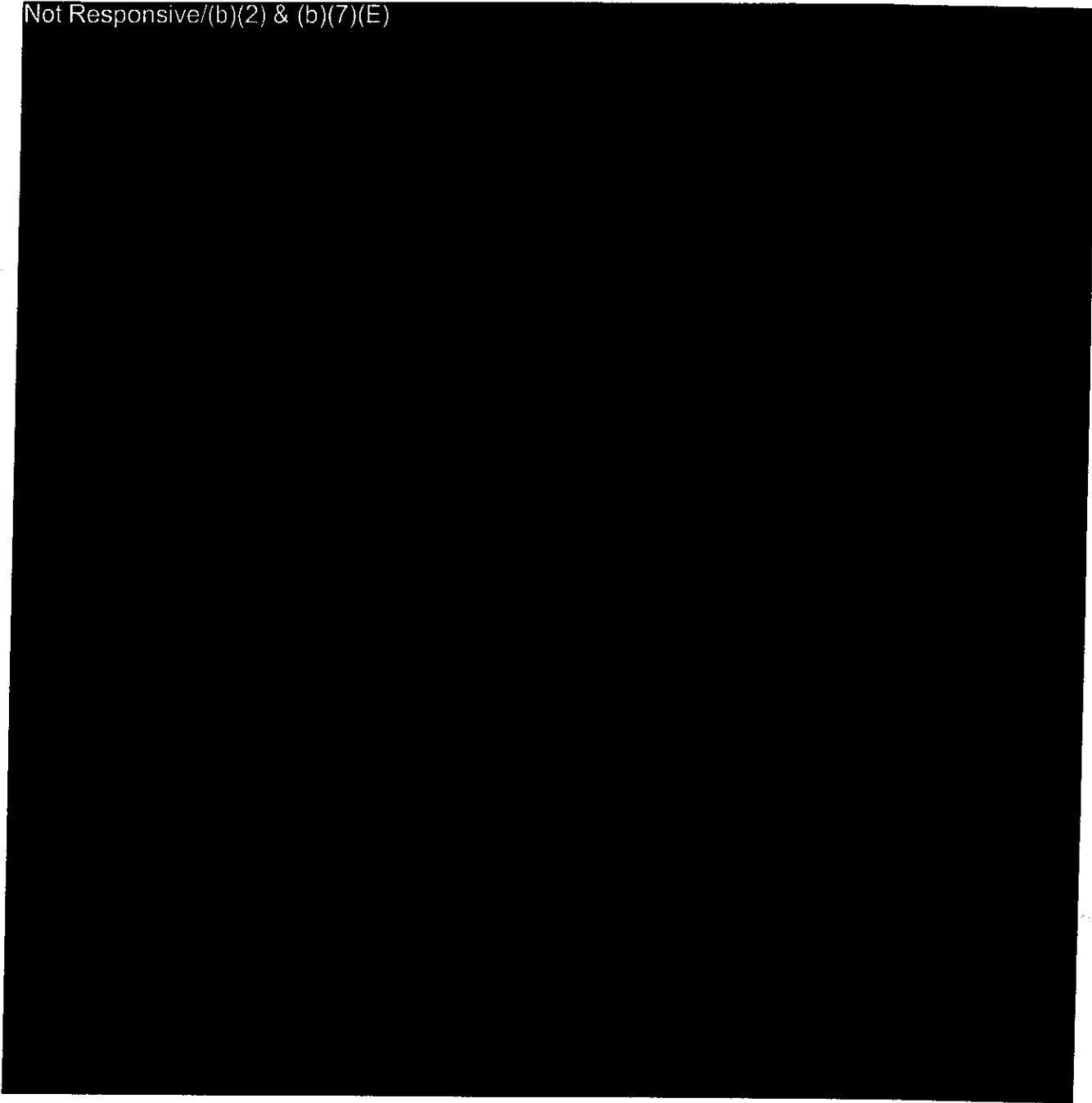
not be confiscated until probable cause for arrest exists. However, if there are indications or articulable facts that may lead an officer to believe that individuals may attempt to harm themselves while in an unsecured, unmonitored area, then (b)(2) & (b)(7)(E) (b)(2) & (b)(7)(E) may be removed.

11 DETENTION CELL PROCEDURES.

Not Responsive/(b)(2) & (b)(7)(E)



Not Responsive/(b)(2) & (b)(7)(E)




12 DETENTION PROCEDURES FOR HOLD ROOMS, SEARCH ROOMS, AND OTHER ATTENDED AREAS.

Not Responsive/(b)(2) & (b)(7)(E)



Not Responsive/(b)(2) & (b)(7)(E)



13 EXCEPTIONS TO SHORT-TERM DETENTION PROCEDURES.

Not Responsive/(b)(2) & (b)(7)(E)




13.3 To the extent possible, no one who is pregnant, on life sustaining or lifesaving medication, or who appears ill, shall be detained (b)(2) & (b)(7)(E)

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

(b)(7)(E) (b)(2) If a detainee requests medical assistance, or, if a detainee appears to need medical assistance, then the Miami-Dade Fire Rescue Department shall be notified. [See section 15 of this chapter regarding Medical Emergencies.]

Not Responsive/(b)(2) & (b)(7)(E)



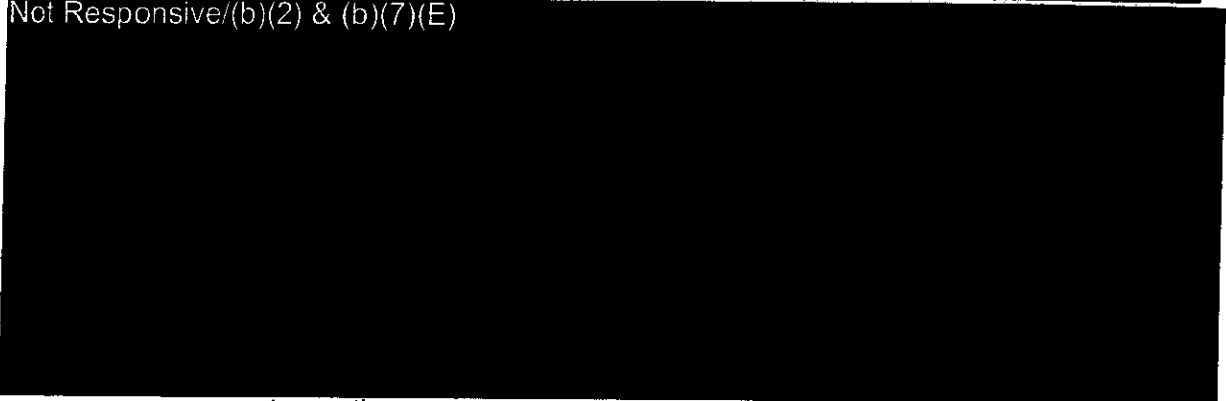
Not Responsive/(b)(2) & (b)(7)(E)



14 SUBSISTENCE AND TELEPHONIC COMMUNICATION PROVIDED TO DETAINEES.

14.1 Meals. Not Responsive/(b)(2) & (b)(7)(E)

Not Responsive/(b)(2) & (b)(7)(E)



14.2 Drinking Water. Not Responsive/(b)(2) & (b)(7)(E)

Not Responsive/(b)(2) & (b)(7)(E)



14.3 Restrooms. Not Responsive/(b)(2) & (b)(7)(E)

Not Responsive/(b)(2) & (b)(7)(E)



14.4 General Notification Guidelines.

14.4.1 Officers shall notify every alien of his or her right to communicate by telephone with the consular or diplomatic officers of country of nationality in the United States when the removal of the alien cannot be accomplished immediately, and the alien must be placed in detention for longer than 24 hours.

14.4.2 In the cases of certain nationalities, if the alien is detained longer than 24 hours at the Miami International Airport, existing treaties and CBP policy require that the service notify the appropriate consular or diplomatic officers about the alien's detention,

even if the alien requests that this not be done. For the list of applicable countries, see 8 CFR 236.1(e).

14.4.3 Officers shall not mention any asylum claim or fear of persecution or torture expressed by the alien when contacting a consular official, nor shall they indicate the nature of the proceedings against the alien.

14.4.4 Dependent upon the length of detention and security risks, the Supervisor will determine whether or not the detainee will be allowed to communicate by telephone or in person with any other person, including consular officials. [See IFM chapter 17.15(b)(7) and 8 CFR 236.1(e).]


14.5 Notification of Third Parties (2 Hour Rule).

14.5.1 CBP Officers assigned to Hard Secondary shall use the designated time/date stamp machines to record the date and time of arrival for all passengers who have been referred for processing. The passengers' CBP Forms 6059B shall be used by the CBP Officer to record the machine generated date/time stamp. If the machine is inoperable, then the CBP Officer shall make the annotations manually.

14.5.2 After the date/time stamp annotation, the CBP Forms 6059B shall be returned to the passengers. The passengers will then be instructed to advise a CBP Officer or Duty Supervisor once their detention has exceeded two (2) hours.

14.5.3 The Chief, Hard Secondary, shall be informed of each incident involving passengers who have exceeded the 2-hour rule. The Chief shall then determine whether or not authorization shall be granted to allow the notifications. (b)(2) & (b)(7)(E)

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



14.5.4 Once authorization is granted, passengers shall be afforded the opportunity to have a CBP Officer notify someone of their delay. If the passenger consents, then a CBP Officer shall contact the third party, which the passenger designates to be notified. If the 2-hour limit is reached while the passenger's case is being processed, then the CBP Officer shall conduct the notifications after the completion of the sworn statements. These notifications shall take place inside an interview room or at the supervisor's desk.

14.5.5 If the passenger elects to decline the notification procedure, then a CBP Officer shall inform the Chief, Hard Secondary of the passenger's decision. The CBP Officer shall also complete the form titled "CBP Declination of Notification Procedure for Detentions/Delays pending a Determination of Admissibility."

14.5.6 Passengers who have been referred to Hard Secondary are not allowed to use their personal cell phones. This restriction applies to all passengers while they are waiting and throughout their secondary examinations.

14.5.7 Notifications to third parties, which require foreign long distance phone calls, shall not be authorized.

14.5.8 The 2-hour Rule does not apply to passengers who have been referred to Soft Secondary.

14.5.9 If the passengers' secondary examination shall not result in a case, then the original completed Advisory and Declination forms shall be placed in the designated file folder. If the passengers' secondary examination does result in a case, then a copy of the form shall be placed in the (b)(2) & (b)(7)(E) (b)(2) & (b)(7)(E)

15 DETENTION OF PASSENGERS WITH MEDICAL CONDITIONS.

Not Responsive/(b)(2) & (b)(7)(E)

15.2 All persons placed in detention cell (unattended secure area) at an FIS will be asked whether they have a medical problem or condition that may require some attention. If they are currently taking any prescribed medications the CBP officers will identify the type of prescribed medication, when it was last taken, and when the next dosage is needed.

Not Responsive/(b)(2) & (b)(7)(E)


16 DETENTION OF ASYLEES.

Not Responsive/(b)(2) & (b)(7)(E)



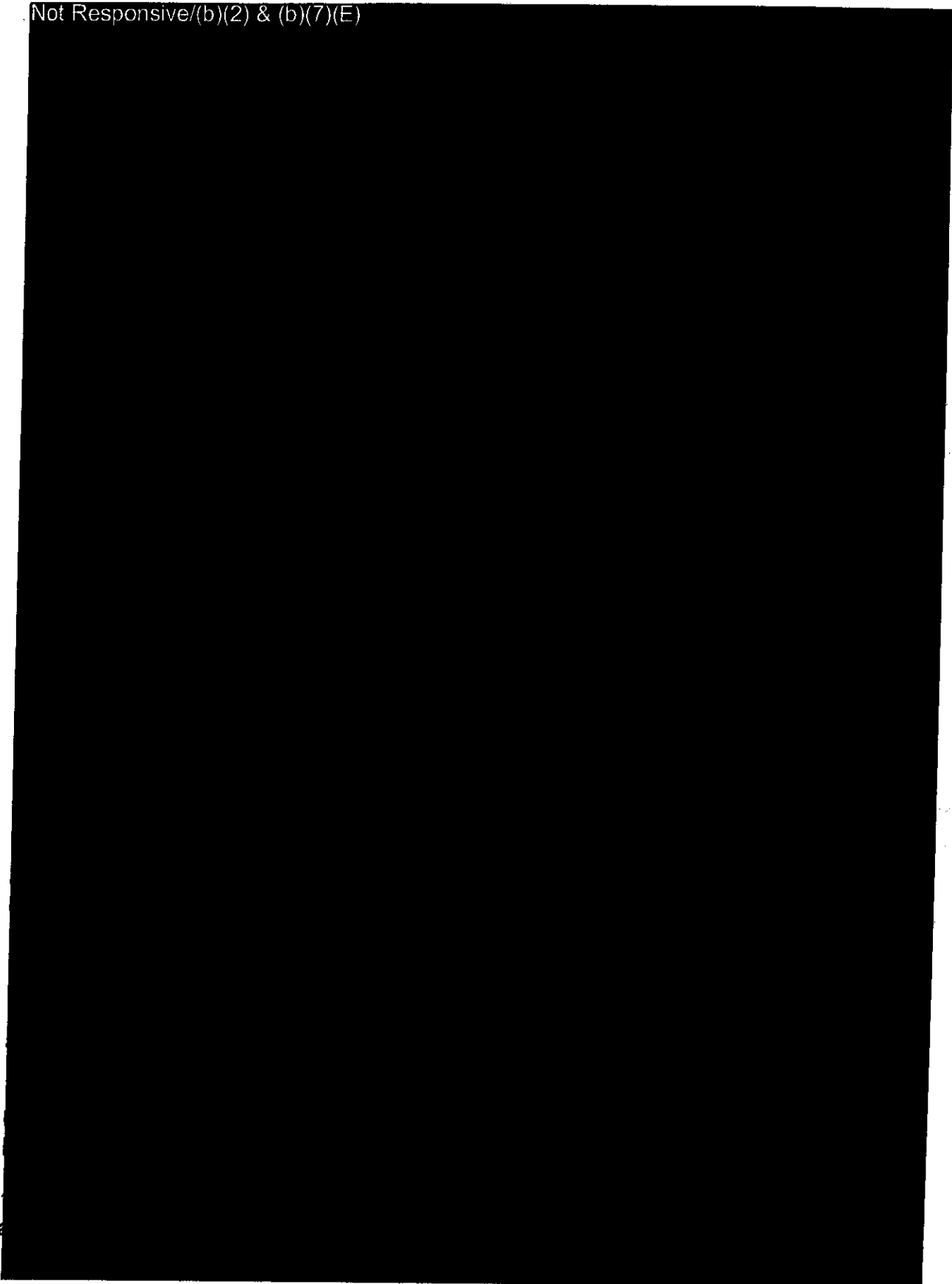
17 DETENTION OF JUVENILES.

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18 THE USE OF RESTRAINTS.

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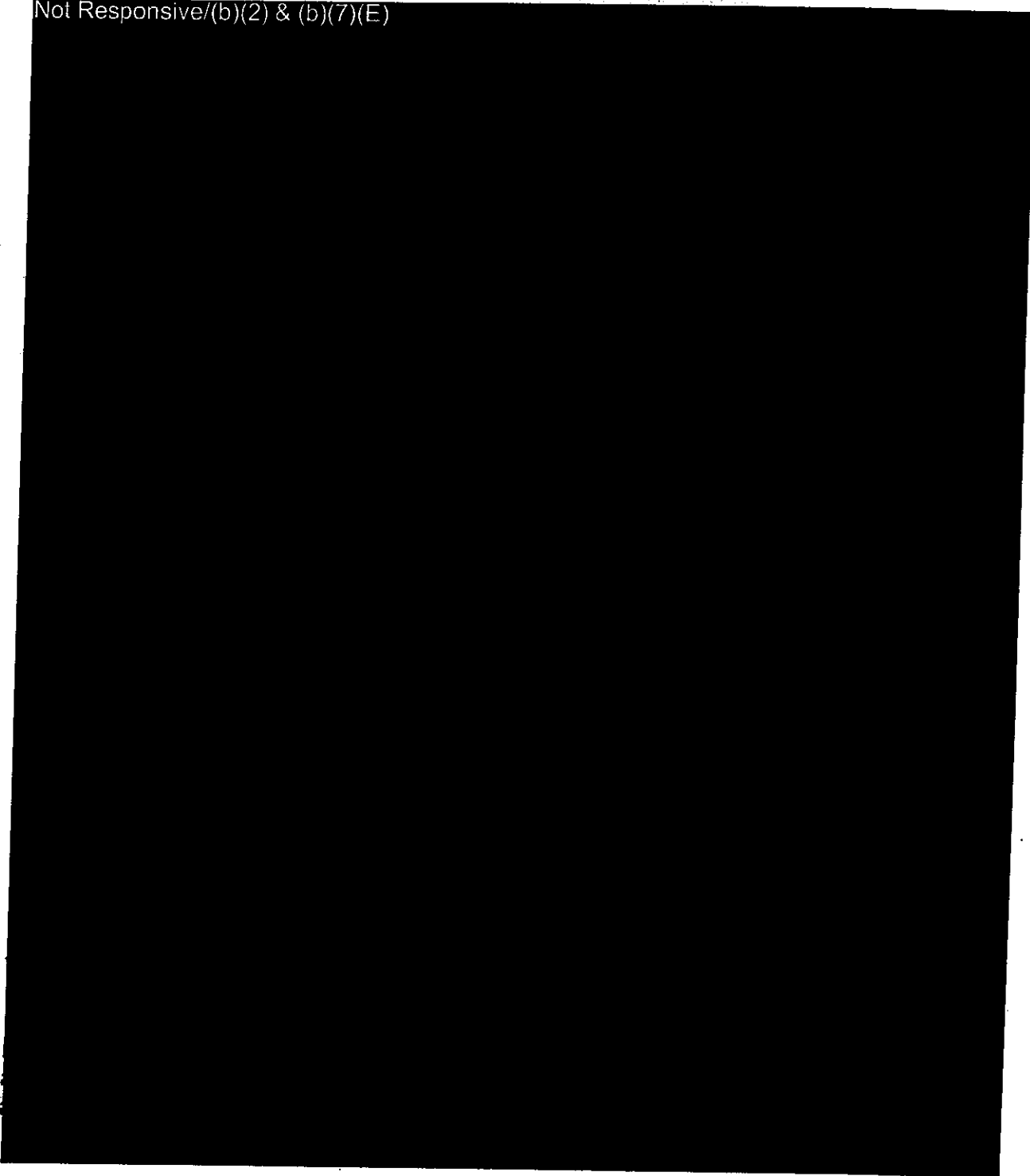


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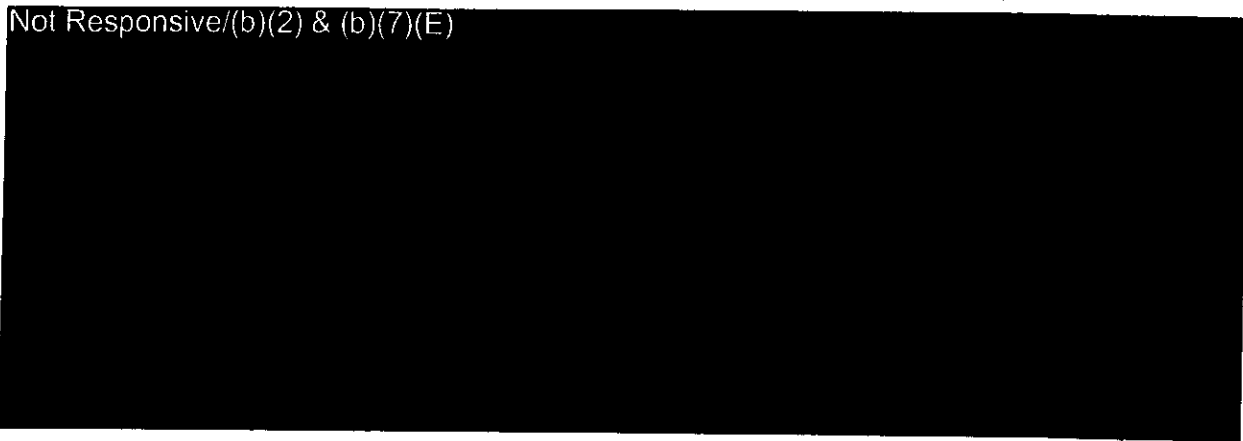
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19 ESCORT, TRANSPORT AND TRANSFER PROCEDURES.

