Description of document:	Customs and Border Protection (CBP) Freedom of Information Act (FOIA) Standard Operating Procedures (SOP) 2017
Appealed date:	25-September-2022
Release date:	10-January-2024
Posted date:	22-January-2024
Source of document:	CBP FOIA 90 K ST NE MS 1181 Washington DC 20229 SecureRelease^{TM} Portal

DIS-3 OT:RR:RDL:FAP
CBP-AP-2023-00315AA

January 10, 2024

RE: Freedom of Information Act Appeal Case File: CBP-2022-082149;
        CBP-AP 2022-133724/CBP-AP-2023-000315

This letter represents our response to your September 25, 2022, Freedom of Information Act
(FOIA) appeal (CBP-AP-2022-133724). Since receiving your appeal, CBP FOIA operations has
adopted a new case management system. Unfortunately, we could not transfer your case number
to the new system, so you have been provided a new number that appears in the upper right-hand
corner of this letter.

On June 24, 2022, U.S. Customs and Border Protection's (CBP) FOIA Division provided you
with a response that indicated it was releasing your requested records in part. That letter was
issued to you in error. We apologize, the responsive record was actually withheld in full
pursuant to (5 U.S.C. §552(b)(6), (b)(7)(C) and (b)(7)(E)).

I.   Procedural History

In your original FOIA request, you sought: … "[A] copy of each (internal) FOIA Standard
Operating Procedure (SOP) at the CBP FOIA Office". Your appeal contests the sufficiency of
the FOIA Division's response. Specifically, you object that: "There is no evidence that there was
any attempt to release segregable releasable portions. There is no evidence that the foreseeable
harm test was applied. There is no evidence that the presumption of openness was applied. It
appears that the decision was made reflexively and without any weighing of the public interest."

II.   Appeal Determination

A member of my staff has conducted a de novo review for responsive records to your request. As
a result of our review, we located three (3) responsive documents, The Freedom of Information
Act (FOIA) Guide for Processing FOIA Requests, The U.S. Customs and Border Protection

Directive, CBP Directive No. 2120-009B and CBP Directive No. 5430-001, Public Release of CBP Directives and Policy Directorate. We are releasing in part the FOIA Guide for Processing FOIA Requests totaling sixty-six (66) pages with redactions made pursuant to FOIA exemptions (b)(6), (b)(7)(C) and (b)(7)(E) (5 U.S.C. §552 (b)(2), (b)(6), (b)(7)(C) and (b)(7)(E)).

Both the U.S. Customs and Border Protection Directive, CBP Directive No. 2120-009B totaling five (5) pages and the CBP Directive No. 5430-001, Public Release of CBP Directives and Policy Directorate totaling eleven (11) pages are released in full. The CBP Directive No. 5430-001, Public Release of CBP Directives and Policy Directorate can be found on the U.S. Customs and Border Protection's website, under the Directive's tab. Please find the attached link to the directive: https://www.cbp.gov/sites/default/files/assets/documents/2022-May/cbp-directive-5430-001-policies-publication-process_0.pdf

The Freedom of Information Act was enacted to "ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."[1] The law provides the public with the right to receive records and information from the government in order to further democratic principles and allow for independent evaluation of government action.

In furtherance of this goal, we reviewed your arguments on appeal, as well as the FOIA Division case file. FOIA Division withheld in full the record responsive to your request. However, it failed to provide an explanation of the exemptions utilized in withholding the responsive record in its determination letter. We have reviewed that response and are reversing it in part.

As noted, we have withheld some information from release in the attached records. While the FOIA espouses "a general philosophy of full agency disclosure,"[2] some governmental information is exempted from release under the FOIA under clearly delineated statutory language.[3] Thus, while "disclosure, not secrecy, is the dominant objective of [FOIA]," there are some records that exist outside the statute's broad reach.[4]

You can be assured that we have provided you with the greatest amount of information possible. The direct language of the FOIA instructs federal agencies to provide any "reasonably segregable portion of a record" to "any person requesting such record after deletion of the portions which are exempt".[5] We do not take this charge lightly. To comport with this requirement, this office undertook a line-by-line review of the records and "differentiate[d] among the contents of a document rather than to treat it as an indivisible 'record' for FOIA purposes."[6]

In withholding any information, we blacked out only the information protected by the statutorily defined exemptions and identified the applicable exemption at the location of redaction. Any

---

[1] Nat'l Labor Relations Bd. v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978).
[2] *Dep't of the Air Force v. Rose*, 425 U.S. 352, 360-61 (1976).
[3] 5 U.S.C. § 552(b) et seq.
[4] Rose, 425 U.S. at 361.
[5] 5 U.S.C. §552(b).
[6] *Fed. Bureau of Investigation v. Abramson*, 456 U.S. 615, 626 (1982).

black boxes without corresponding redaction codes were boxes placed by FOIA Division in the actual handbook to protect personally identifiable information. We limited our withholdings to that information in which "the agency reasonably foresees that disclosure would harm an interest protected by an exemption," as described in further detail below.[7] Even if information technically fell within the bounds of an exemption, we did not redact it unless we could identify any foreseeable harm that would flow from its release.

