

CUSTOMS AND BORDER PROTECTION DIRECTIVE**ORIGINATING OFFICE:** (b)**DISTRIBUTION:** (b)

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CBP DIRECTIVE NO. 3340-030A**DATE:** MARCH 9, 2004**SUPERSEDES:** 3340-030, 7/26/01**REVIEW DATE:** MARCH 2007**SUBJECT: SECURE DETENTION PROCEDURES AT PORTS OF ENTRY**

1 PURPOSE. This Directive establishes national policy for the temporary detention of persons by U.S. Customs and Border Protection (CBP) in secure areas at Ports of Entry (POEs).

2 POLICY.

2.1 This policy shall pertain to the temporary detention of all persons who are detained in secure areas. This includes, but is not limited to, those persons suspected of terrorist activity, are under arrest, are awaiting confirmation on National Crime Information Center (NCIC) warrants, suspected as internal contraband carriers, aliens awaiting removal, transfer, or referral, or other processing involved in a secondary inspection, e.g. fuel tank exams.

3 AUTHORITIES/REFERENCES. 19 U.S.C. §§ 482, 1461, 1581, 1582; 8 U.S.C. § 236; Title 8 Code of Federal Regulations 236.1(e) [8 CFR 236.1]; Personal Search Handbook (PSH), CIS HB 3300-04A revised November 1999; Physical Security Handbook CIS HB 1400-02A; Enforcement Handbook, Chapter 43, Detention, Arrest, and Handling Prisoners; Customs Directive 3340-028 (Physical Control of Suspects); Internal Operating Procedures Notification (IOPN), 00-19, "Accountability Requirements for Lost/Stolen Evidence, Drugs, Currency and Escaped Prisoners," dated April 26, 2000; Policy Memoranda dated April 11, 2003, April 25, 2003, May 13, 2003 relating to Severe Acute Respiratory Syndrome (SARS); Inspector's Field Manual, Chapter 17.

3.1 **General.** CBP Officers have the combined statutory authority under Title 8 United States Code [8 USC], the Immigration and Nationality Act (INA) and Title 19 United States Code [19 USC]. It allows CBP officers to search without a warrant, take sworn statements, and detain applicants for admission to determine their admissibility into the United States, detain persons suspected of violating the customs, agriculture or other laws of the United States that are enforced at the border. In cases where removal proceedings are being initiated, a decision relating to the detention of the applicant must be made. In some cases the detention needed is only of short duration (i.e., waiting for departure of flight, or preparation of case file, etc.) and transfer to a long-term detention facility is not practical. During an inspection at a port of entry (POE), detention begins when the traveler is referred into secondary and when processing is underway or subject is waiting processing.

4 DEFINITIONS.

4.1 U.S. Customs and Border Protection Officer. Includes all legacy agency inspectors and canine enforcement officers.

4.2 Secure Area. This refers to areas such as a detention cell, search room, interview room, or security office where an individual is detained for a temporary period of time out of public view and cannot flee.

4.3 Attended Area. This refers to a location where a person is constantly in the physical presence of an officer in a secure area.

4.4 Unattended Area. This refers to a detention cell, confinement area, or secure area where a detainee may be out of view of an officer.

4.5 Juvenile. A person who has not reached his/her 18th birthday.

4.6 Patdown Search. The term refers to the act of an officer searching for merchandise, including contraband, weapons, or documents hidden in the clothing a person is wearing or on their body.

4.7 POE Short-term Detention. The temporary detention of a person at a POE while a case is being processed administratively or prepared for presentation for prosecution; pending parole, release, departure from the United States, or transfer of custody to another branch or agency; or while CBP makes arrangements for longer term detention.
(b)(2) & (b)(7)(E)



4.8 POE Hold Room. A confined area or secured room at a POE in which detained persons are temporarily held pending a secondary process, i.e., vehicle examination, adjudication, processing of documents, interviews, etc. Detention of a person in a POE hold room shall be for the least amount of time necessary.

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



4.9 POE Detention Cell. A room where a person is placed who must be physically separated from the primary and/or secondary inspection areas, awaiting transfer to another detention facility or other Law Enforcement Agency (LEA), when constant surveillance of the subject is not feasible, and/or for ensuring the safety of both the traveling public and officers.