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20 CONTROL AND SAFEGUARDING DETAINEE PERSONAL PROPERTY

20.1 The control and safeguarding of detainee personal property shall include the secure storage of funds, valuables, baggage and other personal property.

20.2 All property will be receipted on the appropriate form CBP-6051.

20.3 Initial and regularly scheduled inventories of all funds, valuables, and other property will be conducted and documented on a CBP-6051.

20.4 All items belonging to the detainee shall be placed in a properly marked plastic sealed bag, inventoried, and placed in a secure area.

20.5 A safe, secure designated storage area shall be assigned. [See Detention Standard on Accountability and Safeguarding of Detainee Funds and Personal Property.]

20.6 Officers shall use the following forms:

20.6.1 Form CBP-6051, Custody Receipt for Retained/Detained or Seized Property. Used when items or personal property are removed from a person and stored for safekeeping. CBP officers should turn over all items or evidentiary value with a CBP-6051 to the next person taking custody of the person, i.e., Special Agent or other federal, state or local law enforcement Officer. Guidelines for retaining personal effects/property from individuals that have been arrested are outlined in Customs memorandum, File: CO:TO:S:O SSJ, titled "Personal Effects," dated March 29, 1993.

20.6.2 A logbook and inventory sheet will be maintained listing the detainee name, A-number if applicable, Form CBP-6051 number, date items were retained or seized, property description, name of officer(s) recording the property, and the date, time, officer(s) conducting the inventory.

20.7 (b)(2) & (b)(7)(E) will inspect all funds and property, including those items found in parcels, suitcases, bags, bundles and boxes, in the presence of the detainee to ensure

officer safety and accountability. This procedure will also be followed when property is returned to a traveler subsequent to his or her release.


21 FIRE, BUILDING EVACUATION AND MEDICAL EMERGENCIES.

Not Responsive/(b)(2) & (b)(7)(E)



22 REPORTING REQUIREMENTS.

Not Responsive/(b)(2) & (b)(7)(E)



23 NO PRIVATE RIGHTS CREATED. This SOP 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.

24 DISCLOSURE. This SOP contains information, which may be exempt from disclosure to the public under the regulations of the Department of the Homeland Security. No part of this SOP shall be disclosed to the public without express authority from U.S. Customs and Border Protection Headquarters.

Attachments

- (A) Personal Detention Log Sheet
- (B) Master Detention Log Sheet
- (C) Caution Sheet on Detained Individual
- (D) Contact Advisory of CBP Detention
- (E) CBP Declination of Notification Procedure for Detentions/Delays Pending a Determination of Admissibility

Drafted by:

(b)(6) & (b)(7)(C) CBP Officer

Reviewed by:

(b)(6) & (b)(7)(C), Chief, Enforcement Branch

(b)(6) & (b)(7)(C) Deputy Assistant Port Director, Passenger Processing Branch

(b)(6) & (b)(7)(C) Deputy Assistant Port Director, Operations Branch

Approved by:

(b)(6) & (b)(7)(C)

11/19/04
Date

Assistant Port Director
Passenger Processing

(b)(6) & (b)(7)(C)

11/24/04
Date

Jeffrey O. Baldwin, Sr.
Port Director
Miami Service Port

U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

MASTER DETENTION LOG SHEET

Directive 3340-030A

Port Code/Name _____

Not Responsive/(b)(2) & (b)(7)(E)

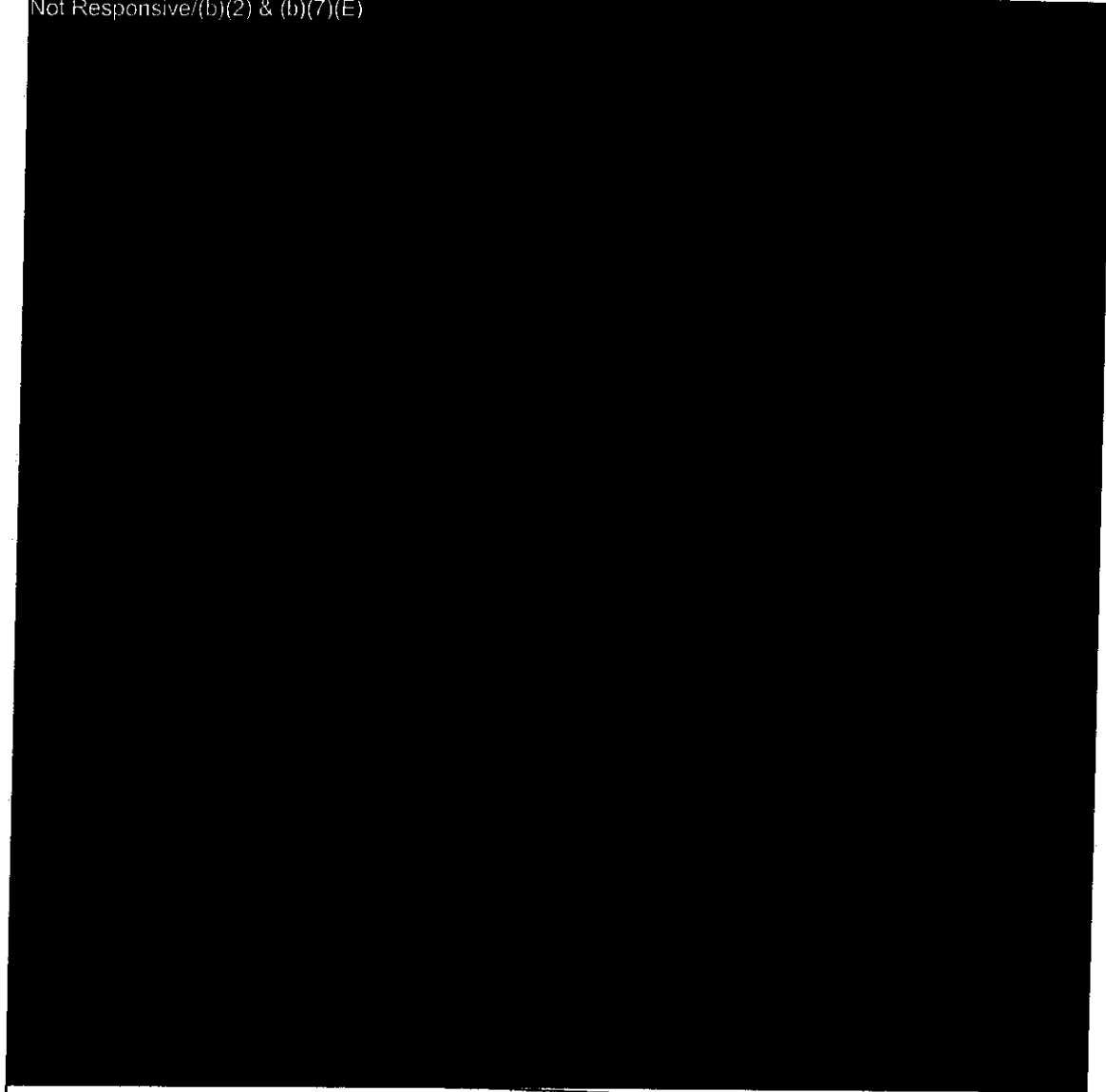
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U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

CAUTION SHEET ON DETAINED INDIVIDUAL

CD 3440-030A

Not Responsive/(b)(2) & (b)(7)(E)



CBP Form 3503 (03/04)

CBP Declination of Notification Procedure for Detentions/Delays pending a Determination of Admissibility

The traveler has elected to decline the notification procedure for detention/delays pending a determination of their admissibility. The traveler must sign and indicate the date and time of the declination.

I do not wish to notify anyone at this time of my delay/detention due to inadmissibility issues.

Signature of Traveler

Date

Time

Printed Name of Traveler

Signature of Witness

Date

Time

Printed Name of Witness

Remarks:

Contact Advisory of CBP Detention

To be used once any person has been detained for CBP processing for two hours pending a determination of their admissibility. The detainee will be afforded the opportunity to have CBP notify someone of the delay pending a determination of their admissibility. The two-hour period for notification commences when the passenger is referred to CBP Hard Secondary.

I am Officer (name) of U.S. Customs and Border Protection at (Port of Entry). Your, (husband, sister, friend, etc.) who has arrived in the United States on (flight number) has asked that we contact you. He (or she) is safe, however (he or she) will not be able to enter the United States at this time. He (or she) is not available to speak with you during Customs and Border Protection processing, however he (or she) will be afforded the opportunity to contact you prior to their departure.

Person Contacted: _____

Relationship: _____

Time of Notification: _____

Person making notification: _____
(Title, Badge Number if applicable)

Remarks:

Note: * Due to privacy and safety issues, specific information regarding inadmissibility and the location of the detention facility will not be disclosed.

**U.S. CUSTOMS AND BORDER PROTECTION (CBP)
MIAMI SERVICE PORT
PASSENGER OPERATIONS**

STANDARD OPERATING PROCEDURES (SOP)

SOP# : **AP 31.11**

BASIS : Basic Admissibility Secondary Processing Reference Manual – January 2006

Responding to Potential Terrorists Seeking Entry into the United States - CBP Directive No: 3340-021B

Secure Detention Procedures at the Ports of Entry – CBP Directive No: 3340-030A

SUBJECT : **PASSPORT CONTROL SECONDARY OPERATIONS**

ACTION PARTY : All CBP Personnel

RESPONSIBLE PARTY : All CBP Managerial and Supervisory Personnel

1. PURPOSE

Arriving International passengers are referred to Secondary when they fall outside the routine parameters for travelers arriving at the Port of Entry (POE) based on observation of articulable facts regarding: (b)(2) & (b)(7)(E)

[REDACTED]. The purpose of this policy is to provide guidance to Customs and Border Protection Officers in the processing of persons referred to Passport Control Secondary.

2. POLICY

U.S. Customs and Border Protection (CBP) has established procedures to ensure that Passport Control Secondary referrals are processed in the manner prescribed in the above referenced documents. The implementation of this policy will ensure accuracy, uniformity, and establish accountability.

3. RESPONSIBILITIES

- 3.1 Assistant Port Director, Passenger Operations, shall ensure that this SOP complies with the requirements outlined in the above-referenced materials.

- 3.2 Chiefs, Passenger Operations, are responsible for managing the implementation of this SOP and monitoring its compliance with the established procedures.
- 3.3 CBP Managers and Supervisory personnel are responsible for ensuring that the procedures set forth in this SOP are followed.
- 3.4 CBP Officers are responsible for following the procedures set forth in this SOP.

4. DEFINITIONS

- 4.1 **Juveniles/Minors** - persons who have not reached their 18th birthday. However, individuals who have been "emancipated" by a state court or convicted and incarcerated for a criminal offense as an adult are not considered minors. Such individuals will be treated as adults for all purposes, including confinement and release on bond.
- 4.2 **CBP Soft Secondary** – processing not covered by immigration administrative proceedings or immigration criminal prosecutions (i.e. immigrant visas, refugee admissions, waivers, paroles, and NSEERS procedures) where the expected outcome will be the release of the passenger upon completion of the processing.
- 4.3 **CBP Hard Secondary** – an examination or investigative process involving immigration administrative proceedings and/or immigration criminal prosecutions.
- 4.4 **Immigration Administrative Proceedings** – intended to lead to removal or civil penalties (i.e. withdrawal of applications for admission, refusal of entry, removal before an Immigration Judge, expedited removal, material witness cases, or fines).
- 4.5 **Immigration Criminal Prosecutions** – intended to lead to incarceration (i.e. smuggling and terrorism/terrorist related cases).
- 4.6 **Secure Area** – areas such as detention cells, search rooms, interview rooms, or security offices where an individual is detained for a temporary period of time out of public view.
- 4.7 **Referral Escort Officer (REO)** – is an armed CBP Officer tasked to escort any arriving passenger from a Passport Control Primary booth to a secondary examination area.
- 4.8 **Primary Response Officer (PRO)** – is a Hard Secondary Passport Control trained CBP Officer who is tasked to provide guidance and knowledge prior to the passenger entering a secondary examination area.

5. TERRORISM / SUSPECTED TERRORIST RELATED PROCESSING

- 5.1 [REDACTED]

NOT RESPONSIVE/B2 B7E

NOT RESPONSIVE / B2 B7E

N R b d s p & (r b s) i (v 7 e) / ((E b)) (2)

5.2 N R b d s p & (r b s) i (v 7 e) / ((E b)) (2)

5.3 Not Responsive/(b)(& (b)(7)(E)

5.4 N R b d s p & (r b s) i (v 7 e) / ((E b)) (2)

5.5 Not Responsive/(b)(2 & (b)(7)(E)

5.6 Not Responsive/(b)(& (b)(7)(E)

b(2) b7E

5.7 (b & () b 2 () 7) (E) and dispatch a (b) & (b) to conduct a comprehensive interview. All notifications will be made in accordance with CBP Directive No: 3340-021B – "Responding to Potential Terrorists Seeking Entry into the United States".

NOTE: (b & () b 2 () 7) (E)

b2 b7E

5.8 If the passenger is an (b)(2) & (b)(7) (E), they will be queried in all the necessary databases (must include: (b)(2) & (b)(7)). A thorough inspection of the traveler's person must be conducted. If any suspicions remain, a thorough examination of all accompanying luggage will be performed and the POCC and will be advised of the results.

5.9 If questionable travel is discovered, or if answers to questions result in further suspicions, a full interview will be requested from the (b) & (b).

5.10 If the passenger is (b)(2 & (b), they will be queried in all the necessary databases (to include: (b)(2) & (b)(7)). A complete inspection of the traveler must be conducted.

b2
b7E

5.11 If any suspicions remain, a thorough examination of all the accompanying luggage will be performed and the POCC will be advised of the results. If questionable travel is discovered, or if answers to queries result in further suspicions, a full [redacted] interview will be requested of the (b)(1) & (b)(7)(C).

5.12 The POCC will vet all suspicious travelers through [redacted].

5.13 If the passenger is (b)(2) & (b)(7)(C), a thorough inspection will be conducted, to include (b)(1) & (b)(7)(C). The passenger will be processed as expeditiously as possible.

NOT RESPONSIVE/B2 B7E

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Not Responsive/(b)(2 & (b)(7)(E) [Redacted]

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NOT RESPONSIVE /B2 B7E

N F o d s p &(n b s) i (v 7 e) ((E b)) (2)

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[Redacted]

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Not Responsive/(b) & (b)(7)(E)

[Redacted]

[Redacted]

NOT RESPONSIVE / (b)(2) & (b)(7)(E)

Not Responsive/ & (b)(7)(

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

11. SECURE DETENTION

[Redacted]

[Redacted]

[Redacted]

[Redacted]

11.5 Any passenger detained three hours for CBP processing will be given the opportunity to have CBP notify someone of their delay pending a determination of their admissibility.

Third Party Notification

11.6 The requirement for notification of third parties applies to the following:

- (A) Any person who is referred to CBP Hard Secondary for immigration administrative proceedings, and

- (B) Cases where an admissibility determination was made and an adverse action has been taken before the 3 hour mark.

11.7 The requirement for notification of third parties does not apply to:

- (A) Any person who is referred to CBP Hard Secondary for immigration criminal prosecutions,
- (B) Any person who was previously convicted and is subject to removal based on that conviction, or
- (C) Any person who is referred to CBP Soft Secondary for routine immigration paperwork.

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

11.8 The three hour period for the notification requirement begins at the time the traveler is referred to CBP Hard Secondary processing. When the three-hour notification period has elapsed, the processing CBP Officer must offer to notify someone on behalf of the detained person (Attachment 8). The detained passenger may elect to provide the Officer with a name and telephone number of the person they would like contacted.