Exemption (b)(6) permits the Government to withhold all information about individuals, whether they be law enforcement personnel or other third parties, in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy."[8] The U.S. Supreme Court in *United States v. Washington Post Co.*[9] ,in reliance on the legislative history of the FOIA, stated that the phrase "personnel and medical and similar files" is to be broadly interpreted. Once this threshold requirement is met, Exemption (b)(6) requires a balancing of the public's right to know against an individual's right to privacy to determine whether disclosure of the records at issue would constitute a clearly unwarranted invasion of a person's privacy.[10] It must be ascertained whether a protectible privacy interest exists that would be threatened by disclosure. In order to compel release of materials, there must be a public interest because "something, even a modest privacy interest outweighs nothing every time."[11]

In this case, we have determined that you had no genuine and significant interest in the identities of law enforcement personnel or other third parties found within the record, nor have you asserted any public interest in the disclosure of this information. We further find that these individuals' right to privacy outweighs whatever public interest, if any, might exist in disclosing the individuals' identity or other personal information. Accordingly, Exemption (b)(6) has been applied to withhold this information from disclosure. In addition, we note that CBP personnel have a privacy interest in the disclosure of their names in agency records.

Exemption (b)(7)(C) is cited, in tandem, with Exemption (b)(6). Whereas Exemption (b)(6) protects the personal privacy of persons mentioned in any type of government record, FOIA Exemption (b)(7)(C) provides protection specifically for personal information in law enforcement records, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy."[12] Identifying information pertaining to individuals appearing in law enforcement records is exempt from disclosure, pursuant to Exemption (b)(7)(C). This exemption is designed to protect, among other interests, the interests of law enforcement and related personnel from "harassment and annoyance in the conduct of their official duties and in their private lives" which could conceivably result from public disclosure of their identity.[13] Therefore, we conclude that Exemption (b)(7)(C) is also applicable to the portion of the record in question.

---

[7] 5 U.S.C. § 552(a)(8)(A)(i).

[8] 5 U.S.C. § 552(b)(6).

[9] 456 U.S. 595 (1982).

[10] *Dep't of the Air Force v. Rose*, 425 U.S. 352, 372 (1976).

[11] *Nat'l Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873, 879 (D.C. Cir. 1989).

[12] 5 U.S.C. § 552(b)(7)(C).

[13] *Nix v. United States*, 572 F.2d 998, 1006 (4th Cir. 1978).

Under Exemption (b)(7)(E), elements of a record may be redacted to protect methods for categorizing, identifying, and navigating law enforcement information. Exemption (b)(7)(E) exempts from disclosure information that would disclose techniques and procedures of law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.[14] Where the agency has a clear law enforcement mandate it only need establish a rational nexus between enforcement of a federal law and the information withheld based on a (b)(7) exemption.[15]

The remaining information redacted pursuant to (b)(7)(E), consists of information that would reveal law enforcement techniques used in the screening of international travelers as well as the apprehension of aliens illegally entering the United States (to include names of specific law enforcement databases used, procedures related to external/internal coordination/reporting and information which would reveal the scope and focus of certain law enforcement techniques) that were included in the guide as examples. The release of this information would enable potential violators to design strategies to circumvent the border security enforcement procedures developed and employed by CBP in its mission to secure the border and enforce immigration laws by allowing potential violators to better prepare themselves to evade and exploit U.S. immigration and other laws.

Accordingly, the decision of the Director, FOIA Division, dated, June 24, 2022, is hereby <u>reversed.</u>

III.   Right to Judicial Review and Other Remedies

In the event that you are dissatisfied with the disposition of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. §552(a)(4)(B) in the United States District Court in the District in which you reside, in the district where the agency record is situated, or in the United States District Court for the District of Columbia.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered

---

[14] See *Fisher v. U.S. Dep't of Justice*, 772 F. Supp. 7 (D.D.C. 1991) (explicitly recognizing categorical protection for law enforcement techniques and procedures), aff'd 968 F.2d 92 (1992); and Hammes v. U.S. Customs Serv., 1994 WL 693717 (S.D.N.Y. 1994) (protecting criteria used to determine which passengers to stop and examine).

[15] See *Costal Delivery Corp. v. U.S. Customs Serv.*, 272 F. Supp.2d 958, 963 (C.D.Cal. 2003) (finding Customs has a clear law enforcement mandate; Exemption (b)(7)(E) used to withhold techniques or guidelines for law enforcement investigations); Pons v. U.S. Customs Serv., 1998 U.S. Dist. LEXIS 6084 (D.C.C. 1998) (protecting cooperative arrangements between Customs and other law enforcement agencies to keep them effective); and, Judicial watch, Inc. v. FBI, 2001 U.S. Dist. LEXIS 25732 (D.D.C. 2001) (protecting the "identities of two types of [FBI] records concerning prison inmates, "the release of which would enable inmates "to alter their activities[,] thus hindering the effectiveness of the technique").

a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974.

If you wish to contact OGIS, you may email them at ogis@nara.gov, or call at either 202-741-5770 or toll free 877-684-6448. Written correspondence should be directed to: National Archives and Records Administration, Office of Government Information Services, 8601 Adelphi Road, College Park, MD 20740-6001.

Sincerely,

Mary Beth McLoughlin for

Shari Suzuki, Chief
FOIA Appeals and Policy Branch
Regulations and Rulings Directorate
Office of Trade
U.S. Customs and Border Protection

Freedom of Information Act (FOIA)

Guide for Processing

FOIA Requests

U.S. Customs and
Border Protection

This is the official Freedom of Information Act (FOIA) Guide for Processing FOIA Requests within U.S. Customs and Border Protection. It is intended to provide guidance on the receipt, processing, and close out of FOIA cases.