4.10 POE Search Room. A private designated location that is designed for extensive search of a person and that prevents all but designated necessary personnel from

viewing the subject. A POE search room may serve as a temporary hold room should separation from others be required or extra room needed.

5 RESPONSIBILITIES.

5.1 The Assistant Commissioner, Office of Field Operations, is responsible for policy oversight, which includes the formulation and implementation of guidelines and procedures.

5.2 Directors, Field Operations (DFOs) and Port Directors (PDs) are responsible for managing the implementation of this program and monitoring compliance with the procedures to ensure uniformity of application.

5.3 The PDs are responsible for ensuring that all (b)(2) & (b)(7)(E) [REDACTED] reports (b)(2) & (b)(7)(E) [REDACTED], detention logs, and any other reports pertaining to detentions are completed and reviewed. The reviews will determine the effectiveness of the procedures contained within this Directive, as well as, how well they are carried out.

5.4 Supervisors are responsible for ensuring that CBP officers under their direction are familiar with the guidelines set forth in this Directive.

5.5 The U.S. Customs and Border Protection Basic Inspector Training Academy is responsible for incorporating this Directive into the appropriate training programs.

5.6 The PDs are responsible for identifying and ensuring that CBP officers under their direction are familiar with the areas that have been designated as detention cells, search rooms, or holding rooms. Dual designation of a particular room is authorized, i.e., a detention cell may also be used as a search room.

6 DETERMINATION TO DETAIN.

6.1 Priority of Detention. NOT RESPONSIVE [REDACTED]

NOT RESPONSIVE [REDACTED]

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7 DURATION OF DETENTION.

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8 EXCEPTIONS TO SHORT-TERM DETENTION IN POE HOLD ROOMS.

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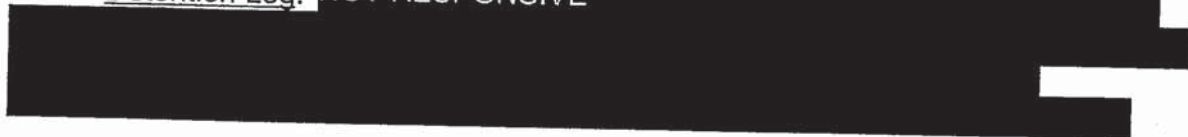


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9 PROCEDURES.