11.9 The Officer making the telephone call/contact will utilize a prepared script (Attachment 9). Due to privacy and safety issues, specific information regarding inadmissibility and the location where the passenger is being administratively detained will not be disclosed. Whether or not the passenger elects to use the notification will be included in the narrative of the (b)(2) & (b)(7)(E) report. The passenger must also read and sign the CBP Declination of Notification for Detention/Delay Pending a Determination of Admissibility (Attachment 10).

Not Responsive/(b)(2) & (b)(7)(E) [Redacted]

[Redacted]

[Redacted]

Not Responsive/(b)(2) & (b)(7)(E)

[REDACTED]

[REDACTED]

12. DIPLOMATIC ISSUES

NOT RESPONSIVE / b2 & b7E

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Not Responsive/(b)(2) & (b)(7)(E)

13. HUMANITARIAN ISSUES

13.1 Not Responsive/(b)(2) & (b)(7)(E)

13.2 Not Responsive/(b)(2) & (b)(7)(E)

13.3 Officers should ask the passenger if medical treatment is necessary. If the passenger replies affirmatively, or if medical treatment appears necessary, the Officers will make the appropriate arrangements.

13.4 Not Responsive/(b)(2) & (b)(7)(E)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Medical

13.9 Not Responsive/(b)(2) & (b)(7)(E)

Not Responsive/(b)(2) & (b)(7)(E)

[Redacted]

13.10 All other passengers will be detained and transported in accordance with current SOP # 22.02 (Air Passenger Detention Procedure) and with the following guidelines:

- (A) All passengers placed in an unattended secure area at a CBP facility will be asked if they have any existing medical problem/condition that may require some attention. If they are currently taking any prescribed medications the Officers will identify the type of prescribed medication, when it was last taken, and when the next dosage is needed.

[Redacted]

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NOT RESPONSIVE/B2 B7E

Asylum Applicants

Not Responsive/(b)(2) & (b)(7)(E)

[Redacted]

Not Responsive/(b)(2) & (b)(7)(E)
[Redacted]

Meals

Not Responsive/(b)(2) & (b)(7)(E)
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Drinking Water

Not Responsive/(b)(2) & (b)(7)(E)
[Redacted]

Restrooms

Not Responsive/(b)(2) & (b)(7)(E)
[Redacted]

[Redacted]

Telephone

13.20 Officers are required to notify every detained passenger of their right to communicate telephonically with the consular or diplomatic officers for their

country of nationality in the United States when the removal of the passenger cannot be accomplished immediately, and the passenger must be placed in detention for longer than 24 hours.

NOTE: All telephonic communication must be annotated on the Case Management Checklist.

13.21 For certain nationalities (Attachment 13), if the passenger is detained longer than 24 hours at the POE, existing treaties and CBP policy require that the Service notify the appropriate consular or diplomatic officers about the passenger's detention even if they request that the notification not occur.

NOTE: Officers will **not** mention any asylum claim or fear of persecution or torture expressed by the passenger when contacting a consular official, neither will they indicate the nature of the proceedings against the passenger.

13.22 Depending on the length of the detention and security risks, the Supervisor will determine whether or not the detained passenger will be allowed to communicate by telephone or in person with any other person, including consular officials.

14. JUVENILE PROCESSING AND DETENTION PROCEDURES

Not Responsive/(b)(2) & (b)(7)(E)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NOT RESPONSIVE / (b)(2) & (b)(7)(E)

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Not Responsive/(b)(2) & (b)(7)(E)

[Redacted]

15. US-VISIT

[Redacted]

[Redacted]

US-VISIT Exceptions

[Redacted]

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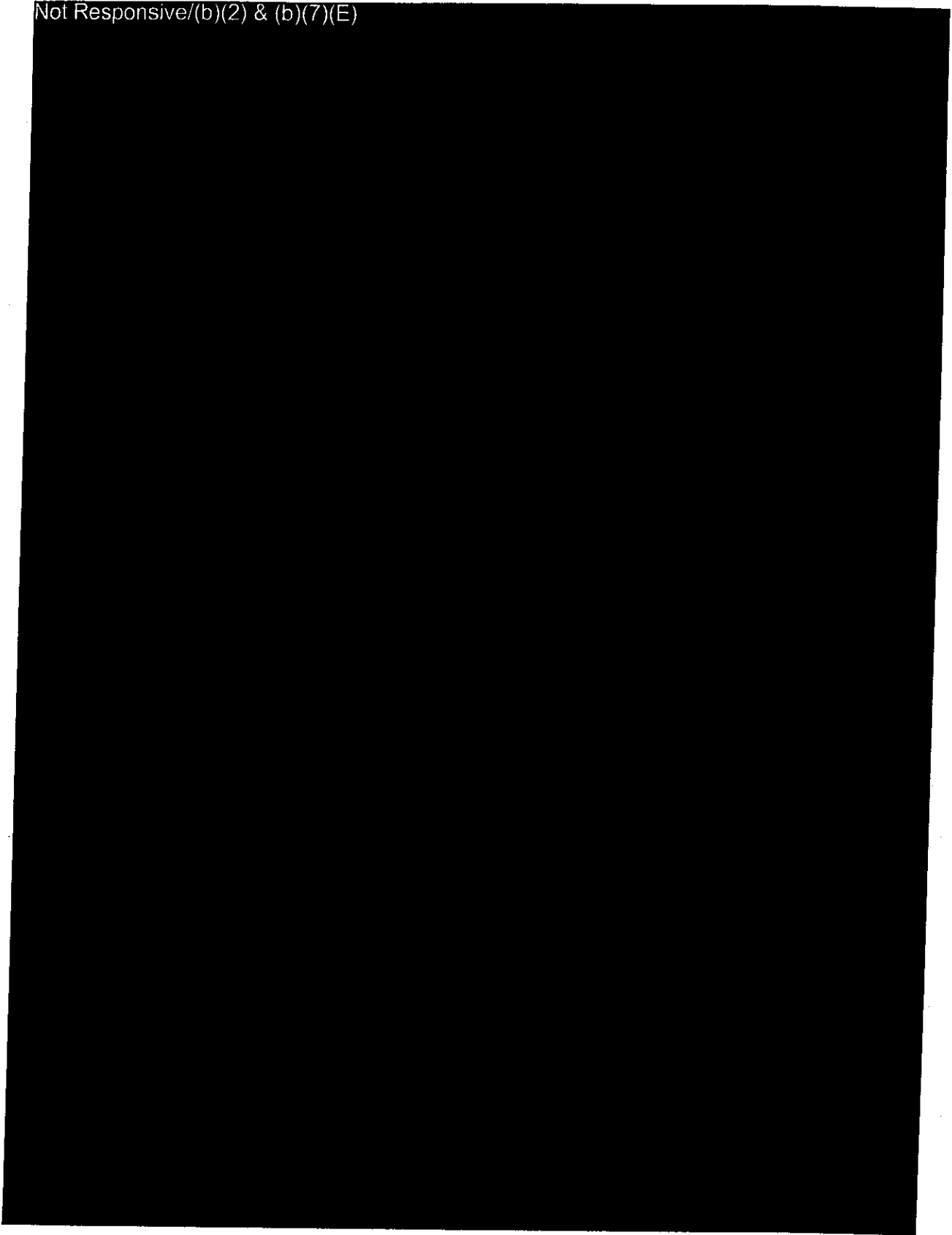
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16. SYSTEM OUTAGES

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NOT RESPONSIVE / B2 & B7E

Not Responsive/(b)(2) & (b)(7)(E)



Not Responsive/(b)(2) & (b)(7)(E)

17. NO PRIVATE RIGHTS CREATED

This SOP is an internal policy statement of U.S. Customs and Border Protection (CBP) and does not create or confer any rights, privileges, or benefits on any person or party.

18. DISCLOSURE

This SOP contains information, which may be exempt from disclosure to the public under the regulations of the Department of Homeland Security. No part of this Directive shall be disclosed to the public without express authority from U.S. Customs and Border Protection Headquarters.

Prepared by:

(b)(6) & (b)(7)(C) Supervisory CBP Officer
(b)(6) & (b)(7)(C) CBP Officer
(b)(6) & (b)(7)(C) CBP Officer

Reviewed by:

(b)(6) & (b)(7)(C) Supervisory CBP Officer
(b)(6) & (b)(7)(C), Chief, Passenger Operations, Passport Control
(b)(6) & (b)(7)(C) Chief, Passenger Operations, Baggage Control

Approved by:

(b)(6) & (b)(7)(C)

Assistant Port Director
Passenger Operations

4/27/07
Date

(b)(6) & (b)(7)(C)

Harold E. Woodward
Port Director
Miami Service Port

4/30/07
Date

ATTACHMENTS:

- Attachment 1 – Referral Flowchart
- Attachment 2 – Grounds of Inadmissibility Overview
- Attachment 3 – Secondary Adverse Action Checklist
- Attachment 4 – (b)(2) & (b)(7)(E) Policy Memorandum # INS-1 FO: BS: PO GC
- Attachment 5 – Case Management System Checklists
- Attachment 6 – Personal Detention Log
- Attachment 7 – 22 CFR 41.122
- Attachment 8 – Third Party Notification Memorandum Dated
- Attachment 9 – Third Party Notification Script
- Attachment 10 – CBP Declination of Notification for Detention/Delay Pending a

Determination of Admissibility

Attachment 11 – Individual Caution Sheet

Attachment 12 – Asylum Application Process

Attachment 13 – Consular Notification

Attachment 14 – Notice of Rights and Request for Disposition (I-770)

Attachment 15 – 8 CFR 236.6

Attachment 16 – Canadian Citizen US-VISIT Exemption

Attachment 17 – Mexican Citizen US-VISIT Exemption

BUREAU OF CUSTOMS AND BORDER PROTECTION (BCBP)
FIELD OPERATIONS

STANDARD OPERATING PROCEDURES

SOP# : AP ~~16.6~~ 29.4
BASIS : CBP Directive 2210-001A, 7- 24 - 2001
CBP Directive 3340-006A, 2- 4 - 2000
SUBJECT : Restriction on the Importation of
Seditious Matter
ACTION PARTY : All Inspections Personnel
RESPONSIBLE PARTY : All Supervisory Personnel

PURPOSE:

To instruct CBP officers and inspectors as to seditious matters that are prohibited by Section 305 of the Tariff Act of 1930 as amended by 19 USC 1305 and at the same time distinguish political propaganda that is admissible.

Seditious matter is defined as:

Any printed and graphic matter that exhorts the reader by encouraging or promoting imminent acts of armed or other violence against constituted government and military authorities and institutions. It promotes the disruption of utility and similar public services by specifically suggested acts of vandalism, arson, and the like. Additionally, it encourages the subversion of members of military and associated organizations of the defense establishment.

Prohibited seditious matter does not include abstract teaching that promotes violence and other illegal acts. Materials must be directly related to inciting or producing imminent lawless action for it to be prohibited.

CBP Officers will recognize such propaganda in the form of printed or other materials that:

Seeks to glorify the government or political party of a foreign country or a social system abroad.

Promotes foreign ideologies or policies, particularly of authoritarian regimes.

Expresses hypercritical views of a Free World Society or Capitalistic Systems.

Influence American attitudes toward foreign regimes and, frequently, against the foreign policy of the United States.

Promotes racial, religious, or social dissension within the United States.

This type of political propaganda is admissible unless it is also seditious, that is, directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

PROCEDURE:

CBP officers and inspectors should refer to CBP Directive 3340-006A (February 4, 2000) for procedures on reviewing, copying, and seizing documents at the border. This will define under what circumstance CBP officers may scan materials to determine, among other things whether the materials being imported are obscene, treasonous, or seditious.

After scanning the document, if it is determined that they constitute a violation of 19 USC 1305; the officer may then read the document to determine the appropriate course of action. After reading the document, if a reasonable suspicion exists that the document contains seditious material, the document may be detained for a reasonable amount of time in order to ascertain the admissibility, seizure, or referral to another agency which may have greater expertise.

If the officer has probable cause to believe that documents are seditious, they may be seized. Only documents subject to seizure may be copied and, in appropriate circumstances, referred to Immigration and Customs Enforcement (ICE).

In questionable circumstances, the Supervisor on duty must consult with ICE or the Associate/Assistant Chief Counsel. Until a final determination has been made that the materials violate 19 USC 1305 relating to seditious matters, no copies may be made and no dissemination of information except to those reasonably necessary to make that determination. The determination must be made at a level no lower than the supervisory level after consultation with the Associate/Assistant Chief Counsel.

If a decision is made not to forfeit seized materials, the original materials will be returned to the owner and all copies will be destroyed. No records may be made or retained which describe the content of the seized material or the identity of the person from whom the materials were seized.

Seditious material seized under 19 USC 1305 shall be handled in the following manner:

Forward all such material to the Duty Agent, ICE and they will forward all materials to the U.S. Attorney's Office within 4 - 14 days for judicial forfeiture.

A CF 6051 (Custody Receipt) shall be issued to the owner of the materials. Instructions will be given to the owner that he may communicate, concerning his claims and further disposition, with the Assistant Port Director or if the mater has been referred for judicial forfeiture, to the local U. S. Attorney's office.

To minimize prospects of an aggravated traveler's reaction regarding enforcement against questionable material in personal baggage, telephonic advice from the Associate/Assistant Chief Counsel on any uncompleted baggage transaction may be sought at once by the Duty Supervisor.

Drafted by : (b)(6) & (b)(7)(C)

Reviewed by: (b)(6) & (b)(7)(C)

Approved by:

(b)(6) & (b)(7)(C)
[Redacted Signature] 7/16/03
Chief Inspector Date

(b)(6) & (b)(7)(C)
[Redacted Signature] 7/16/03
Assistant Port Director Date

CUSTOMS DIRECTIVE**ORIGINATING OFFICE:** FO:P**DISTRIBUTION:** S-01**CUSTOMS DIRECTIVE NO.** 3340-006A**DATE:** FEBRUARY 4, 2000**SUPERSEDES:** 3340-006, 6/12/86**REVIEW DATE:** FEBRUARY 2002**SUBJECT: PROCEDURES FOR EXAMINING DOCUMENTS AND PAPERS**

- 1 **PURPOSE.** This directive provides guidelines and procedures for examining documents and papers during all Customs operations at the border, functional equivalent of the border, and extended border.
- 2 **POLICY.**
 - 2.1 The U.S. Customs Service will protect the rights of individuals against unreasonable search and seizure while still accomplishing its enforcement mission.
- 3 **AUTHORITIES/REFERENCES.** 19 C.F.R. 145.3; Ref. 3.740.LCCO; 19 U.S.C. 1305; National Stolen Property Act, 18 U.S.C. 2314; 18 U.S.C. 1426(h).
- 4 **EFFECTS ON OTHER DOCUMENTS.** The guidelines and procedures contained within this directive are currently contained within the Personal Search Handbook dated March 1997. These procedures will no longer be incorporated in the revised Personal Search Handbook HB #3300-04A dated November 1999.
- 5 **RESPONSIBILITIES.**
 - 5.1 The Assistant Commissioner, Office of Field Operations, shall have policy oversight, which will include the formulation and implementation of guidelines and procedures.
 - 5.2 The Assistant Commissioner, Office of Investigations, shall have oversight for investigative operations, which will include the implementation of guidelines and procedures set forth in this directive.
 - 5.3 Special Agents in Charge (SAIC's) are responsible for ensuring that their subordinates get a copy of this directive and are familiar with its contents.
 - 5.4 Directors, Field Operations, at Customs Management Centers are responsible for conducting ongoing reviews to evaluate procedures used for examining documents and papers.
 - 5.5 Port Directors are required to update any necessary additional port-specific

5.6 Each Customs officer must know the limits of Customs authority, and must use this authority judiciously, conscientiously, and courteously.

6 PROCEDURES.

6.1 All Customs officers shall comply with the following procedures.

6.2 Customs Officers Should Not Read Personal Correspondence.

6.2.1 The U.S. Customs Service must guard the rights of individuals being inspected to ensure that their personal privacy is protected. Therefore, as a general rule, Customs officers should not read personal correspondence contained in passengers' privately owned conveyances, baggage, or on their person, **except**, as specified in 6.4.1.

6.3 Letter Class Mail.

6.3.1 Customs officers may not read or permit others to read correspondence contained in sealed "LC" mail (the international equivalent of First Class) without an appropriate search warrant or consent.

6.3.2 Only articles presently in the postal system are deemed "mail." Letters carried by individuals, for example, are not considered to be mail, even if they are stamped (see 19 C.F.R. 145.3). [Ref. 3.740 LCCO].

6.4 Customs Officers May Glance at Documents and Papers.

6.4.1 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.

6.5 Reasonable Suspicion Required for Reading and Continued Detention.

6.5.1 If, after glancing at the documents or papers, an officer reasonably suspects that they relate to any of the categories listed in section 6.4.1 of this directive, 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.

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

6.6 Probable Cause Required for Seizures.

6.6.1 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.

6.7 Probable Cause or Consent Required to Copy.

6.7.1 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.

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

6.8 Identification Documents can be Photocopied.

6.8.1 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.

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

6.9 Attorney-Client Privilege.

6.9.1 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.

6.9.2 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.

6.10 Chain of Custody Required for Copies.

6.10.1 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

6.11 Foreign Language Documents or Documents Requiring Special Expertise.

6.11.1 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.

6.11.2 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.

6.11.3 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.

6.11.4 Factors that a court might consider in determining the reasonableness of the time the documents are detained could be such things as the nature of the documents, whether the officer explained to the person the reason for the detention, and whether the person was given the option of continuing his journey with the understanding that Customs would return the documents if it is not in violation of law.

7 MEASUREMENT. Directors, Field Operations, at Customs Management Centers, SAIC's, and Port Directors will ensure that all TECS reports pertaining to the examinations of documents and papers are reviewed periodically to determine the effectiveness of the procedures contained within this directive, including whether there may be any improprieties in the conduct of these examinations.

8 NO PRIVATE RIGHT CREATED. This document is an internal policy statement of the U.S. Customs Service and does not create any rights, privileges, or benefits for any person or party.