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

_____   _February 28, 2017___

Sabrina Burroughs, Director of FOIA Division   Date

Privacy and Diversity Office

Office of the Commissioner

Introduction

Enacted on July 4, 1966, and taking effect on one year later, the Freedom of Information Act provides that any person has a right, enforceable in court, to obtain access to federal agency records, except to the extent that any portions of such records are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions.1 The FOIA thus established a statutory right of public access to Executive Branch information in the federal government.2

The United States Supreme Court has explained that "[t]he basic purpose of [the] FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."3 The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'"4 The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism."5 Rather, "[i]t defines a structural necessity in a real democracy."6 As President Obama has declared, "[a] democracy requires accountability, and accountability requires transparency."7 The FOIA "encourages accountability through transparency."8

At the same time, the Supreme Court has also recognized that in enacting the FOIA "Congress sought 'to reach a workable balance between the right of the public to know and the need of the Government'" to protect certain information.9 The FOIA's "broad provisions favoring disclosure, coupled with the specific exemptions, reveal and present the 'balance' Congress has struck."10

The FOIA is codified at 5 U.S.C. Section 552. "**Any person**" can file a FOIA request, including U.S. citizens, foreign nationals, organizations, associations, and universities. The FOIA applies to Executive Branch departments, agencies, and offices; federal regulatory agencies; and federal corporations. Congress, the federal courts, and parts of the Executive Office of the President that function solely to advise and assist the President, are NOT subject to the FOIA. **Records obtainable under the FOIA include all "agency records" - such as print documents, photographs, videos, maps, e-mail and electronic records - that were created or obtained by a Federal agency and are, at the time the request is filed, in that agency's possession and control.**

Table of Contents

What is FOIA?

The **Freedom of Information Act (FOIA)** is a law that gives you the right to access information from the federal government. It is often described as the law that keeps citizens in the know about their government.

- For more information on FOIA, go to the **Department of Justice** website at

  http://www.justice.gov/oip/doj-guide-freedom-information-act-0

- For more information on CBP FOIA, go to the **U.S. Customs and Border Protection** website at http://www.cbp.gov/site-policy-notices/foia

- To view **CBP FOIAonline** (the site where requesters set-up accounts and submit FOIA requests electronically to CBP), go to

  https://foiaonline.regulations.gov/foia/action/public/request/publicPreCreate

Why do we Perfect FOIAs?

- When we perfect FOIAs we are ensuring the information on the cover page of FOIA Online is completely and accurately filled out in relation to the information provided to us in the request description

- This allows the FOIA processors to search cases more efficiently and makes it easier to determine the information that they need to search

- This process also helps to narrow down the amount of cases we have to search because it eliminates A-File requests and requests that are insufficient

Locating Case in FOIA Online

1. Type in tracking number of the request in the search bar on FOIA Online.
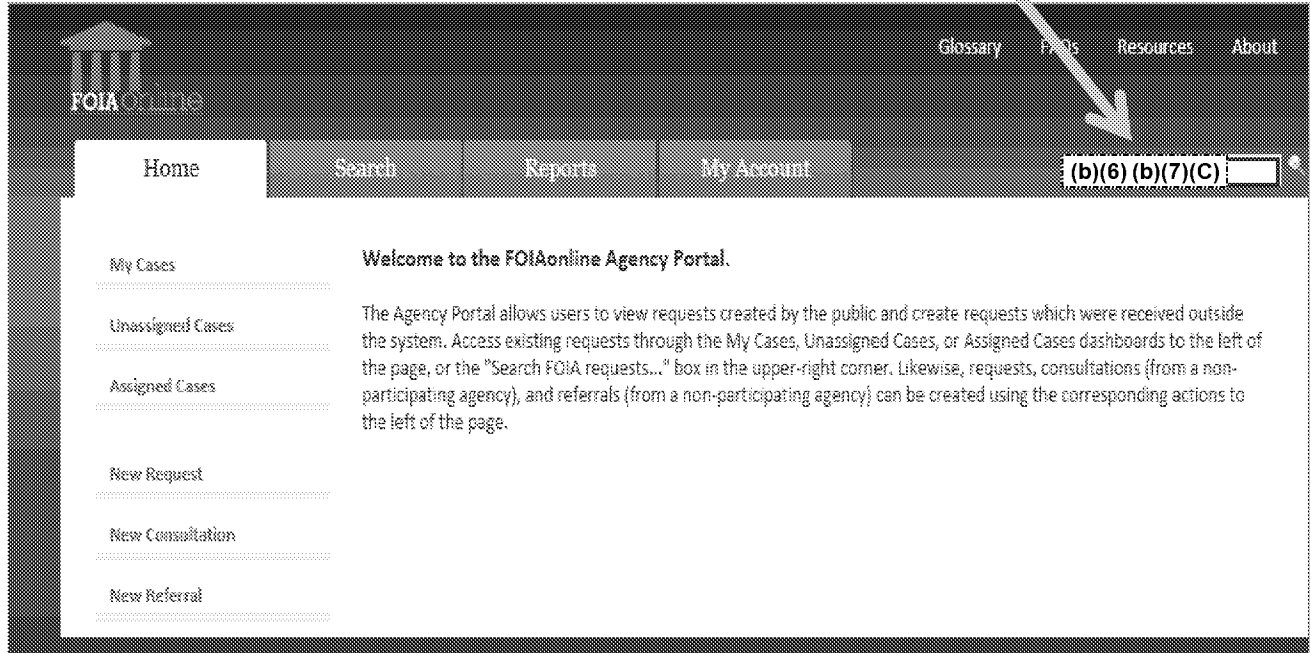
2. Click on the highlights tracking number that appears in the search results