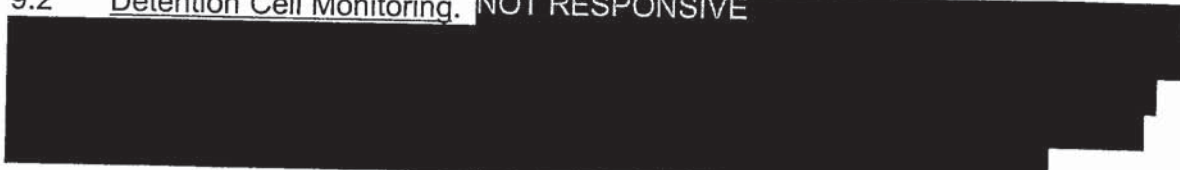
9.1 Detention Log. NOT RESPONSIVE



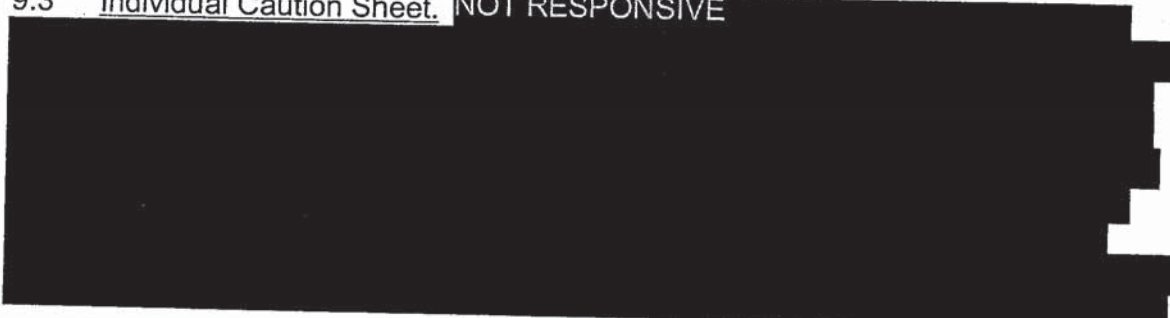
NOT RESPONSIVE



9.2 Detention Cell Monitoring. NOT RESPONSIVE



9.3 Individual Caution Sheet. NOT RESPONSIVE



9.4 Medical. NOT RESPONSIVE



NOT RESPONSIVE



NOT RESPONSIVE



9.5 Asylees. NOT RESPONSIVE



9.6 Meals. NOT RESPONSIVE



9.7 Drinking Water. NOT RESPONSIVE



9.8 Restrooms. NOT RESPONSIVE



NOT RESPONSIVE



9.9 Telephone. 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.

9.9.1 In the cases of certain nationalities, if the alien 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 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).

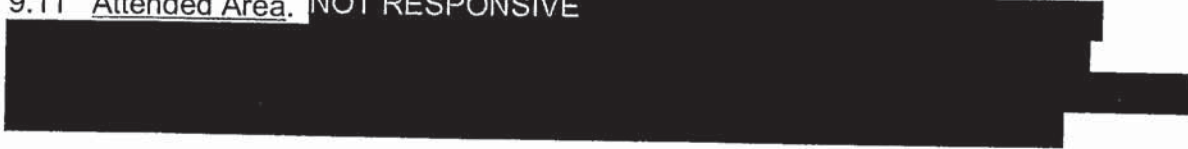
9.9.2 Officers shall not mention any asylum claim or fear of persecution or torture expressed by the alien when contacting a consular official, nor shall they indicate the nature of the proceedings against the alien.

9.9.3 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).]

9.10 Detention Cells. NOT RESPONSIVE



9.11 Attended Area. NOT RESPONSIVE



NOT RESPONSIVE

[REDACTED]

[REDACTED]

9.12 Search Procedures. 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 person seeking admission if the officer has reasonable ground to suspect that ground of inadmissibility exists that may be disclosed by the search. 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)

[REDACTED]

9.12.1 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 border and functional equivalent of the border (POE) during the time of entry of a traveler for admission.

9.12.2 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.

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

9.12.4 This Directive 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.

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

9.12.6 If an officer reasonably suspects merchandise or contraband is present as a result of the patdown search pursuant to paragraph 6.1, 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.

9.12.7 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 alien could use to injure him/herself. Examples of these things are:

- (a) (b)(2) & (b)(7)(E)
- (b) (b)(2) & (b)(7)(E)
- (c) (b)(2) & (b)(7)(E)
- (d) (b)(2) & (b)(7)(E)
- (e) (b)(2) & (b)(7)(E)

9.12.8 An 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 the individual may attempt to harm themselves while in an unsecured, unmonitored area, then (b)(2) & (b)(7)(E) may be removed.

9.13 Restraints Procedures. NOT RESPONSIVE

9.14 Escort Procedures. NOT RESPONSIVE

NOT RESPONSIVE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9.15 Transfer Procedures. NOT RESPONSIVE

[REDACTED]

[REDACTED]

9.16 Control and Safeguarding Detainee Personal Property. The control and safeguarding of detainee personal property shall include the secure storage of funds, valuables, baggage and other personal property.

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

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

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

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

9.16.5 Officers shall use the following form:

- (a) 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.
- (b) 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.

9.16.6 Where operationally feasible, two officers 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. All PDs or other management officials accountable for POE operations must ensure that appropriate procedures are in place and in use.

9.17 Fire, Building Evacuation and Medical Emergencies. NOT

RESPONSIVE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NOT RESPONSIVE

[REDACTED]

9.18 Special Notification Requirements. NOT RESPONSIVE

[REDACTED]

9.19 Juvenile Detention Procedures. NOT RESPONSIVE

[REDACTED]

[REDACTED]

[REDACTED]

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10 REPORTING REQUIREMENTS.

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11 NO PRIVATE RIGHT CREATED. The procedures set forth in this Directive are for CBP internal use only and create no private rights, benefits, or privileges for any private person or party.

Assistant Commissioner
Office of Field Operations

Attachments