Commissioner of Customs

1450 1 01 0

CIS CUSTOMS DIRECTIVES SUBJECT: RESTRICTIONS ON IMPORTATION OF SEDITIOUS MATTER
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SUBJECT: RESTRICTIONS ON IMPORTATION OF SEDITIOUS MATTER
CUSTOMS DIRECTIVE

ORIGINATING OFFICE: CC DISTRIBUTION: S-01
 CUSTOMS DIRECTIVE NO. 2210-001A
 DATE: JULY 27, 2001
 SUPERSEDES: 2210-001, 8/29/86
 REVIEW DATE: JULY 2003

SUBJECT: RESTRICTIONS ON IMPORTATION OF SEDITIOUS MATTER

1. PURPOSE.

To instruct inspectors and other Customs officers as to seditious matters which are prohibited by section 305, Tariff Act of 1930, as amended (19 U.S.C. 1305), and at the same time distinguish political propoganda which is admissible.

2. POLICY.

2.1 The U.S. Customs Service will not infringe upon the rights of individuals against unreasonable search and seizure while enforcing 19 U.S.C. 1305.

3. AUTHORITIES/REFERENCES.

19 U.S.C.1305; Customs Directive: 3340-006A (February 4, 2000).

4. BACKGROUND.

4.1 Seditious and treasonable matter. Section 305, Tariff Act of 1930, as amended (19 U.S.C. 1305), prohibits the importation of matter advocating or urging treason or insurrection against the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States. A 1978 district court decision, which was affirmed by the Supreme Court, interpreted this section of the statute as prohibiting only those materials that are "directed to inciting or producing imminent lawless action and is likely to incite or produce such action." (460 F. Supp. 56). The court stated that this interpretation was necessary for the statute to pass constitutional challenge. Customs officers must distinguish matter that merely advocates lawless action, which is admissible, from prohibited matter that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

4.2 Seditious matter described. Customs officers will recognize seditious matter in such forms as printed and graphic exhortations to the reader, encouraging or promoting imminent acts of armed or other violence against constituted government and military authorities and institutions; disruption of utility and similar public services by specifically suggested acts of vandalism, arson, and the like; and subversion of members of military and associated organizations of the defense establishment. Prohibited seditious matter does not include abstract teaching that promotes violence and other illegal acts. Rather,

materials must be directed to inciting or producing imminent lawless action and be likely to incite or produce such action in order for it to be prohibited.

4.3 Political propaganda described. A 1965 decision of the United States Supreme Court, 381 U.S. 301, resulted in the immediate termination of the segregation and detention of international mail containing foreign political propaganda. Customs enforcement interest consequently expired with respect to the printed and similar political propaganda in the baggage of arriving travelers, including those being precleared at foreign airports of departure. Customs officers will recognize such propaganda in the form of printed or other materials which seek to glorify the government or political party of a foreign country or a social system abroad; to promote foreign ideologies or policies, particularly of authoritarian regimes; to express hypercritical views of Free World society and capitalistic systems; and to thereby influence American attitudes toward foreign regimes and, frequently, against the foreign policy of the United States. Some of the propaganda may also seek to promote racial, religious, or social dissension within the United States. This type of political propaganda is admissible unless it is also seditious, that is, directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

5. PROCEDURES.

5.1 Customs officers should refer to Customs Directive 3340-006A (February 4, 2000) which contains procedures for reviewing, copying and seizing documents. The Directive provides under which circumstances Customs officers may scan documents and correspondence at the border to determine, among other things, whether the documents or correspondence being imported are obscene, treasonous, seditious (as defined above) or otherwise prohibited in violation of 19 U.S.C. 1305. If, after scanning the documents, they appear to relate to a violation of 19 U.S.C. 1305, the officer may read the document to determine what action is appropriate.

5.2 If an officer has reasonable suspicion that the materials are being imported in violation of 19 U.S.C. 1305, the documents may be detained for a reasonable period of time until a determination is made as to admissibility, seizure or referral to another agency which may have greater expertise. If the officer has probable cause to believe that a document or paper is subject to seizure because it is seditious, it may be seized. Documents that may be seized may also be copied, in appropriate circumstances, and referred to the Office of Investigations. Only documents subject to seizure may be copied. In questionable circumstances, the Office of Investigations or the Associate/Assistant Chief Counsel should be consulted. Until there has been a final determination that there is probable cause to believe that the materials violate that portion of 19 U.S.C. 1305 pertaining to seditious matters, no copies may be made and no dissemination of the information may be made except to those reasonably necessary to make that determination and the determination must be made at a level no lower than the supervisory level after consultation with the Associate/Assistant Chief Counsel. If a decision is made not to forfeit seized materials, the original materials will be returned to the owner and all copies will be destroyed. No records may be made or retained which describe the content of the seized material or the identity of the person from whom the materials were seized.

5.3 Seizure of inadmissible seditious matter. All materials for which there is probable cause to believe they are seditious in nature (as described in BACKGROUND) are to be considered inadmissible and subject to seizure and the civil enforcement procedures of 19 U.S.C. 1305, for Customs treatment and disposition as prescribed by section 12.40, Customs Regulations. Such materials must be forwarded to the U.S. Attorney's office within 4-14 days for judicial forfeiture. Where materials have been seized (or detained and an immediate determination as to admissibility cannot be made) a Customs receipt shall be

delivered to the owner of the materials, who shall be informed that he may communicate, concerning his claims and further disposition, with the local port director or if the matter has been referred for judicial forfeiture, to the local U.S. Attorney's office.

5.4 Admissible political propaganda. Such materials as those described as political propaganda in BACKGROUND shall not be subject to seizure solely on that account, however distasteful the propoganda may seem to be or offensively exaggerated in its descriptions, portrayals, or comparisons. Materials that criticize the United States Government or U.S. officials are not subject to seizure unless the materials "are directed to inciting or producing imminent lawless action and are likely to incite or produce such action". All Customs officers must refrain in the presence of the owner from volunteering expressions and observations of disapproval of criticism of offensive materials. If, among a traveler's baggage, there are many such publications, inspection may be confined to one or two and ordinarily it may be accepted that the unexamined remainder also consists of admissible propoganda. Materials confined to propoganda content shall not be seized or detained.

5.5 Telephone referral. To minimize prospects of aggravated traveler reaction attending enforcement against questionable material in personal baggage, telephonic advice from the Associate/Assistant Chief Counsel on any uncompleted baggage transaction may be sought at once by supervisory inspectors.

6. RESPONSIBILITY.

It is the responsibility of all Customs inspectors and other Customs officers to assure compliance with the Directive.

7. NO PRIVATE RIGHT CREATED.

This document is an internal policy statement of the U.S. Customs Service and does not create any rights, privileges, or benefits for any person or party.

(b)(6) & (b)(7)(C)

Assistant Commissioner
Office of Field Operations

**U.S. CUSTOMS AND BORDER PROTECTION (CBP)
FIELD OPERATIONS**

STANDARD OPERATING PROCEDURES

SOP# : AP 29.05

BASIS : CIS HB 3300-04B, dated July 2004, Personal Search Handbook

SUBJECT : PERSONAL SEARCH HANDBOOK

ACTION PARTY : All CBP Personnel

RESPONSIBLE PARTY : All CBP Managerial and Supervisory Personnel

1. PURPOSE. To advise all CBP personnel that the Personal Search Handbook, which is listed as the above-referenced basis, shall be fully implemented as the standard operating procedures for all personal searches performed within the Passenger Processing Division.

2. POLICY. It is the policy of the U.S. Customs and Border Protection to ensure that CBP Officers perform personal searches in accordance with the specific guidelines set forth in the Personal Search Handbook.

3. RESPONSIBILITIES.

3.1 Assistant Port Director, Passenger Processing, shall ensure that this SOP complies with the requirements outlined in the above-referenced materials.

3.2 Deputy Assistant Port Directors are responsible for managing the implementation of this SOP and monitoring its compliance with the established procedures.

3.3 CBP Managers and Supervisory personnel are responsible for ensuring that the procedures set forth in this SOP are followed.

3.4 CBP Officers are responsible for following the procedures set forth in this SOP.

4. PERSONAL SEARCH GENERAL PROCEDURES.

4.1 All CBP officers must ensure that personal searches are conducted in accordance with the specific guidelines set forth in the Personal Search Handbook.

4.2 This policy shall apply to CBP personnel assigned to Passenger Processing.

4.3 CBP Officers must also ensure that personal searches are performed in approved facilities as outlined in SOP AP 22.02 Air Passenger Detention Procedures.

5. PERSONAL SEARCH CERTIFICATION PROCEDURES.

5.1 OTD Training Site Registration.

(b) (2)



5.2 OTD Training Site Access.

(b) (2)



(b) (2)



5.3 Print the Completion Certificate.

(b) (2)



(b) (2)

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5.4 Verification and Acknowledgement of Training on the Personal Search Handbook.

(b) (2)

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6. NO PRIVATE RIGHTS CREATED. This SOP is an internal policy statement of U.S. Customs and Border Protection (CBP) and does not create or confer any rights, privileges, or benefits on any person or party.

7. DISCLOSURE. This SOP contains information, which may be exempt from disclosure to the public under the regulations of the Department of Homeland Security. No part of this Directive shall be disclosed to the public without express authority from U.S. Customs and Border Protection Headquarters.

Attachment

CIS HB 3300-04B, dated July 2004, Personal Search Handbook

Drafted by:

(b)(6) & (b)(7)(C) CBP Officer

Reviewed by:

(b)(6) & (b)(7)(C) Chief, Enforcement Branch

(b)(6) & (b)(7)(C) Deputy Assistant Port Director, Passenger Processing Branch

(b)(6) & (b)(7)(C) Deputy Assistant Port Director, Operations Branch

Approved by:

(b)(6) & (b)(7)(C)
[Redacted Signature]

2/15/05
Date

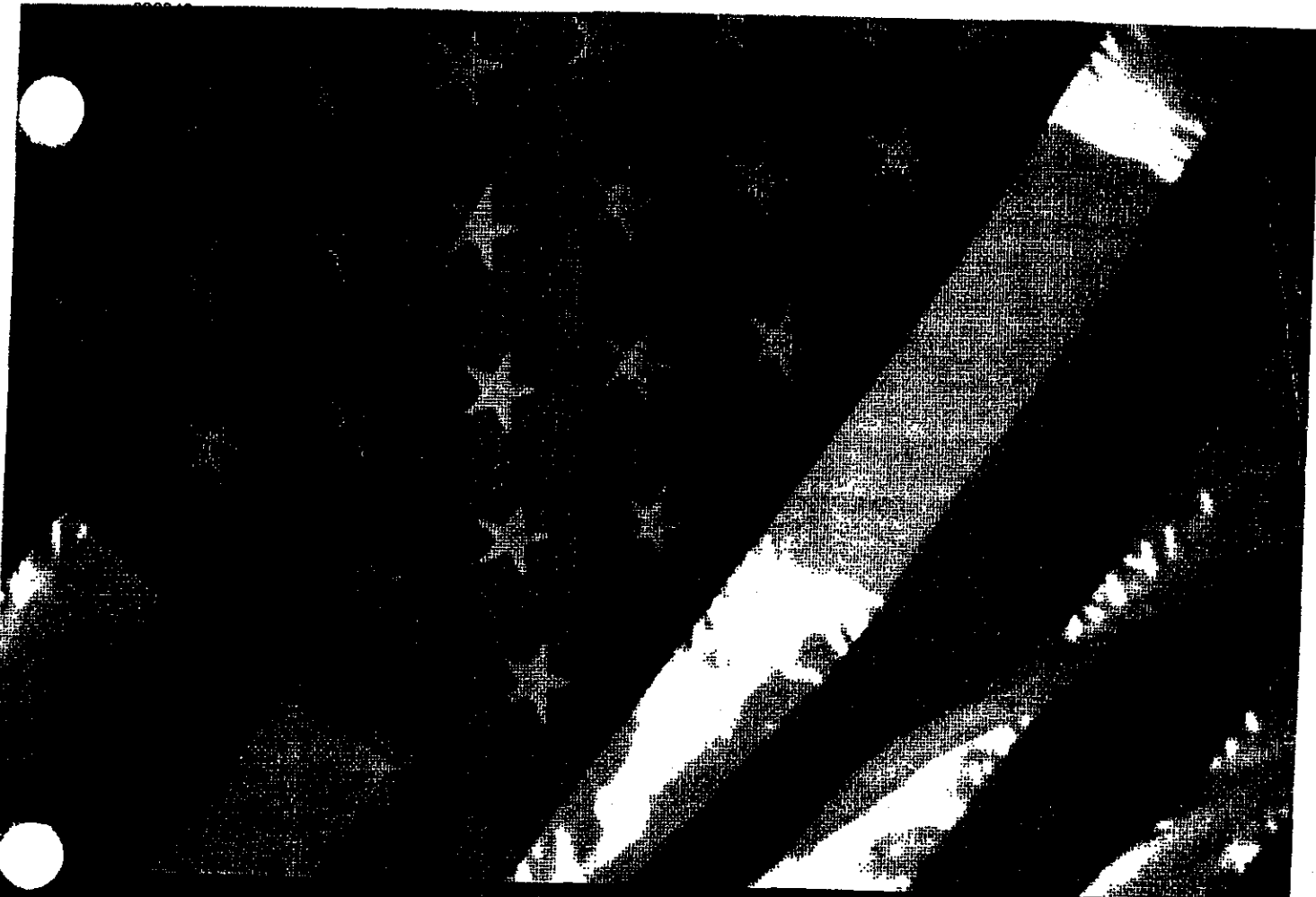
**Assistant Port Director
Passenger Processing**

(b)(6) & (b)(7)(C)
[Redacted Signature]

2/16/05
Date

**Jeffrey O. Baldwin, Sr.
Port Director
Miami Service Port**

000346



Personal Search Handbook

Office of Field Operations

CIS HB 3300-04B

July 2004



U.S. Customs and
Border Protection

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A Message from the Commissioner

On March 1, 2003, for the first time in our country's history, one federal agency assumed responsibility for securing all of our country's borders both at and between the ports of entry. That agency is U.S. Customs and Border Protection (CBP). This reform of government could not have come at a more important time. In the wake of the 9/11 terrorist attacks, our priority mission is straightforward and daunting: keeping terrorists and terrorists weapons out of the United States.

This responsibility is immense, but we have broad legal authority and many tools at our disposal. Indeed, every person, every vehicle, every piece of cargo, everything that enters the United States from outside our country has to pass through U.S. Customs and Border Protection. As our mission statement proudly proclaims, "We are the guardians of our Nation's borders. We are America's Frontline." And we are.

One tool in our arsenal is the "personal" search—i.e., significantly intrusive searches of a person to determine whether he or she is carrying contraband close to or inside his or her body. This Handbook sets forth CBP policy on when such personal searches are appropriate, and the procedures our officers must follow in carrying them out.

In thinking about "personal" searches, it is important to remember what is *not* a personal search. Targeting particular individuals for greater scrutiny is *not* a personal search. Questioning individuals is *not* a personal search. Searching through bags, a wallet, or other personal effects is *not* a personal search. Nor is patting down an individual to ensure officer safety, or to otherwise determine whether an individual is carrying a weapon. None of those important CBP functions is covered or limited in any way by the Personal Search Handbook, which only governs searches for contraband close to or inside a person's body.

Indeed, in light of the continuing terrorist threat to our country, the exercise of these CBP border-related authorities—especially the authority to question those seeking entry into the United States—is as important to the defense of our nation as anything else in our government's arsenal against terror. To ascertain whether an individual may be a potential terrorist, a Customs and Border Protection Officer may have to question and, in some cases, conduct a border search to ascertain admissibility or potential terrorist activity. Usually, this will not involve a "personal" search.

Where a "personal" search is involved, CBP policy must be adhered to. In accordance with CBP policy, as outlined in the Personal Search Handbook, travelers may not be subjected to a "personal" search based upon their race, color, gender, religion, or ethnic background.

While performing our mission, it is very important to act professionally and courteously with the public that we come into contact with. The guidelines in this Personal Search Handbook provide you with a critical tool in performing one element of your many duties. These guidelines are not designed to be a deterrent in performing your priority mission of protecting our homeland against terrorists and terrorist weapons.

I encourage every one of you to perform your duty in the spirit of our mission statement. I have every confidence that, in guarding America from the threat of terrorism, the fine men and women of CBP will continue to maintain the highest degree of vigilance and will continue to exercise their sound judgement in performing their duties.

In closing, I want to say that you have all been doing a very difficult job under very difficult circumstances; and you have been doing it exceptionally well. I could not be more proud of the U.S. Customs and Border Protection team.

Commissioner
U.S. Customs and Border Protection

Introduction

This Personal Search Handbook sets forth U.S. Customs and Border Protection (CBP) policy for the conduct of searches of persons at the border by CBP officers using border search authority.

All CBP officers who perform searches and seizures of persons at the border, the functional equivalent of the border (FEB), or extended border shall adhere to the policy described in this Handbook. This policy shall pertain to border search authority on persons arriving in or departing from the United States. It shall not pertain to searches conducted away from the border (see generally chapter 2, Law Course for Customs Officers (LCCO)) and may not be applicable to U.S. Immigration and Customs Enforcement (ICE) agents during non-border search situations.

This Handbook does not limit the search authority of CBP officers. The goal is to assist CBP officers in performing their enforcement duties in a manner that will ensure personal integrity and will also permit officers to perform a professional service for the public. This Handbook is not intended to create or confer any rights, privileges, or benefits upon any private person, but is merely for internal guidance.

Supervisory CBP officers will ensure that the policy hereby established is thoroughly followed. Port directors and field managers must ensure that all CBP officers under their control receive a copy of this Handbook and acknowledge receipt by date and signature (Attachment 1). This requirement applies to full-time and part-time CBP officers with search authority. Such acknowledgments shall be retained at sites designated by the port directors.