Locating "Request Description" Information

**Note: There are two places to locate the request description.

1. Scroll down to "Attached Supporting Files". Click on the file and open it.

Attached Supporting Files

⊘ Attachments Available to the Public : No ⌄

Attached Fil█████	Type	Size (MB)	Remove
033.pdf	PDF	0.39	✕

2. Click on the Case File tab under the request details box.

Request Details   **Status :** *Research Records*   **Due Date :** *11/07/2013*

⏱ 193 🏳

○───────○───────○───────◉───────○
Submitted   Evaluation   Assignment   Processing   Closed

Tracking Number : [(b)(6) (b)(7)(C)]   Submitted Date : 09/25/2013
📄 Requester : [(b)(6) (b)(7)(C)]   Perfected Date : 06/26/2014
Organization : Law Office   Last Assigned Date : 07/18/2014
Requester Has Account : No   Fee Limit : $25.00

| Submission Details | **Case File** | Admin Cost | Assigned Tasks | Comments (0) | Review |

A. Click on the Correspondence tab under the case details box.

| Submission Details | Case File | Admin Cost | Assigned Tasks | Comments (0) | Review |

Direct URL : [(b)(7)(E)]

Case Details

Type of Case : FOIA   ⊘ Received Date : 09/25/2013
Fiscal Year : 2013   ⊘ Clock Initially Started On : 10/09/2013
Total Days Pending : 193

| Records | Consultations | **Correspondence** | Appeals | Financing | Restricted Materials |

B. The case file is located in the Other Correspondence box. Click on the file and open it.

| Records | Consultations | Correspondence | Appeals | Financing | Restricted Material |

─ Correspondence to Requester ─

No correspondence has been added.

─ Other Correspondence ─

One item found.

Attached File	⬍	Type	Size (MB)	Remove ▲
Request Description.pdf		PDF	0.16	🖼

One item found.

Checklist for Perfecting FOIAs (Triage Process)

- Subject's Full Name

- Subject's Date of Birth

- Third Party Consent - ONLY IF the requester is asking for records pertaining to another individual

- Verify email address is that of the requester

- Death Certificate – ONLY IF the subject is deceased

- Statement Identifying Requestor as Parent (for records request on a minor)

- Ensure the Requester's Information is Accurate on the Front Page

  - We need either the requester's email address or mailing address at a bare minimum

- Properly Label/Correctly Label the Request Type

```
Select Request Type
Border Apprehension/Encounters
Commercial
Contracts
Entry/Exit
Fines, Penalties, & Forfeitures/Seizures (FP&F)
Human Resources (HR)
I-94
Import/Export
Insufficient
Internal Affairs (IA)
Media
Passenger Name Records (PNR)
Rules and Regulations
Travel & Apprehension Records
Other
```

- Change drop-down **"Perfected?"** Box from **"No"** to **"Yes"**

  - **Note: If the request originated from FOIA Online it defaults to **"Yes"** so simply click save

- Click **"Save"** to Keep All Changes Made

- Send an "Acknowledgement Letter"

  - To do so, click "Create Correspondence" → select "Correspondence to Requester" → choose "Acknowledgement Letter" under "Letter Template" → click "create"

  - Assign the Perfected Requests to the Appropriate Queue or POC

- **2016PR** –Travel/Apprehension, All Records

- **ENFORCE** - Border/Apprehension

- **OFOSearches** - Entry/Exit, I-94

- **NonTravel**- Check Trace/Refunds,/Financial Request Commercial, Contracts, HRM, Import/Export, Internal Affairs Fines/Penalties/Forfeitures/Seizures, Media, Passenger Name Records, Rules/Regulations, Other

Possible Types of Travel Requests

- Entry/Exit Request – **CBP**

- Border Apprehension/Encounter – **CBP**

- Travel & Apprehension (Border Apprehension/Encounter + Entry/Exit) – **CBP**

- A-File +Entry/Exit – **CBP**

- A-File – **USCIS**

- A-File + All CBP Records – **USCIS**

- A-File + Border Apprehension/Encounter – **USCIS**
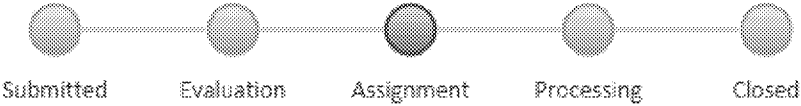
Examples of Perfected Cases

Case 1: Third Party Requests

1. In the Request Details box, a third party is requesting travel records on an individual other than themselves.

Request Details

Status : *Assignment Determination*   **Due Date :** *11/01/2013*

197

Submitted   Evaluation   Assignment   Processing   Closed

Tracking Number : _(b)(6) (b)(7)(C)_	Submitted Date : 09/19/2013
Requester : _(b)(6) (b)(7)(C)_	Perfected Date : 07/18/2014
Organization : _(b)(6) (b)(7)(C)_	Last Assigned Date : 07/18/2014
Requester Has Account : ■■■■■	Fee Limit : $25.00

The "Additional Information" box can be found if you **scroll down** to the bottom of the page. It is located **above** the "Attached Supporting Files" section and **below** the "Request Description" box.

Additional Information

Field	Value
Request Type :	Travel & Apprehension Records ⌄
On Behalf Of (First) :	(b)(6) (b)(7)(C)
On Behalf Of (Middle) :	
On Behalf Of (Last) :	
Date of Birth :	(b)(6) (b)(7)(C)
Alias/(es) :	
Alien Number :	
Parents' Names :	

1. Open up the case file to look for the requirements

Dear Sir/Madam:

Full Name

Enclosed please find Form G-28, Notice of Entry of Appearance as Attorney of Record. I have been retained by [(b)(6)(b)(7)(C)] to represent him in his immigration matter. Please search your records for anything pertaining to any and all of [(b)(6)(b)(7)(C)] entries and/or exits from the United States, including but not limited to screen shots.