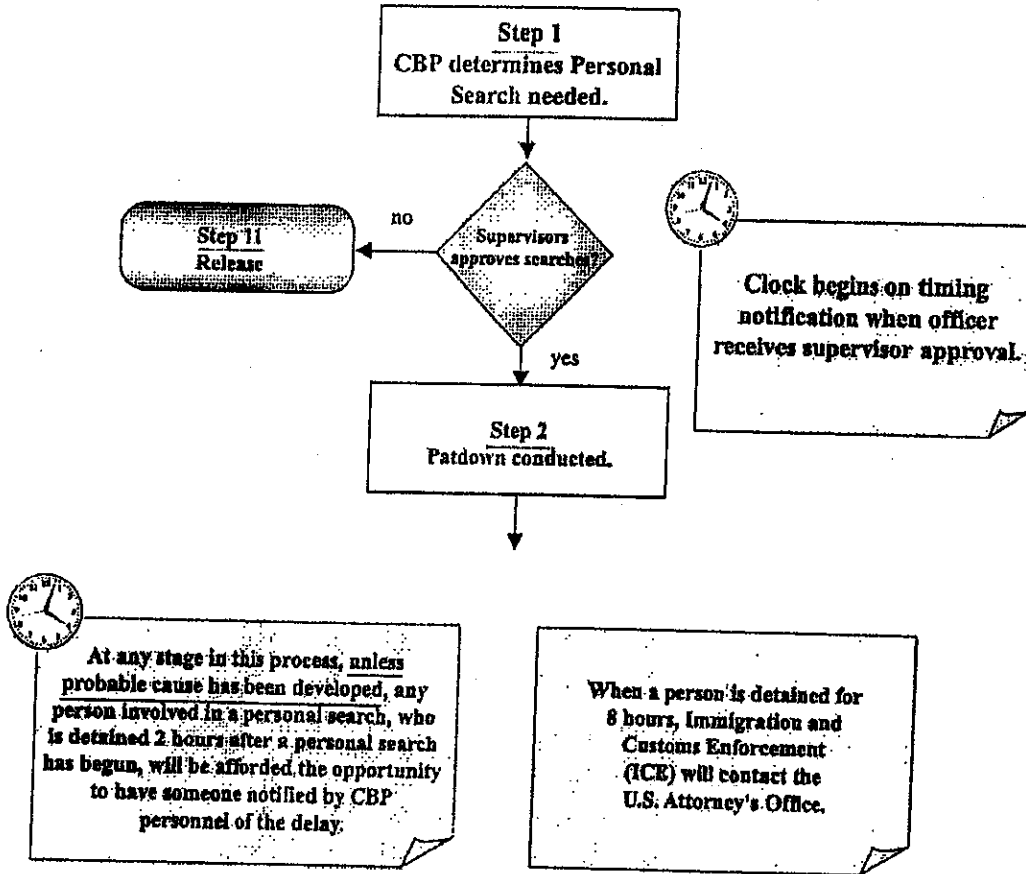
Disclosure of this Handbook and the material contained within may be made to the public without restriction, in accordance with the provisions of the Freedom of Information Act (Title 5 U.S.C. § 552), as amended.

Throughout this Handbook, male personal pronouns are used. They should be understood to refer to either males or females.

This Handbook supersedes HB 3300-04A, dated August 2001. Use of the previous Handbook should be discontinued.

Authorities/References: *Title 19 U.S.C. §§ 482, 507, 1461, 1467, 1496, 1581, 1582, and 1589a. Title 8 U.S.C. 1357(c). Title 19 C.F.R. §§ 162.6, 162.7. Chapters 2, 3, 4, 5, 6, 13, LCCO. 8 C.F.R. 287.5(d); Customs Directives: Firearms and Use of Force Policy, 4510-017A dated December 17, 2001; Restrictions on Importation of Seditious Matter, 2210-001A dated July 27, 2001.*

Chapter 1



Chapter 1

Determining the Need for a Personal Search

a. Constitutional Rights

In conducting any search, remember that the Constitution guarantees the protection of an individual's right against unreasonable searches and seizures. (The Fourth Amendment generally requires officers to have a warrant based on probable cause to conduct searches. However, Congress and the courts recognize CBP border searches as an exception to normal Fourth Amendment requirements.) Be diligent in your efforts to protect those rights while still accomplishing your enforcement mission. The CBP will not condone the abuse of constitutional or statutory authority by any officer. You must know the limits of CBP authority and must use this authority judiciously, conscientiously, and courteously.

Appendix A is a flowchart of the entire search procedure. Appendix B provides a matrix of the types of searches you may conduct and the requirements for each.

b. Some or Mere Suspicion Defined

Some or mere suspicion is the minimal level of suspicion required to conduct a patdown search. By policy, CBP requires at least one fact before conducting a patdown.

c. Reasonable Suspicion Defined

Reasonable suspicion is more than some or mere suspicion and is based on specific, articulable facts. These facts, when taken together with reasonable inferences from these facts, would lead a reasonable officer to suspect that a person may have a weapon, contraband, or evidence of a crime on or within his body.

Reasonable suspicion would arise during the course of a routine border inspection when articulable facts develop to indicate that the subject is inadmissible and that evidence of inadmissibility is being concealed on or within the body.

Reasonable suspicion is required for any search beyond a patdown search. You must be prepared to testify in court setting forth the specific facts that established reasonable suspicion.

You must consider all the circumstances, not just the initial facts, when making a decision to search. For example, if a person provides a plausible explanation for last-minute travel arrangements, which are subsequently verified through further questioning and a review of travel and other documents, then the last-minute travel alone should not be the only consideration in making the decision whether to conduct a personal search.

Use your training, experience, subject-matter expertise, knowledge of smuggling trends and methods, and intelligence information provided by other CBP officers or law enforcement sources, in making your decision.

A person's country of departure, transit, or destination are permissible factors to consider.

Chapter 1 Determining the Need for a Personal Search

You should also consider results of name queries from available automated data systems, such as Treasury Enforcement Communications System (TECS), National Automated Immigration Lookout System (NAILS), Integrated Automated Fingerprint Identification System (IAFIS), National Crime Information Center—Information Identification Index (NCIC-III), Automated Bio-metric Identification System/Enforcement Case Tracking System (IDENT/ENFORCE), and Central Index System (CIS). Specific attention should be given to previous personal searches that did not result in a seizure or arrest.

d. Factors that May Not Be Used in the Decision Process

Never use a person's gender, race, color, religion, or ethnic background as a factor in determining any level of suspicion for a personal search (that is, a patdown, a partial or full body search, an x-ray, a detention for monitored bowel movement, or a body cavity search).

e. Basis for Search

There are seven primary categories CBP officers use to determine whether to conduct a personal search.

1. Behavioral Analysis

Behavioral analysis is the recognition of physiological signs of nervousness. Examples include shaking or trembling hands, rapid breathing for no apparent reason, cold sweats, pulsating carotid arteries, flushed face, and avoiding eye contact.

2. Observational Techniques

Observational techniques involve recognizing physical discrepancies in appearance. Examples include clothing that disguises body contours, unexplained bulges in clothing, thick-soled shoes, and unnatural gait.

3. Inconsistencies

Inconsistencies are conflicts identified in the interview and/or documentation. Examples include catching the person in a false statement, unreasonable explanation for travel, and unexplained irregularities in ticketing or reservations.

4. Intelligence

Intelligence is information developed by another officer, which may include the Passenger Analytical Unit, National Targeting Center (NTC), TECS, the Federal Bureau of Investigation (FBI), U.S. Immigration and Customs Enforcement (ICE), Drug Enforcement Administration (DEA), or other law enforcement or intelligence entities.

5. K-9

K-9 searches are those conducted in response to an alert by a CBP Positive or Passive Response Canine.

6. Incident to an Adverse Action related to a Seizure, an Arrest, or the Inadmissibility/Deportability of an Alien.

Incidental searches are those conducted in continuation of an enforcement action associated with previously discovered illegal or hidden merchandise, an arrest, or an inadmissibility/deportability issue. These may involve the search of a subject found in possession of contraband or prohibited merchandise; the arrest of a narcotics/alien smuggler; confirmation of a National Crime Information Center (NCIC) warrant; aliens being processed for removal; and persons being detained for other agencies where it will be recorded in the Search, Arrest, and Seizure (S/A/S) in TECS and/or IDENT/ENFORCE.

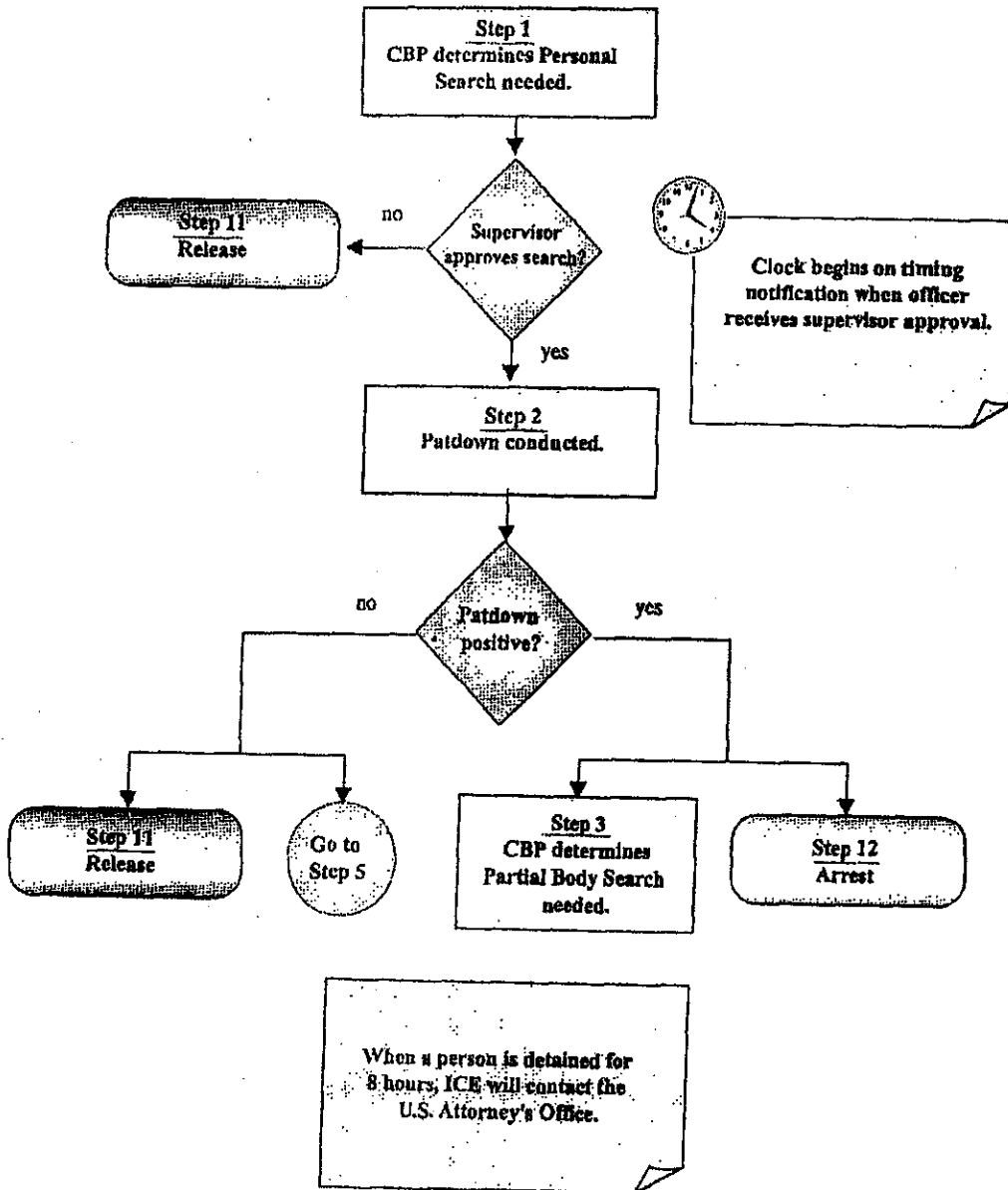
7. Officer Safety

To maintain a safe and secure work environment for officers and the traveling public. These searches are conducted to ensure a person is not carrying a weapon or dangerous object.

f. Explaining the Personal Search Process

The policy of CBP is to provide the *Personal Search What to Expect* brochure to all travelers before conducting a personal search, either inbound or outbound, with the exception of an immediate patdown. For safety reasons, explanation of an immediate patdown for weapons or dangerous objects (see chapter 3b) shall be conducted after the search. Additionally, the CBP officers will explain the personal search process, in general terms, as the search is initiated and progresses to more intrusive levels. The TECS information will NOT be revealed. The subject of the personal search will be informed of the 2-hour notification when the time occurs.

Chapter 2



Chapter 2

What You Need to Know for a Personal Search

The following procedures apply to all personal searches conducted by CBP officers at the border, functional equivalent of the border, or extended border. They do not apply to searches conducted away from the border or to searches by CBP officers incident to an arrest, pursuant to a warrant, or otherwise authorized by the Fourth Amendment, except for border searches.

a. Officer Safety

Take appropriate safety measures to protect yourself and others while conducting any personal search. Officers should be mindful of safety concerns when completing administrative processing in the presence of an applicant in a one on one situation.

When walking to a search room, security office, interview room, detention room, or detention cells to perform a patdown search, continually observe the person to be searched. If the officer(s) determine that the person poses a risk to himself or others, the use of handcuffs may be warranted.

If, at any time, you observe a weapon or dangerous object on a person (who is not known to be a law enforcement officer), or if you suspect that the person is armed, take appropriate action to determine if the person is armed, using reasonable force if necessary.

This action will be considered an immediate patdown search. It is an exception to the requirements in chapter 3a.

Upon securing the weapon or dangerous object, notify a supervisor immediately. As soon as possible after securing the weapon, or if no weapon or dangerous object is discovered, return to the normal patdown procedures.

b. Seeking Cooperation

Make every effort to secure the cooperation of the person being searched. You must ensure that the person's dignity and privacy are respected at all times. Maintain professional and courteous behavior throughout the entire personal search.

Avoid confrontations with the person. Contact a supervisor **before** the situation deteriorates to the point that you are unable to accomplish the search process. If a confrontation occurs, record the details in the narrative of the search report, Incident Log Report (IOIL), in TECS.

c. Supervisory/Management Approvals for Personal Searches

Supervisory approval is required for all patdown and partial body searches, except immediate patdown for weapons or dangerous objects. Patdown searches conducted on juveniles will require supervisory approval. Supervisory approval is not required for Immediate Patdown searches (chapter 3b). Within the Office of Field Operations (OFO), acting supervisors, designated by the Port Director, may authorize patdown, body scan, and partial body searches. Port Director (GS-13 or above) or Deputy and/or Assistant Port Directors for Passenger Operations (GS-13 or

Chapter 2 What You Need to Know for a Personal Search

above) may also approve the search, detention, and transportation of a person to a medical facility for medical examinations, provided the Port Director delegates them. The local Associate/Assistant Chief Counsel must be consulted for legal advice on medical examinations.

d. TECS Name Check

When initiating any personal search (except immediate patdowns for officer safety), conduct a TECS name check, including a check of the IOIL.

When TECS is unavailable (system is down), ask the person if he has ever undergone a personal search at the border, and, if so, under what circumstances. If you are located in an area where a TECS terminal is not available, contact your port of entry or Sector via phone/radio to request a TECS check.

Use the results of the TECS name check or the person's response in the decision process to determine if the search is warranted or if an increase in intrusiveness is warranted.

e. Conducting Searches in Private

Use private rooms or areas away from the view of the general public when conducting a personal search, **except** when conducting an immediate patdown for officer safety. Each port will examine the areas where a personal search may occur and take appropriate measures to ensure privacy. Privacy measures may include use of areas away from public view, privacy screens, or other methods. **The videotaping of personal searches beyond an immediate patdown is prohibited.**

f. Gender of Searching Officer

A CBP officer conducting a personal search or witnessing a medical examination must be of the same gender as the person being searched, **except** when the officer conducts an immediate patdown for officer safety.

In rare cases where personal searches will be conducted on transsexuals (including those undergoing treatment for a gender change operation, but not transvestites), the following shall apply. The CBP shall accommodate the traveler and provide different gender officers to search those areas of the body that are appropriate for the same gender.

g. Witnesses

A witness must be present for all personal searches, **except** immediate patdowns for officer safety.

The witness to a personal search or medical examination must be of the same gender as the person being searched. The only exception is when conducting an immediate patdown for officer safety.

h. Seeking Assistance

You may compel another person to act as a witness to a personal search (19 U.S.C. § 507).

Chapter 2 What You Need to Know for a Personal Search

Use this authority **only** when another CBP officer is unavailable as a witness and **only** after giving explicit instructions to the person who will act as the witness.

Instruct non-law enforcement officers witnessing a personal search not to intervene in any physical altercation that may occur, but to immediately notify law enforcement personnel in the area.

All witnesses should be prepared to record statements of any events that transpire during the search and to provide testimony and evidence in any future court proceedings.

You may compel another law enforcement officer or federal agency employee to conduct a personal search (19 U.S.C. § 507).

Only other law enforcement officers or federal agency employees may conduct a personal search for a CBP officer. Use this authority **only** when another CBP officer is unavailable to conduct a search and **only** after giving them explicit instructions on how to conduct a personal search in accordance with the policies and procedures outlined in this Handbook.

If another person (civilian or non-CBP officer) conducts or witnesses a personal search because of a difference in gender between the person and the officer, a CBP officer will remain immediately outside the search room to render assistance as appropriate.

A CBP officer or other law enforcement officer acting as a witness will be responsible for assisting you should any safety measures be necessary.

i. Searching Juveniles

A juvenile is defined as a person who has not reached his eighteenth birthday.

Current law pertaining to personal searches does not differentiate between searching adults and juveniles.

Although you have the same authority to search a juvenile as you have to search an adult, you should carefully weigh all factors before requesting authorization to search a juvenile. When a personal search involves a juvenile, prior supervisory approval will be obtained in all cases with the exception of the immediate patdown.

1. Verifying Age and Travel Status

Pay special attention to the juvenile's ability to understand your instructions and questions.

Whenever you determine that a person warrants a personal search and you suspect that the person may be a juvenile review the person's travel and/or identification documents to determine his age.

If the person is a juvenile, find out whether he is traveling alone, and, if so, whether an adult relative or legal guardian is waiting outside the CBP facility.

2. Bringing an Adult into the CBP Facility

If an adult relative or legal guardian is brought into a CBP facility from the outside to witness a search, the supervisor must obtain that person's consent for an immediate patdown as a condition of entry into the facility. Adults who refuse to be searched will be denied access to the CBP facility.

Chapter 2 What You Need to Know for a Personal Search

When an adult relative or legal guardian accompanies a juvenile, the supervisor should explain the circumstances surrounding the search.

In most cases, the adult should be allowed to be present during the search, unless special circumstances exist when the presence of the adult would exacerbate the situation rather than have a calming effect.

The supervisor, however, will make the final determination of whether the adult witnesses the search, considering the relationship of the adult to the juvenile, the age of the juvenile, and the type of search to be performed.

In exercising discretion to permit adults to be present during a search or at a medical facility, supervisors should consider such factors as the safety of the searching officers, whether the search room is large enough to accommodate additional people, and whether the adult may also be suspected of smuggling contraband.

When an adult is allowed to be present in a search room or medical facility, every effort should be made to have at least three CBP officers present or nearby to protect the officers.

3. Juvenile Traveling Alone

If a juvenile is traveling alone, a patdown, partial body search, or full body search can be authorized without notifying any waiting adult relative or legal guardian in advance.

Supervisors should take into consideration whether investigative activities might be affected if a waiting adult is notified of the search.

4. Conducting the Search

Searches of juveniles will be conducted in the same manner as any other personal search, with appropriate modifications as necessary considering the age of the juvenile involved.

5. The TECS or IDENT/ENFORCE Report

In addition to pertinent details normally entered for adult searches, the narratives of all TECS or IDENT/ENFORCE reports involving juveniles will include details on the emotional state of the juvenile and the identity of, and circumstances surrounding, any adult relative or legal guardian notified of or witnessing the search.

j. Removing Outer Garments and Emptying Pockets

You may direct a person to remove his outer garments (overcoat, suit jacket, and other such garments) and empty his pockets. Such actions, even if done at the direction of a CBP officer, do not constitute part of a patdown search.

k. Securing Personal Property

Safeguard baggage and other personal property of any person being searched at all times. Safeguarding can include having the person take the property with him, having another CBP officer maintain control of the property, or storing the property in a secure room.

All monetary instruments and high-value property will accompany the person. Verify the amount of money on a person at the time of the search.

Chapter 2 What You Need to Know for a Personal Search

l. Medical Emergencies

Be extremely careful when a person complains of injury or medical problems. If there is any indication that the person is injured or in any way may require medical treatment, seek medical assistance promptly.

When a person requests prescription drugs and a question arises about the contents and use of the prescription, seek the assistance of qualified medical personnel.

m. Using Technology

The CBP will continue to apply innovative technology to the personal search process in order to be more effective and efficient in our dealings with the traveling public. The CBP uses body scan imaging technology for non-intrusive patdowns. Each application of technology will include a Standard Operating Procedure (SOP) for use of the system. All SOPs for the use of new technology relating to personal searches must conform to the policies outlined in this Handbook.

n. Using Force

Once you have decided to conduct a personal search, make the search as thorough as is reasonably necessary.

In no case should any complaint, threat of complaint, or physical resistance result in a person not being searched, or being searched less thoroughly than is warranted by the circumstances.

Forcible resistance is a federal felony (18 U.S.C. §111 and § 2231). You have the authority to use reasonable force—a *force no greater than what is reasonably necessary for the authorized purpose*—to overcome resistance to a lawful search.

o. Detentions after 2 Hours

Any person detained 2 hours for a personal search will be given the opportunity to have CBP personnel notify someone, including an attorney, of their delay in CBP unless probable cause has been developed (see Attachment 2).

The 2-hour period for the notification requirement begins at the time the officer initiates the patdown, or when an officer receives permission from a supervisor for the personal search of a juvenile or a body scan examination. Annotate in the appropriate TECS and/or IDENT/ENFORCE report the time permission was requested for the personal search. **Time spent on prior interviews, baggage and vehicle examinations does not count toward the 2-hour notification period.** The 2-hour notification process is only used during a continuation of the personal search process, e.g., beginning with a patdown search and moving to a medical examination or monitored bowel movement.

When the 2-hour notification period has elapsed, immediately offer to notify someone of the delay on behalf of the detained person by telephone, or face-to-face if the contact is waiting outside the CBP area. Obtain a name, relationship, and telephone number (if the contact person is not waiting outside the CBP facility). The supervisor will notify the ICE duty agent and/or the CBP prosecution officer prior to the notification. **NOTE:** Although a detainee may request that

Chapter 2 What You Need to Know for a Personal Search

the 2-hour notification be made to an attorney, the detainee will not be given an opportunity to consult with counsel at any time before Miranda warnings are given by CBP officers and invoked by the detainee (see chapter 10, part 11).

A CBP officer shall make the notification on behalf of the detainee. This should be accomplished by the supervisor or a passenger service representative (see Attachment 2).

The narrative of the TECS and/or IDENT/ENFORCE report shall include information on the person notified (friend or relative), what time the notification was made, and phone number of the person contacted. Should the detained person decide not to have someone contacted by CBP, the TECS and/or IDENT/ENFORCE report will note that decision.

p. Prolonged Detentions for Medical Examinations

Prolonged detentions are those lasting 8 hours or longer. You must notify the Port Director in all cases of prolonged detentions.

Prior to the enactment of actions which will result in a prolonged detention, the local Associate/Assistant Chief Counsel must be consulted for legal advice by the Port Director (GS-13 or above), acting Port Director, or the Director, Field Operations during normal working hours. After normal working hours, the Port Director will contact the Situation Room (SITROOM) (1-877-748-7666). The SITROOM will provide the Port Director with an on-call attorney from the Office of Chief Counsel. Port directors are not required to consult with counsel prior to moving a traveler to a medical facility if that traveler has confessed to carrying narcotics internally.

In all circumstances, when a person has been detained 8 hours from the time that supervisory approval was first given for any personal search or that a personal search was initiated, the ICE duty agent and/or the CBP prosecution officer will contact the U.S. Attorney's office.

The ICE duty agent and/or the CBP prosecution officer shall advise the U.S. Attorney's Office of the detention. If the Assistant U.S. Attorney (AUSA) believes that probable cause has been established, the ICE duty agent and/or the CBP prosecution officer will work with the AUSA to obtain an arrest or search warrant before a magistrate. If the AUSA determines that probable cause does not yet exist but believes that reasonable suspicion exists, he will so advise CBP. In such situations, it is the sole responsibility of CBP to determine whether the detention will be continued. If the AUSA believes that reasonable suspicion does not exist, CBP will release the detained person. The ICE duty agent and/or the CBP prosecution officer shall document on the TECS and/or IDENT/ENFORCE report any decision or guidance provided by the AUSA. The CBP may continue to detain a person while awaiting a response from the AUSA and/or the magistrate if reasonable suspicion is not dispelled. NOTE: Where certain judicial circuits, such as the Second and Fifth, require different time frames, CBP and the local U.S. Attorney's Office will ensure that those time frames are met in addition to the requirements set forth in this Handbook.

q. Written Reports

The written reports, either IDENT/ENFORCE, IOIL, or the SEACATS Incident Menu Selection (IOAA) will include both required data (indicated by an asterisk in TECS) and detailed narratives regarding the circumstances surrounding the search and/or detention.

Chapter 2 What You Need to Know for a Personal Search

The Personal Search Worksheet (Appendix D) is required when you are not able to input search results into TECS and/or IDENT/ENFORCE on the spot. Appendix D is not required if the results of the search are input immediately. When the search results in a seizure and/or arrest, the worksheet, if used, becomes part of the seizure documentation. When no enforcement action results, the worksheet, if used, must be retained locally, along with consent forms and other pertinent documents, in chronological order, for 2 years and 3 months from the date of the search.

When recording personal search types performed on individuals, indicate in IOIL all levels of searches performed, and in IOAA include the **most intrusive** type of search conducted.

Ensure that times are recorded accurately, including specific start-stop times for completing various steps or types of searches (i.e., immediate patdown, patdown, partial body) and start-stop drive time to and from the medical facility.

The TECS reports must contain the objective, articulable facts that support the particular search or detention in the narrative. It is important to complete as much information as possible concerning the description of the person and circumstances surrounding each type of personal search used. This includes recording from the least intrusive to the most intrusive search performed. The reports are Jencks material and could be used by a defense attorney to cross-examine the testifying officer (*see § 1.630, LCCO*).

Additional mandatory details that must be contained in the reports can be found in each chapter of this Handbook.

r. Supervisory Approval of TECS or IDENT/ENFORCE Reports

When operationally possible, the same supervisor initially involved with the personal search should approve the TECS and/or IDENT/ENFORCE report.

By approving a TECS and/or IDENT/ENFORCE report, a supervisor is certifying that the required information is present in the report and that sufficient details exist regarding the circumstances surrounding the search.

When the supervisor who approved the search approves the TECS and/or IDENT/ENFORCE report, he is certifying that he reviewed the factors that led him to approve the search in accordance with CBP policy.

All supervisors will ensure that reports are detailed and accurate. When details are missing or unclear, the supervisor will work with the officer to correct the report. A supervisor may add additional comments at the end of a report if needed, but not change the context of the originating officer's comments, unless the reporting officer has agreed with the changes.

The Negative Personal Search—Supervisor's Check Sheet (Appendix C) is attached to the IOIL TECS record and will be displayed for the approving supervisor when a negative personal search has been conducted. This page must be completed before the record can be closed out. In the event TECS is unavailable, complete the form manually and enter the information once TECS is available.

Chapter 2 What You Need to Know for a Personal Search

s. Port Director Review of TECS and IDENT/ENFORCE Reports

Port directors will periodically review TECS and IDENT/ENFORCE reports pertaining to personal searches to determine the effectiveness of personal searches at the port, including whether there may be any improprieties in the conduct of these searches.

When reports indicate that effectiveness has decreased or that improprieties exist in the conduct of searches, the Port Director will ensure that corrective actions are taken.

t. Corrective Action

Any supervisor who notes deficiencies in the TECS and/or IDENT/ENFORCE report or becomes aware that the search was performed contrary to this Handbook (including in an inappropriate, unreasonable, discourteous, or unprofessional manner) or contrary to supervisory approval, will ensure that appropriate corrective action is taken in accordance with CBP policy. If supervisors note deficiencies or become aware that the search was performed contrary to this Handbook, they shall annotate the information at the end of the report in the narrative section.

u. Coordination and Responsibilities of Field Operations and ICE

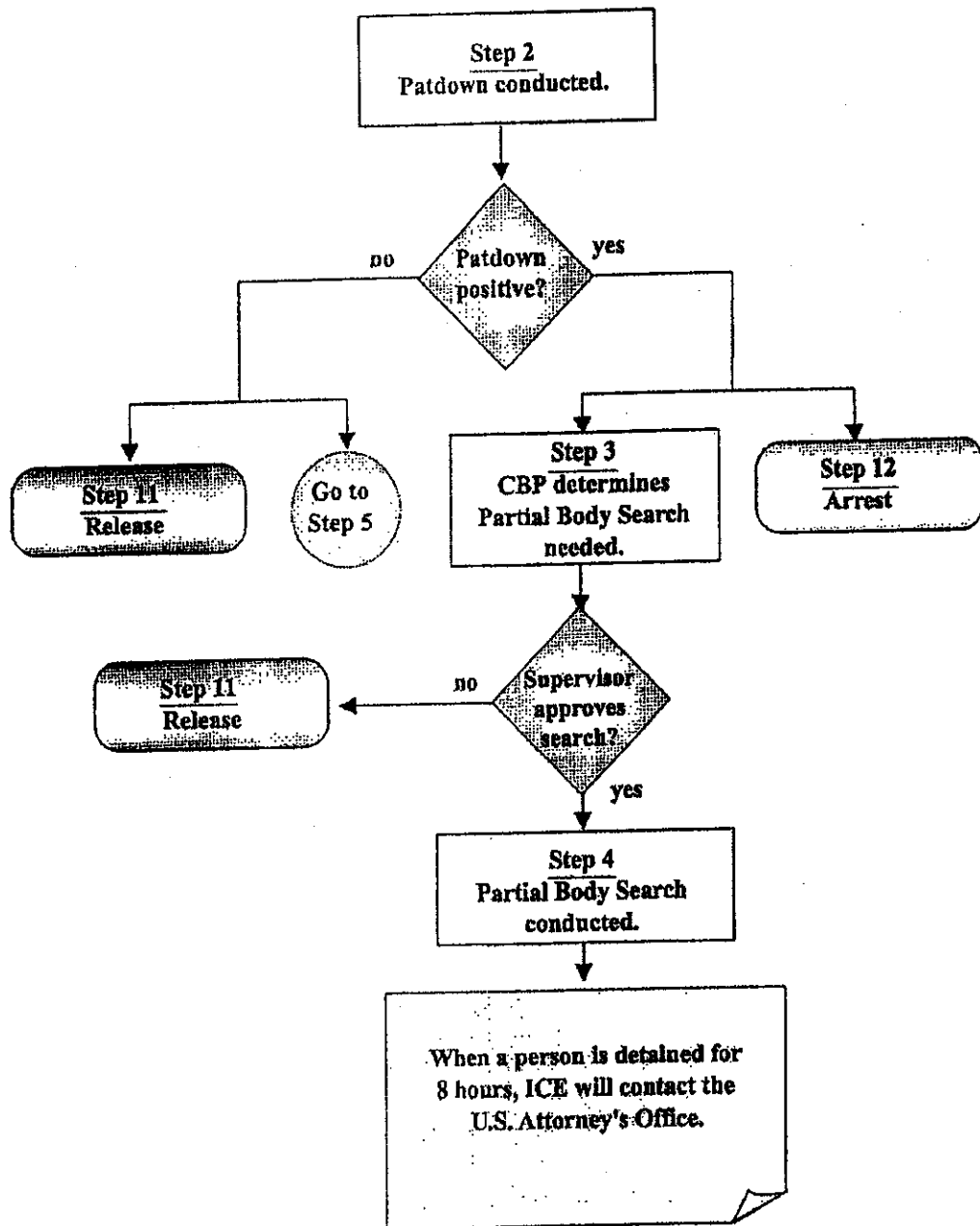
The Office of Field Operations will have operational control over and responsibility for the person until probable cause of a crime has been developed. A positive field test is one method of determining probable cause; other factors can also be considered in probable cause determinations. In the case of suspected controlled substances, a positive field test will supply probable cause.

Once probable cause has been developed, a determination will be made as to whether a CBP prosecution officer or an ICE agent will assume operational control of the person. If federal prosecution is declined, CBP will retain control of the person until he is turned over to state or local authorities.

Field Operations and ICE should develop a joint local policy regarding notifications, security of the person and evidence, processing of evidence and release of the person to state or local authorities. The local Associate/Assistant Chief Counsel should be included in the policy development process.

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Chapter 3



Chapter 3 Patdown Searches

a. Supervisory Approval

A supervisor must approve all body scan examinations, patdown, and body searches, except immediate patdowns for weapons or dangerous objects. When the personal search involves a juvenile, prior supervisory approval will be obtained in all cases with the exception of the immediate patdown. In locations where technology such as the body scan is available, and if the passenger chooses this option, supervisory approval will be obtained prior to conducting the body scan.

When possible, approvals should be granted in person, so the supervisor can review observational factors that are used to justify the search. However, approval may be granted by telephone or radio if necessary. When a personal search is required on a juvenile, the approving supervisor must be present to grant authority except in exigent circumstances, such as when a supervisor is several hours away, as can happen at remote locations between the ports of entry. Supervisors of the opposite gender may not witness the personal search.

The supervisor must make an independent assessment and decide whether the objective, articulable facts warrant the level of search contemplated. You must notify the supervisor of the results of the search.

b. Immediate Patdown Defined

An immediate patdown is a search necessary to ensure officer safety. The scope of an immediate patdown shall be limited to those areas on a person where an officer suspects a weapon or dangerous object may be concealed. There may be cases where it is necessary to search the entire person to ensure a weapon and/or dangerous object is not present. This may include the removal of a person's shoes or boots to ensure there is no weapon present, but **not** the removal for the purpose of checking for merchandise (including contraband). The search is justified based on the need to protect the officer and public from dangerous weapons and/or objects.

You should limit the use of the immediate patdown to situations in which a weapon and/or dangerous object may be present. For reasons of safety, when you see or suspect that a person may be armed, you are authorized to conduct an immediate patdown search to secure a weapon and/or dangerous object. It is not directed at uncovering the evidence of a crime.

You may conduct an immediate patdown for officer safety without prior supervisory approval, and you may perform it on a person of the opposite gender. If a weapon or dangerous object is discovered, immediately contact your supervisor after the immediate patdown is conducted.

Record immediate patdown searches as Code "I" in the appropriate TECS report. Officers must ensure that the appropriate code is used, in the corresponding reporting system (i.e.: IOIL, S/A/S, or IDENT/ENFORCE). Ensure the Reason for Search code "007" (Officer Safety), at minimum, is used whenever an immediate patdown search is performed. Other Reason for Search codes may also apply for an immediate patdown.

Chapter 3 Patdown Searches

c. Patdown Search Defined

A patdown is a law enforcement tool used to search for merchandise (including contraband) hidden on a person's body. A patdown is also used to search for material evidence hidden on a person's body.

A patdown search may also apply to persons being detained and placed into a secure area (see Customs and Border Protection Directive 3340-030A, Secure Detention Procedures, dated March 9, 2004). Ensure the Reason for Search code "008 - Detention" is used whenever a patdown search is performed because of a detention.

Before conducting a body scan or the patdown search of a juvenile, supervisory approval is required.

If, after the body scan, you continue to have reasonable suspicion that the person has contraband, documents, or other merchandise concealed on his body, you may conduct a patdown search, with supervisory approval.

If, after the patdown, you continue to have reasonable suspicion that the person has contraband, documents, or other merchandise concealed on his body, you may conduct a partial body search, with supervisory approval.

d. Patdown Requirements

The CBP policy is that all patdown searches require that at least one articulable fact be present before conducting the search. The articulable fact may be a TECS and/or IDENT/ENFORCE subject record for a previous violation.