Date of Birth →

- Name/Aliases: **(b)(6) (b)(7)(C)**
- Date of birth: (b)(6) (b)(7)(C)
- Address: (b)(6) (b)(7)(C)
- Consent: (see Attached Release with Sworn declaration under penalty of perjury or notarized affidavit of identity
- Phone number: (b)(6) (b)(7)(C)
- Alien number: (b)(6) (b)(7)(C)
- Parents' names: **(b)(6) (b)(7)(C)**

CLIENT AUTHORIZATION RELEASE FORM

To Whom It May Concern:

I, [_____ (b)(6) (b)(7)(C) _____] Date of Birth: [(b)(6) (b)(7)(C)], A# [(b)(6) (b)(7)(C)] hereby grant access to any and all of my Immigration records to any employee of [_____ (b)(6) (b)(7)(C) _____] and ask that any and all such records be released to my attorneys [_____ (b)(6) (b)(7)(C) _____]

I declare under penalty of perjury under the laws of the United States of America that the foregoing information provided by my attorney is true and correct to the best of my ability.

Should you have any questions or need assistance, please contact [_____ (b)(6) (b)(7)(C) _____]

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

Signature

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

Third party consent →

SUBSCRIBED TO AND SWORN BEFORE ME, the undersigned Notary Public, on this

The ___17th___ day of ___October___, 2013.

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

My Commission Expires: ___Feb. 7, 2016___
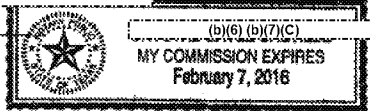
(b)(6)(b)(7)(C)
MY COMMISSION EXPIRES
February 7, 2016

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

8.a. Signature of Applicant, Petitioner, or Respondent

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

← **Third Party Consent**

8.b. Date *(mm/dd/yyyy)* ▶ 10-11-13

This case is perfected because:

1. Full name and date of birth are given
2. There is a clear description of records being sought (Not Pictured)
3. Third party consent is given

Case 2: First Party Requests

1. A requester is asking for records on himself

Tracking Number : **(b)(6) (b)(7)(C)**   Submitted Date : 09/19/2013

Requester : **(b)(6) (b)(7)(C)**   Perfected Date : 07/18/2014

Organization : N/A   Last Assigned Date : 07/18/2014

Requester Has Account : No   Fee Limit : $25.00

2. If a requester is asking for records on him/herself, third party consent and a case file are not needed. Look for what the requester is seeking in the Request Description box.

Request Description

Short Description :

Need to submit time outside of the United States during the Past 5 years to submit application for citizenship

Description Available to the Public : No   Has Description Been Modified? ☑   110/2000

Need to submit time outside of the United States during the Past 5 years to submit application for citizenship

3. Make sure the information is properly listed in the corresponding boxes in "Additional Information"

Additional Information

Request Type : **Entry/Exit**

On Behalf Of (First) : (b)(6)(b)(7)(C)

On Behalf Of (Middle) :

On Behalf Of (Last) : (b)(6)(b)(7)(C)

Date of Birth : (b)(6) (b)(7)(C)

Alias/(es) :

Alien Number :

Parents' Names :

This case is perfected because

1. Full name and date of birth are given
2. There is a clear description of records being sought

Example of G-639

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form G-639, Freedom of Information/Privacy Act Request

NOTE: Use of this form is optional. Any written format for a Freedom of Information or Privacy Act request is acceptable.

START HERE - Type or print in black ink. Read instructions before completing this form.

1. Type of Request *(Check appropriate box. **NOTE:** If you are filing this request for records on behalf of another individual, please respond to Number 1 as it would apply to that individual.)*

☒ Freedom of Information Act (FOIA): I am not a U.S. citizen/Lawful Permanent R

☐ Freedom of Information Act (FOIA): I am a U.S. citizen/Lawful Permanent Resi
my own records.

☐ Privacy Act (PA): I am a U.S. citizen/Lawful Permanent Resident and I am reque

> **The information being requested can be found here on the G-639**

☐ Amendment of Record (PA only): I am a U.S. citizen/Lawful Permanent Resident and I am requesting amendment of my own records.

☐ Other: _____

2. Description of Record(s) Requested:

NOTE: While you are not required to respond to all items in Number 2, failure to provide complete and specific information as requested may result in a delay in processing or an inability to locate the record(s) or information requested.

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: **SEE BELOW**

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*
REQUESTING A COPY OF ANY RECORD PERTAINING TO ANY ENTRY AND/OR APPREHENSION.

Family Name *(Last Name)*	Given Name *(First Name)*		Middle Name	
▮	(b)(6) (b)(7)(C)			
Other Names Used *(if any)*		Name at time of entry into the U.S.		I-94 Admission #
NONE		(b)(6) (b)(7)(C)		N/A
Alien Registration Number *(A#)*	Petition or Claim Receipt #	Country of Birth	Date of Birth *(mm/dd/yyyy)*	
N/A	N/A	MEXICO	▮	

Names of other family members that may appear on requested record(s) *(i.e. spouse, daughter, son)*:

Family Member's Name: Given Name *(First Name)*	Middle Name	Family Name *(Last Name)*	Relationship
▮	DE PETRA	▮	WIFE
Father's Name: Given Name *(First Name)*	Middle Name	Family Name *(Last Name)*	
		▮	