An alternative to a patdown search may be offered to the traveler if a patdown search is to be conducted. This alternative is only available if a Body Scan Imaging System is available at the port of entry. The Body Scan Imaging System is not afforded to travelers when:

1. Merchandise (including contraband) is discovered in privately owned vehicles (POVs).
2. Merchandise (including contraband) is found in baggage or luggage.
3. Merchandise (including contraband) is found during the course of an immediate patdown.
4. The traveler admits to transporting narcotics/contraband on the body, POV, or in their luggage/baggage.
5. A female traveler knows or suspects that she may be pregnant.

e. Scope of a Patdown Search

A patdown search consists of one or more of the following actions:

1. Patting the hands over the person's clothed body.
2. Removing the person's shoes.
3. Lifting the pant leg or hem of a skirt a few inches.
4. Removing a belt.

5. Examining or reaching into pockets.
6. Rolling up shirtsleeves.
7. Removing a wig or hairpiece.

The person being searched should remove his own clothing unless he refuses to cooperate (see chapter 4.c.4).

f. A Patdown Precedes More Intrusive Searches

A patdown search must precede all more intrusive searches, **except** when you reasonably suspect that a person might have dangerous articles concealed, such as needles or razor blades, that might harm an officer during a patdown. In such cases, you may do a partial body search for any such dangerous articles.

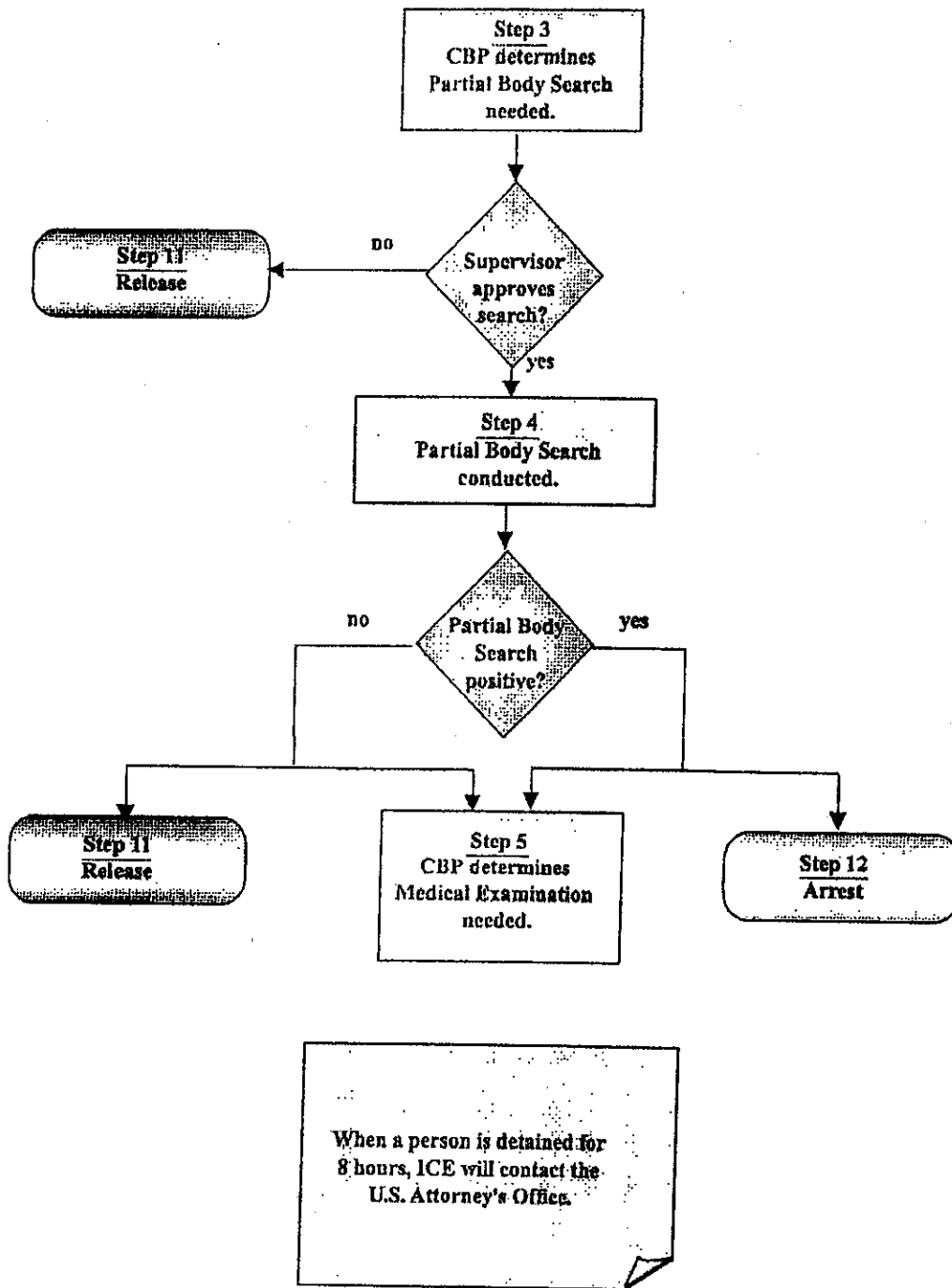
g. Safeguarding Property

When conducting a patdown, ensure that both the person being searched and the witness can observe all aspects of the search, especially the examination of wallets, money containers, or other valuables. All monetary instruments and high-value property must remain with the person.

All bills, receipts, price lists, tags, papers, notes, or other articles pertinent to the examination should be separated and detained, if necessary, pending further action.

Inform the person if any articles are seized or detained. Give the person a receipt covering each item being seized or detained. Mark any article held as evidence with your initials, along with the date and time seized, so that you can identify them at a later time.

Chapter 4



Chapter 4

Partial Body Searches

If you have reasonable suspicion that a person has contraband, other merchandise (including material evidence concealed on his body), you should first conduct a patdown search as defined in chapter 3; you must then obtain authorization from a supervisor. Partial body searches are to be conducted in a private area out of the public view.

a. Supervisory Approval

Once a patdown search has been conducted and reasonable suspicion exists that material evidence is being concealed, you must request approval from your supervisor before conducting a partial body search.

However, you may take appropriate actions to protect yourself and others if the patdown reveals what you suspect to be a weapon or dangerous object concealed on the person (see chapter 2.a).

b. Partial Body Search Defined

A *partial body search* is the removal of some of the clothing by a person to recover material evidence reasonably suspected to be concealed on the body. Except as provided for in chapter 3.e.

Only clothing covering the particular area of the body under suspicion may be removed. Under most circumstances, it will be unnecessary to conduct a full body search.

The allowable extent of a partial body search depends on the reasons for conducting the search. For example, if you are conducting a search because a bulge on the person's abdomen was detected during the patdown, then you should limit the partial body search to the abdominal area, unless reasonable suspicion exists that the person may have concealed something elsewhere on the body or in a body cavity.

c. Conducting the Partial Body Search

1. Removing Clothing

Removal of some clothing (except outer garments—see chapter 2.j) constitutes a partial body search. As an example, this would include removal of socks. Unless the person being searched refuses to cooperate, the person must remove his own clothing.

2. Searching Clothing

Thoroughly search each article of clothing that is removed.

3. Visual Exam

You may visually examine the unclothed portion of the body of the person being searched.

You may ask the person being searched to manipulate his own body as required to permit adequate visual examination. The mere visual examination of the exterior skin area around the anus or vagina is not considered a cavity search.

Chapter 4 Partial Body Searches

You may ask a person to bend forward and spread the buttocks, solely for the purpose of viewing the area around the anus. You may not ask a woman to spread her labia (the folds of skin bordering the vagina), as such a request would constitute a body cavity search.

4. Touching the Person

Do **not** touch the person during a partial body search unless the person refuses to remove any article of clothing or otherwise impedes you in the performance of your duties.

If you think the person may resist the search, you may warn him that forcible resistance to a search violates federal law (18 U.S.C. § 111). A great degree of caution must be exercised in those rare instances when reasonable force may be necessary (*U.S. Customs Firearms and Use of Force Policy, Customs Directive 4510-017A dated December 17, 2001*).

5. Removing Prosthetic Devices and Casts

Removal of prosthetic devices such as an artificial limb is considered to be part of a partial body search and is permitted if there is reasonable suspicion that material evidence is contained within the device.

The person being searched should remove the device if he can do so without medical assistance. If medical assistance is required, seek the assistance of a physician.

Removal of a cast is considered to be part of a partial body search. If there is reasonable suspicion that material evidence is contained within a cast, the person will be taken to a medical facility to have the cast X-rayed and/or removed. Under no circumstances will a cast be probed while it is attached to a person's body. The Port Director or acting Port Director as defined in chapter 5.a must approve transporting the person to a medical facility for a medical examination.

6. Objects in the Rectal Cavity

Do **not** ask a person to remove an object from the rectal cavity because of the risk that an object will rupture and cause serious harm. If there is reasonable suspicion that the person is carrying material evidence in the rectal cavity, proceed to a medical facility for a body cavity search (see chapter 8). Record this situation as a body cavity search in the appropriate TECS and/or IDENT/ENFORCE report.

7. Objects in the Vaginal Cavity

If you detect an object in the vaginal cavity and reasonably suspect that the object may contain contraband, merchandise, and/or documents, **stop** the search and consult your supervisor. If the supervisor concurs that reasonable suspicion exists, he may authorize you to ask the person to voluntarily remove the object.

If you find what appears to be a personal hygiene product, **stop** the search and consult your supervisor. The supervisor may authorize you to ask the person to voluntarily remove the item. If the person agrees to remove the item, this type of body search does not constitute a body cavity search and does not require the port director's approval. Record the incident in the appropriate TECS and/or IDENT/ENFORCE record.

If the person refuses to voluntarily remove the personal hygiene product, proceed to a medical facility for a body cavity search (see chapter 8). You must obtain port director approval for a body cavity search or medical examination to be performed at a medical facility (see chapter 8).

Record this situation as a body cavity search in the appropriate TECS and/or IDENT/ENFORCE report.

d. Searching a Juvenile

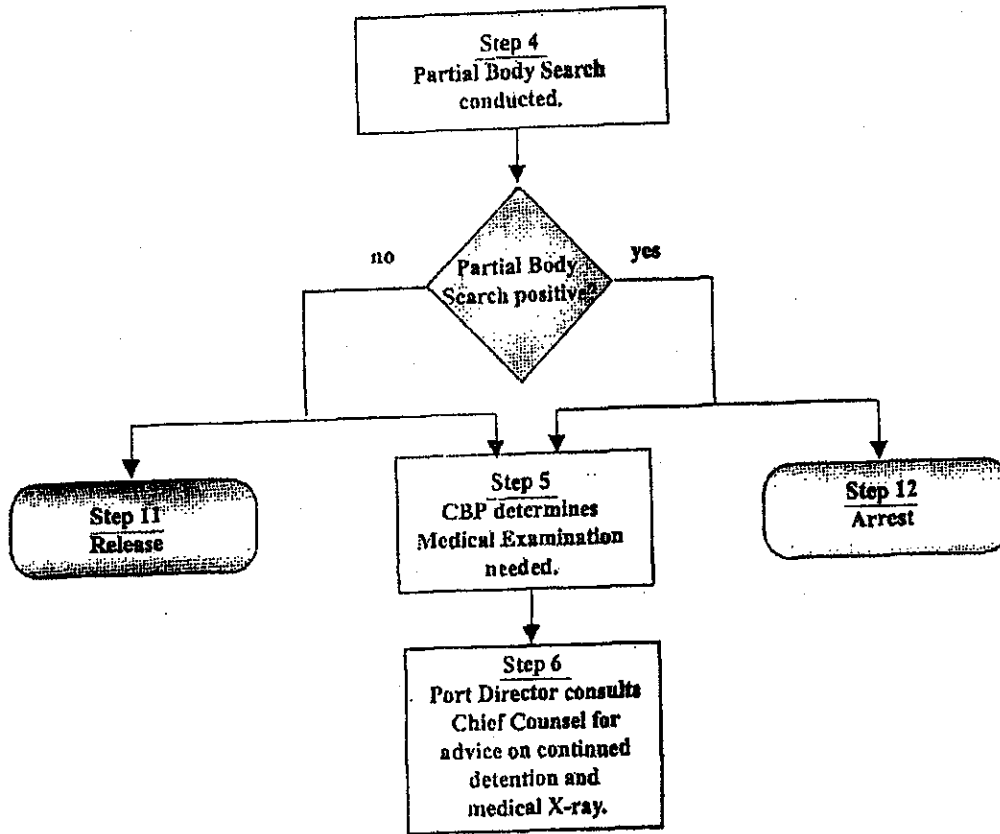
If a juvenile is traveling alone, a patdown or partial body search may be authorized without notifying any waiting adult relative or legal guardian in advance.

Supervisors should take into consideration whether investigative activities might be affected if a waiting adult is notified of the search. (See chapter 2.i for additional details on searching a juvenile.)

If an adult relative or legal guardian accompanies the juvenile, the supervisor should explain the circumstances surrounding the search. In most cases, the supervisor should allow the adult to be present during the search, unless the presence of the adult would exacerbate the situation rather than having a calming effect.

If the adult is of a different gender than the juvenile, and the juvenile does not want the adult present when a partial body search is to be performed, the adult should wait immediately outside the search room in order to afford the juvenile as much privacy as possible.

Chapter 5



When a person is detained for 8 hours, ICE will contact the U.S. Attorney's Office.

Chapter 5

Determining the Need for a Medical Examination

Reasonable suspicion that material evidence may be concealed inside the body is required to conduct a medical examination.

a. Port Director Approval

Body cavity searches, X-ray searches, and detentions for a Monitored Bowel Movement (MBM) require the approval of the Port Director (GS-13 or above). The local Associate/Assistant Chief Counsel must be consulted for legal advice by the Port Director (GS-13 or above); acting Port Director; or the Director, Field Operations.

The approval requirement cannot be further delegated unless the Port Director is away on leave or on a temporary duty assignment. Then the acting Port Director may approve the search/detention, provided he is grade GS-13 or above. Port Directors or acting Port Directors below grade GS-13 must seek the approval of a GS-13 Area or Service Port Director, or Director, Field Operations, in their chain of command.

Deputy and/or Assistant Port Directors for Passenger Operations in grade GS-14 or above may also approve the search/detention for medical examinations, provided the Port Director delegates them.

Record the name of the CBP official approving the search/detention in TECS.

Give the person an explanation of the process (see Attachment 3).

b. Transporting Persons to a Medical Facility

The Port Director or acting Port Director as defined in paragraph (a) must approve transporting the person to a medical facility for a medical examination. Deputy and/or Assistant Port Directors for Passenger Operations in grade GS-14 or above may also approve the transportation of a person to a medical facility, provided the Port Director delegates them.

When transporting persons to a medical facility for continuation of the personal search process, a minimum of two CBP officers, or one CBP officer and another law enforcement officer, will be used.

At least one of the officers should be of the same gender as the person being transported.

Take appropriate precautions, consistent with each situation, to ensure that the person is safely transported to the medical facility. Such precautions can include taping pants legs to prevent disposal of evidence and may include handcuffing if necessary for officer and/or subject safety. Special vehicles designed for secure personnel transport should be used when available.

Maintain contact with SECTOR radio at all times and provide departure and arrival times and mileage to SECTOR.

Chapter 5 Determining the Need for a Medical Examination

c. Transporting a Juvenile Traveling Alone to a Medical Facility

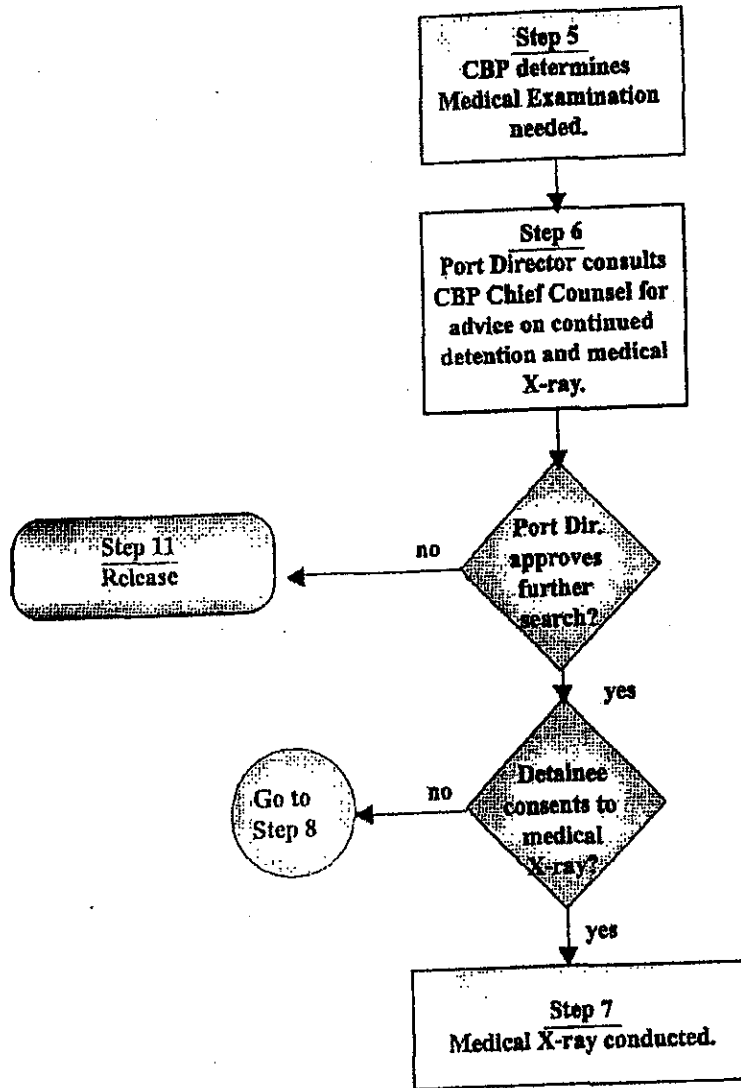
Before transporting a juvenile to a medical facility for an X-ray search, body cavity search, or MBM, a supervisor will notify any adult relative or legal guardian who is accompanying the juvenile or is waiting for the juvenile outside the CBP facility.