> **Information of the subject is listed here on the G-639**

(First Name)	Middle Name	Family Name *(Last Name, including Maiden Name)*
		▮

Country of Origin *(Place of Departure)*	Port of Entry Into the U.S.	Date of Entry *(mm/dd/yyyy)*
MEXICO	TIJUANA, MEXICO	UNKNOWN
Manner of Entry *(Air, Sea, Land)*	Mode of Travel *(Name of Carrier)*	
LAND	N/A	

Form G-639 (01/29/12) N

3. Subject of Record Consent to Release Information *(Must be signed by the subject of record(s) requested.)*

By my signature, I consent to allow USCIS to release to the requester named in Number 5 (Check applicable box):

☒ All of my records   ☐ A portion of my records *(If a portion, specify below what part, i.e., copy of application.)*

Print Name of Subject of Record   (b)(6) (b)(7)(C)

Signature of Subject of Record   **(b)(6) (b)(7)(C)**   Date *(mm/dd/yyyy)* (b)(6) (b)(7)(C)

☐ Deceased Subject - **Proof of death must be attached** *(Obituary, Death Certificate, or other proof of death required)*

4. Verification of Identity *(Required; Fill out all that apply.)*

Name of Subject of Record *(First, Middle, Last)*	Daytime Telephone	E-mail Address
(b)(6) (b)(7)(C)		

Address *(Street Number and Name)*	Apt. Number

City	State	Zip Code
	CA	90601

Date of Birth *(mm/dd/yyyy)*	Place of Birth	
(b)(6) (b)(7)(C)	MEXICO	MEXICO

The Subject of Record must provide a signature under either a Notarized Affidavit of Identity or a Sworn Declaration Under Penalty of Perjury:

☐ Notarized Affidavit of Identity

Signature of Subject of Record _____ Date *(mm/dd/yyyy)* _____

Subscribed and sworn to before me this _____ day of _____ Telephone No. _____

Signature of Notary _____ My Commission Expires on _____

<center>**OR**</center>

☒ Sworn Declaration Under Penalty of Perjury

Executed outside the United States

If executed outside the United St[...] s, its territories, possessions, or state) under penalty of perjury[...] ify, verify, or state) under States of America that the forego[...] g is true and correct."

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

Signature of Subject of Record

5. Requester Information

By my signature, I consent to p[...] d review of materials up to $25 *(See instructions)*

Signature of Requester:

Name of Requester *(Fill out if different from the Subject of Record)*	Daytime Telephone	E-mail Address
(b)(6) (b)(7)(C)		

Address *(Street Number and Name)*	Apt. Number

City	State	Zip Code
	CA	90601

Form G-639 (01/29/12) N Page 2

CBP-AP-2023-000315-000017

Example of G-28

**Notice of Entry of Appearance
as Attorney or Accredited Representative**
Department of Homeland Security

**DHS
Form G-28**
OMB No. 1615-0105
Expires 02/29/2016

Part 1. Information About Attorney or Accredited Representative

Name and Address of Attorney or Accredited Representative

1.a. Family Name
(Last Name) (b)(6) (b)(7)(C)

1.b. Given Name
(First Name) (b)(6) (b)(7)(C)

1.c. Middle Name (b)(6)(b)(7)(C)

2. Name of Law Firm or Recognized Organization
(b)(6) (b)(7)(C)

3. Name of Law Student or Law Graduate

4. State Bar Number (b)(6) (b)(7)(C)

5.a. Street Number

5.b. Street Name (b)(6) (b)(7)(C)

5.c. Apt. ☐ Ste. ☐ Flr. ☐

5.d. City or Town HOUSTON

5.e. State TX   5.f. Zip Code 77233

5.g. Postal Code

5.h. Province

5.i. Country
United States

6. Daytime Phone Number (b)(6) (b)(7)(C)

7. E-Mail Address of Attorney or Accredited Representative
NONE (b)(6) (b)(7)(C)

Part 2. Eligibility Information For Attorney or Accredited Representative

(Check applicable items(s) below)

☒ I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia.

1.a. (b)(6) (b)(7)(C)

1.b. I *(choose one)* ☒ *am not* ☐ *am* subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. (If you are subject to any order(s), explain fully in the space below.)

1.b.1.

☐ I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 292.2. Provide the name of the organization and the expiration date of accreditation.

2.a. Name of Recognized Organization

2.b. Date Accreditation expires
(mm/dd/yyyy) ▶

3. ☒ I am associated with

3.a. (b)(6) (b)(7)(C)

the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance ▓▓▓▓▓▓▓ is at his or her request. If you check this item, also complete **number 1 (1.a. - 1.b.1.) or number 2 (2.a. - 2.b.) in Part 2** *(whichever is appropriate).*

4. ☐ I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2)(iv).

Lawyer's/Requester's Information

Form G-28 02/28/13 N

CBP-AP-2023-000315-000018
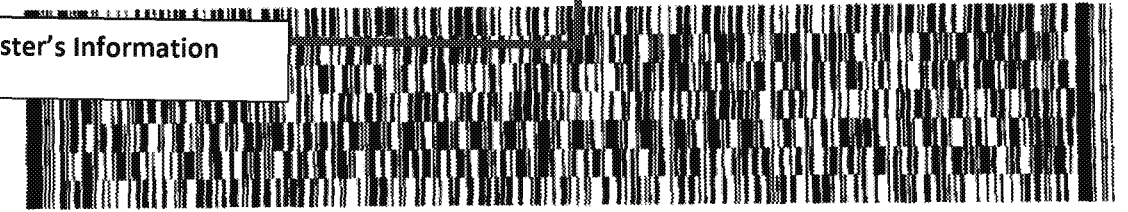
Part 3. Notice of Appearance as Attorney or Accredited Representative

This appearance relates to immigration matters before (select one):

1. ☐ USCIS - List the form number(s)

1.a. [ ]

2. ☐ ICE - List the specific matter in which appearance is entered

2.a. [ ]

3. ☒ CBP - List the specific matter in which appearance is entered

3.a. [G-639 FREEDOM OF INFORMATION ACT]

I hereby enter my appearance as attorney or accredited representative at the request of:

4. Select only one: ☒ Applicant   ☐ Petitioner

☐ Respondent (ICE, CBP)

Name of Applicant, Petitioner, or Respondent

5.a. Family Name (Last Name)   [(b)(6) (b)(7)(C)]

5.b. Given Name (First Name)   [▮▮▮▮▮]

5.c. Middle Name   [ ]

5.d. Name of Company or Organization, if applicable   [ ]

NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent and not the address of the attorney or accredited representative, **except when a safe mailing address is permitted** on an application or petition filed with Form G-28.

6.a. Street Number and Name   [▮▮▮▮▮]

6.b. Apt. ☐ Ste. ☐ Flr. ☐ [ ]

6.c. City or Town   [HOUSTON]

6.d. State [TX]   6.e. Zip Code [77223]

7. Provide A-Number and/or Receipt Number

[ ]

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, ICE, or CBP.

8.a. Signature of Applicant, Petitioner, or Respondent

[▮▮▮▮ **(b)(6) (b)(7)(C)**]

8.b. Date   *(mm/dd/yyyy)* ► [04/22/2013]

Part 4. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

1. Signature **(b)(6) (b)(7)(C)** entative
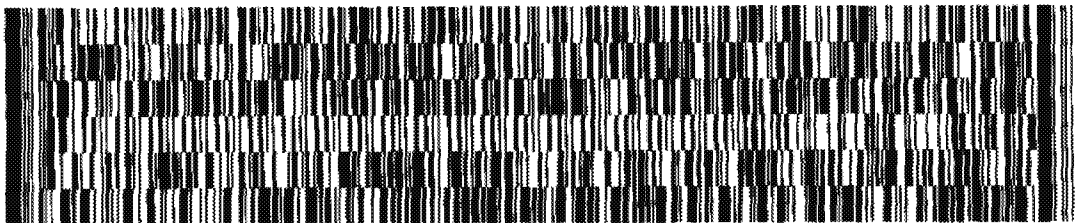
[ ]

2. Signature of Law Student or Law Graduate

[ ]

3. Date   *(mm/dd/yyyy)* ► [04/22/2013]

Part 5. Additional Information

1.

[Third Party Consent to Release Records is given here on the G-28]

For Official Use Only

Examples of Request Types

Examples of Request Type "Border Appre./Encounter"

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: any and all arrests,deportations,voluntary departures,detentions

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*

immigration proceedings

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: IMMIGRATION RECORD

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*

Any And all records pertaining to detention and apprehension.

Examples of Request Type "Travel and Apprehension"

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: Copies of all written, photographic, electronic, computer, or recorded materials and all printouts in CBP records regarding ███████

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the*

...y in processing or an inability to locate the record(s) or information requested.

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: **ANY AND ALL INFORMATION CONTAINED IN MY CBP FILE INCLUDING ALL DETENTIONS**

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*

PERSONAL

Examples of Request Type "Entry/Exit"

...y ... provide complete and specific information as requested may result in a delay in processing or an inability to locate the record(s) or information requested.

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: I-94 ARRIVAL/DEPARTURE RECORD

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*

☐ Complete Alien File (A-File)

☒ Other *(please specify)*: Proof of Legal Entry in 1987 through Miami International Airport

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)*

On May 11, 1987 I boarded the airplane from Panama, to Miami International Airport, FL. was given an I-94, I lost it and I need proof of that legal entry, to adjust my status.

Example of Request Type "Human Resources (HR)"

Under the Freedom of Information Act, I respectfully request all the documentation form the Structured Interview portion of the Special Agent/Managerial GS 14 Assessment for Promotion. Please include all of the notes taken by the Supervisory Special Agents(SSA) who conducted the examination, individual ratings, scores, rating criteria and comments. In addition to the aforesaid, please provide procedural regulations regarding the role of the SSA who led the examination. Supervisory Special Agent ███████████ led the Structured interview. What was SSA ██████ responsibility regarding the paperwork? How did SSA ██████ responsibility differ from the other SSA's on the panel? Please name the employee who GS ████ submitted the documentation to and what was his or her role? Most importantly, were the SSA's/Examiners required to swear and affirm under oath that the ratings where true and correct?

Example of Request Type "Referrals/Consultations"

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)
Washington, D.C. 20535

Date: February 12, 2016

To: U.S. Customs and Border Protection
Office of Diversity and Civil Rights
Freedom of Information Act (FOIA) Division
90 K Street, NE, 9th Floor
Washington, DC 20229-1181

From: (b)(6) (b)(7)(C)
Record/Information Dissemination Section
Records Management Division

Subject: FOI/PA Request of ███████████
FBI FOI/PA # (b)(6) (b)(7)(C)
Re: ████████████

In connection with review of FBI files responsive to the above request, the following were located:

☑ 1 unclassified document(s) which originated with your agency is being referred to you for direct response to the requester. The requester has been advised of this referral. Please furnish us with a copy of your disclosure letter to the requester. *(See index A)*

☐ _____ FBI document(s) containing information (bracketed) concerning your agency.

   ☐ We will advise the requester to expect a direct response from your agency regarding this matter.