In addition, such person will be allowed to be present at the medical facility (see chapter 2.i.2), if the supervisor believes it would be constructive. The supervisor should offer to arrange transportation for the adult to the medical facility, but it is left to the discretion of the supervisor whether the adult travels in the same vehicle as the juvenile.

If there is no adult relative or legal guardian accompanying or waiting for a juvenile at the CBP facility, best efforts will be made to contact them via telephone, pager, etc., prior to taking the juvenile to a medical facility. If no contact was made with an adult relative or legal guardian, document the results in the appropriate TECS and/or IDENT/ENFORCE record.

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Chapter 6



When a person is detained for 8 hours, ICE will contact the U.S. Attorney's Office.

Chapter 6 Medical X-Rays

a. X-Ray Search Defined

An *X-ray search* is the use of a medical X-ray by medical personnel to determine the presence of material evidence within the body.

b. Port Director Approval

An X-ray search requires the approval of the Port Director (GS-13 or above).

The approval requirement **cannot** be further delegated unless the Port Director is away on leave or on a temporary duty assignment. Acting port directors may approve the X-ray search, provided they are grade GS-13 or above. Personnel below grade GS-13 must seek the approval of a GS-13 Area or Service Port Director; or Director, Field Operations, in their chain of command.

The Port Director's approval or disapproval will be recorded in the IOIL, S/A/S, or IDENT/ENFORCE, regardless of the outcome of the search.

c. Voluntary X-Rays

You may offer the traveler the option of consenting to a medical X-ray. Medical personnel will conduct the medical X-ray at a medical facility or hospital. Ports of entry that have the optional Mobile X-ray System (MXRS) shall comply with their SOP for this type of search. Under no circumstances shall an X-ray search be conducted on pregnant women or women who refuse a pregnancy test. If the person does not give consent, but the required degree of suspicion exists, detain the person for a medical examination. The Port Director must determine whether to seek an order for an involuntary X-ray, body cavity search, or to detain for an MBM.

d. Consent

Consent to search must be freely and voluntarily given. Voluntary consent is a question of fact, which must be determined from all the surrounding circumstances. For example, the fact that a person has signed a consent form is just one circumstance that a court will consider in determining voluntary consent. The court will examine all of the facts surrounding the signing of the consent form.

Juveniles can sign consent forms if no adult relative or legal guardian is present. There is no fixed rule regarding at what age the juvenile must be to sign the consent form. The court will weigh all factors (i.e., age, intelligence, and whether the juvenile had the capacity to appreciate and understand the consequences of giving consent).

If you have questions concerning consent issues with juveniles, consult the Associate/Assistant Chief Counsel for legal advice.

If the juvenile is traveling alone and cannot provide consent, the Port Director shall coordinate with the Associate/Assistant Chief Counsel, U.S. Attorney, and any appropriate state agencies (usually Child Welfare or Social Services) to determine the appropriate course of action.

Chapter 6 Medical X-Rays

Obtaining consent by coercion, through word or deed, is strictly prohibited.

Document your observations concerning the person's maturity, intelligence, education, and training in the TECS or IDENT/ENFORCE report. They are important to the issue of voluntariness of consent.

e. Procedures to Obtain Consent

1. The Person Must Be Informed of the Nature of the Examination

Explain the nature of an X-ray examination, when it will be done, and who will do it.

2. The Person Must Understand the Explanation

Ensure that the explanation is in a language the person understands. Document any use of a translator for court purposes. When a language barrier exists or the person is in doubt or confused, then consent may be in question.

3. The Person Must Know that He Has the Right to Refuse

Advise the person of the right to refuse the X-ray. Giving this information helps to prove that any consent given is voluntary.

f. Use of Consent Form

Thoroughly and carefully explain to the person all the language in the consent form. The circumstances surrounding the signing of the consent form can become extremely important if the person claims that the consent was coerced or was the result of duress. It is very important to document what any CBP officer said to the person and what the person said during this critical time. Use the appropriate consent form in the language the person understands.

The supervisor (if on-site) must review the consent form to ensure that it is properly signed. If there is any question as to the validity of the signed consent, contact the Associate/Assistant Chief Counsel for legal advice.

If the person consents to the X-ray, use the consent form (Appendix E) to document consent.

g. Revoking Consent

Even though a person signs a consent form, he may revoke consent at any time, even at the medical facility.

The revocation may be by words or actions, such as indicating a desire not to go freely to the medical facility. Refusal to sign a medical consent form (Appendix E or F) is considered a revocation.

If the person revokes his consent, immediately **stop** all searches based on the consent and notify your supervisor.

The supervisor will notify the Port Director of the revocation. The Port Director (see 6.b) will consult with the local Associate/Assistant Chief Counsel and the duty ICE agent or CBP prosecution officer to determine whether to release the person, detain the person for an MBM, or request authorization for an involuntary X-ray from a federal magistrate.

h. Involuntary X-Rays

Involuntary searches require a court order.

Involuntary X-ray searches will be conducted **only** under the most extraordinary circumstances, and **never** on a pregnant woman or a woman who refuses a pregnancy test.

Port directors will consult with the local Associate/Assistant Chief Counsel and the duty ICE agent or CBP prosecution officer to determine whether to seek a court order for an involuntary X-ray search. If it is determined to proceed with such an X-ray search, and the duty ICE agent or CBP prosecution officer will contact the U.S. Attorney and request that a warrant be obtained to authorize the X-ray search.

i. Pregnancy Checks

Under no circumstances will a pregnant woman or a woman who refuses a pregnancy test be subjected to an X-ray search, either voluntarily or involuntarily.

When a woman is taken to the medical facility, be sure to advise medical personnel that a pregnancy check must be performed prior to an X-ray.

If a woman is pregnant or refuses a pregnancy check, a decision must be made by the Port Director after obtaining legal advice from CBP counsel as to whether or not to continue to detain the woman for a medical examination, which may include an MBM (see chapter 8).

j. Reading the X-Ray

Only medical personnel may read the X-ray and interpret whether it indicates the presence of foreign objects that may be merchandise. The CBP officers may **not** render an opinion regarding the interpretation of the X-ray.

If the on-duty physician is uncertain whether the person has a foreign object in his body following the reading of the X-ray, you may seek a radiologist to read the X-ray, if one is reasonably available. Record the conclusion of the medical person in the S/A/S, IOIL, or IDENT/ENFORCE report.

k. Foreign Objects Not Found

When medical personnel have determined that foreign objects are not present in the body, release the person and immediately transport him back to the CBP facility, **unless** medical personnel determine that a medical condition requires the person to remain at the medical facility and the person consents to remain. Document these circumstances in the narrative of the search report. Also, you must advise the person that he is responsible for the costs of additional medical treatment.

l. Inconclusive X-Ray

If medical personnel deem the X-ray inconclusive, a decision must be made by the port director after obtaining legal advice from CBP counsel as to whether to continue to detain the person for an MBM.

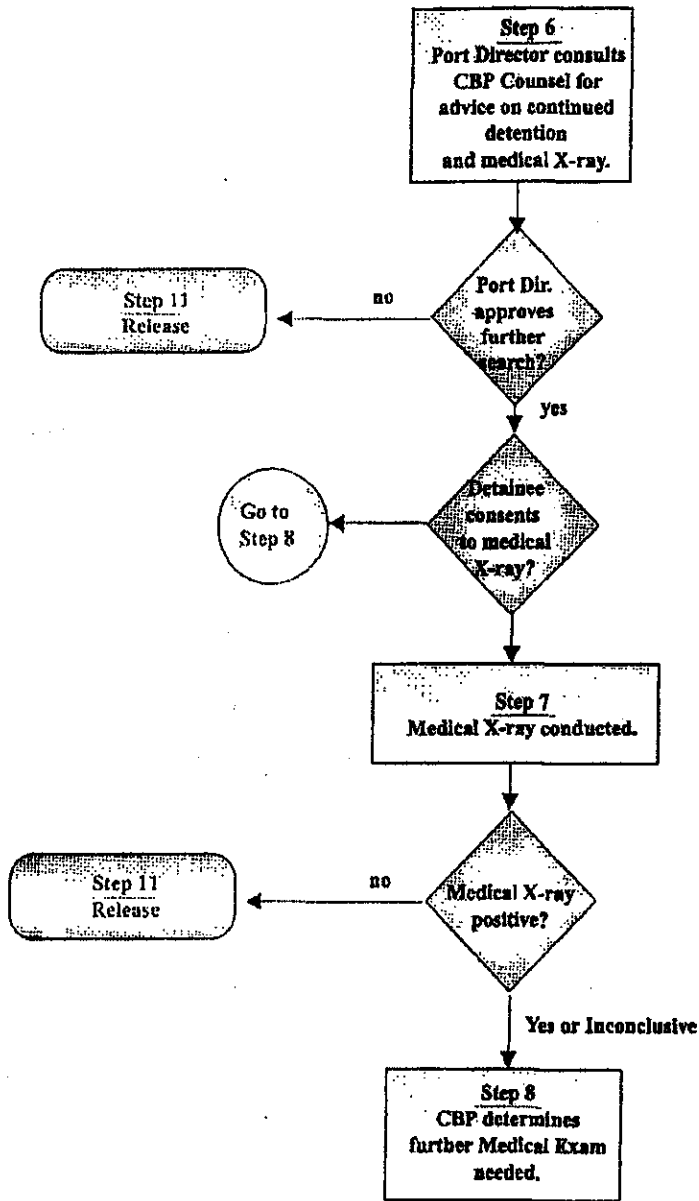
Chapter 6 Medical X-Rays**m. Foreign Objects Indicated by X-Ray**

If medical personnel believe that the X-ray indicates the presence of foreign objects, and suspicion remains that the foreign objects may be contraband or other material evidence, the Port Director must be notified to decide whether to continue to detain the person for a medical examination, which may include a body cavity search or an MBM (see chapter 8). It is not CBP policy to arrest a person solely on the basis of a positive X-ray reading by medical personnel. For the purposes of this Handbook, probable cause to arrest will not be established until the suspected foreign objects have tested positive for narcotics. The 2-hour notification rule continues to apply until probable cause has been established (see chapter 2).

An internal search is permitted only under body cavity search guidelines and procedures or if determined medically necessary by the physician (see chapter 8.II.g).

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Chapter 7



When a person is detained for 8 hours, ICE will contact the U.S. Attorney's Office.

Chapter 7

Determining the Need for Further Medical Examination

a. Foreign Objects Indicated by X-Ray

If medical personnel believe that the X-ray indicates the presence of foreign objects, and suspicion remains that the foreign objects may be contraband or other material evidence, the Port Director must be notified to decide whether to continue to detain the person for a further medical examination, which may include a body cavity search or an MBM. Local protocol may require that the local Associate/Assistant Chief Counsel be consulted for legal advice.

b. Reasonable Suspicion

A body cavity search must be based on a reasonable suspicion that a person is concealing contraband or other material evidence within a body cavity.

The following are examples of how reasonable suspicion may be developed.

1. Specific Information

You have received specific information indicating that the person may be concealing contraband or other material evidence within a body cavity.

2. Foreign Object Observed

You have observed a foreign object protruding from a body cavity during an earlier stage of inspection or search.

3. Totality of Factors

The totality of factors justifies a partial body search or X-ray search, and there are factors (e.g., grease or other lubricant present in the anal area, redness, and inability to sit) that reasonably indicate that the person may be concealing contraband or other material evidence within a body cavity.

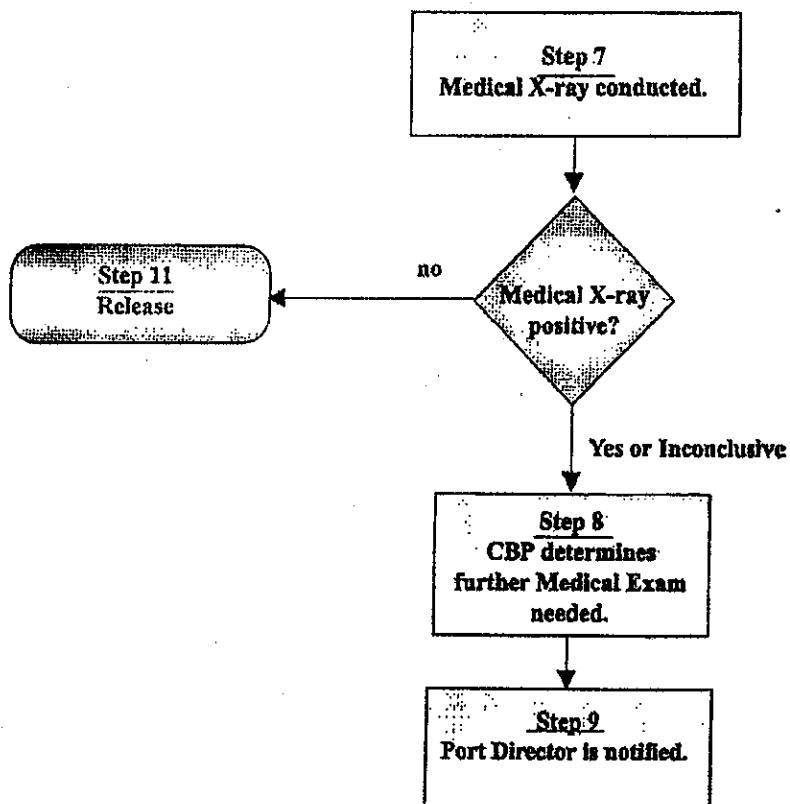
c. Port Director Approval

Conducting a body cavity search requires the approval of the Port Director (GS-13 or above). The Port Director will review the articulable factors and consult with Associate/Assistant Chief Counsel prior to approving personal searches beyond partial body searches.

The approval requirement cannot be further delegated unless the Port Director is away on leave or on a temporary duty assignment. The acting Port Director may approve the detention, provided he is grade GS-13 or above. Personnel below grade GS-13 must seek the approval of a GS-13 Area or Service Port Director; or Director, Field Operations, in their chain of command.

The Port Director's approval or disapproval will be recorded in the IOIL, S/A/S, or IDENT/ENFORCE, regardless of the outcome of the search.

Chapter 8



When a person is detained for 8 hours, ICE contact the U.S. Attorney's Office.

Chapter 8 Further Medical Examinations

Further medical examinations include body cavity searches and monitored bowel movements.

I. BODY CAVITY SEARCH

a. Body Cavity Search Defined

A *body cavity search* is any visual or physical intrusion into the rectal or vaginal cavity.

Body cavity searches shall be made **only** under the most exceptional circumstances.

b. Who May Conduct a Body Cavity Search

Only medical personnel may conduct a body cavity search. The CBP officers are prohibited from conducting body cavity searches themselves, or from causing a body cavity search to be conducted at a CBP facility.

c. Consent

If the person consents to the body cavity search or a pelvic examination, use the consent form (Appendix F) to document consent.

Thoroughly and carefully explain the language in the form. If the person writes anything on the form other than a signature, the consent may not be voluntary. The supervisor must review the consent form to ensure that it is properly signed. If there is any question as to the validity of the signed consent, contact the Associate/Assistant Chief Counsel for legal advice.

You must document your observations concerning the person's maturity, intelligence, education, and training in the TECS or IDENT/ENFORCE report. This information is important in proving that consent was voluntary.

d. Court-Ordered Involuntary Body Cavity Searches

Involuntary body cavity searches require a court order.

Port Directors (GS-13 or above) will consult with the local Associate/Assistant Chief Counsel and the duty ICE agent or CBP prosecution officer to determine whether to seek a court order for an involuntary body cavity search. If it is determined to proceed with a body cavity search, the duty ICE agent or CBP prosecution officer will contact the U.S. Attorney's office and request that a warrant be obtained to authorize the body cavity search.

II. MONITORED BOWEL MOVEMENT

a. Monitored Bowel Movement (MBM) Defined

An *MBM* is the detention of a person for the purpose of determining whether contraband or other material evidence is concealed in the alimentary canal.

Chapter 8 Further Medical Examinations

b. Consent Not Required

Detention for an MBM does not require the consent of the person being detained. However, it is important to ensure that any person detained for an MBM is treated in a courteous, professional manner and with as much dignity as possible, given the situation.

c. MBMs at Medical Facilities

Because of the danger that concealed drug containers may rupture, the person must be taken as soon as possible to a medical facility and placed under medical supervision (with appropriate security) to minimize possible injury.

The CBP officers may not conduct MBMs at CBP facilities.

d. Consent for X-Ray Search during Detention for MBM

Explain the person's options at the beginning of the process. Refrain from repeatedly asking the person to consent to an X-ray while being detained for an MBM. Doing so could affect the person's subsequent voluntary consent.

If, during a detention for an MBM, the person voluntarily consents to an X-ray search, have the consent form signed and follow the procedures applicable to an X-ray search (see chapter 6).

e. Detentions after 2 Hours

During the process of waiting for a subject to pass a foreign object during an MBM, if probable cause has not been established based upon a positive field test, the person will be afforded the opportunity to have someone notified on their behalf at the 2-hour period (see chapter 2), which begins at the time permission is received from a supervisor to conduct the personal search.

f. Extended Detentions

The Port Director must reapprove any detention longer than 8 hours (from the previous approval) when probable cause of a crime has not been developed but the AUSA believes reasonable suspicion exists.

The reapproval requirement shall continue for each 8-hour period until (a) probable cause has been developed, and a Federal magistrate issues a warrant, or (b) the person is released.

The Port Director will consult with the duty ICE agent or CBP prosecution officer and the Associate/Assistant Chief Counsel before rendering a decision. Record reapprovals in the appropriate TECS and/or IDENT/ENFORCE report.

g. Medical Treatment

Once a person is at a medical facility, medical personnel make all medical decisions. The CBP officers have no authority over the person's medical treatment. No CBP officer is authorized to request, advise, or encourage medical treatment.

Extraordinary medical techniques, such as inducement of nausea, forced regurgitation, or use of emetics, will be used only at the direction of a licensed physician to preserve the person's health or life.