   ☐ Please review this information and return the document(s) to us, making any deletions you deem appropriate. *(See index B)*

☐ _____ classified document(s) which originated with your agency is/are being referred to you for direct response to the requester. The requester has/has not been advised of this referral. Please furnish us with a copy of your disclosure letter to the requester, and advise us if the classification of the document(s) changed so that we may amend our files. *(See index C)*

☐ _____ classified FBI document(s) containing information (bracketed) concerning your agency.

Examples for the "NonTravel" Queue

Request Description

Short Description :

Re: Request under the Freedom of Information Act, in reply refer to Archive # [(b)(6) (b)(7)(C)]
related to the U.S. Border Field Intelligence Center (BORFIC) from 2010 to the present, located in El Paso Texas.
Documents should include policy guidelines, list of responsibilities, organizational chart, memos, and other internal
correspondence relating to the functions of the BORFIC and its coordination with Mexican officials through its
Bilateral Interdiction Working Group.

Description Available to the Public : **No**   Has Description Been Modified? ☐

Request Description

Short Description :

Copy of redelivery/marking notices, report of investigation and audit reports

Description Available to the Public : **No**   Has Description Been Modified? ☑   //2000
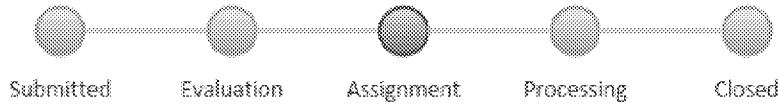
Processing Perfected Requests

1. In the Request Handling box, look for the "Request Perfected" dropdown menu.

Request Details

Status : *Assignment Determination*   **Due Date** : *N/A*

🕐 **61** ◀

○————○————◉————○————○
Submitted   Evaluation   Assignment   Processing   Closed

Tracking Number : (b)(6) (b)(7)(C)	Submitted Date : 09/19/2013
📄 Requester : (b)(6) (b)(7)(C)	Last Assigned Date : 07/18/2014
Organization : N/A	Fee Limit : $25.00
Requester Has Account : No	

| Submission Details | Case File | Admin Cost | Assigned Tasks | Comments (1) | Review |

Request Handling

❓ Requester Info Available to the Public : **No** ▾

Request Track : **Simple** ▾

Fee Category : **Other** ▾

Fee Waiver Requested: No ✏

Fee Waiver Status: N/A

Expedited Processing Requested : No ✏

Expedited Processing Status : N/A

❓ Request Perfected : **No** ▾

Acknowledgement Sent Date: 🗓

❓ Unusual Circumstances ? : No

5 Day Notifications: ☐

Litigation : **No** ▾

— Request Description —

2. Select "Yes" from the dropdown menu. (DO NOT DO THIS WHEN THE REQUEST IS INSUFFICIENT!)

❓ Request Perfected : **Yes** ▾

3. Go to the Additional Information box and look for "Request Type" dropdown menu.

Additional Information

⊚ Request Type :	Select Request Type ▾
On Behalf Of (First) :	(b)(6) (b)(7)(C)
On Behalf Of (Middle) :	
On Behalf Of (Last) :	▮
Date of Birth :	(b)(6) (b)(7)(C) 🗓
Alias/(es) :	
Alien Number :	
Parents' Names :	

4. Select the request type that best defines the records being sought.

⊚ Request Type :	**Select Request Type**
)n Behalf Of (First) :	Border Apprehension/Encounters
Behalf Of (Middle) :	Commercial
)n Behalf Of (Last) :	Contracts
	Entry/Exit
Date of Birth :	Fines, Penalties, & Forfeitures/Seizures (FP&F)
Alias/(es) :	Human Resources (HR)
	I-94
Alien Number :	Import/Export
Parents' Names :	Insufficient
	Internal Affairs (IA)
	Media
:hed Supporting	Passenger Name Records (PNR)
	Rules and Regulations
porting files have be	Travel & Apprehension Records
	Other

5. Make sure the requestor information has been inputted into FOIA Online and that it matches the information in the "Request Description"

   A. Click on the blue arrow on the right side of the requestor box.

   B. If the information needs to be edited, click the pencil in the bottom right of that same box

6. Ensure the information from the Request Description (.pdf file) matches the information in the "Additional Information" section

   A. DOB, Last Name(s), First Name, Alias(es), and Alien #, etc.

7. Scroll to the bottom of the page and click "Save Changes."

Making Information Public

8. **ONLY** when a lawyer requests records, we make the request public. To do that:

   A. Set the ***Requester Info Available to Public*** to "Yes" and set ***Fee Category*** to "Other"

   B. If it is a *Commercial Request*, assign it to the "Nontravel Queue"

   C. If it is a *Media/Other Request*, **email your SME** letting them know the case number and

   that it is a Media/Other Request, and assign it to the "Nontravel Queue"

Request Handling

⦿ Requester Info Available to the Public : **Yes** ▾	⦿ Request Perfected : **No** ▾
Request Track : **Simple** ▾	Acknowledgement Sent Date:
Fee Category : **Other** ▾	⦿ Unusual Circumstances ? : No
Fee Waiver Requested: No ✎	5 Day Notifications: ☐
Fee Waiver Status: N/A	Litigation : **No** ▾
Expedited Processing Requested : No ✎	
Expedited Processing Status : N/A	

9. Once the perfection is saved, check for any tasks that need to be addressed:

   A. **Closing Tasks-** when perfecting cases, **ALWAYS** check to make sure there have been

   no request for a fee waiver or an expedited processing request.

   - To do that, click the "Assigned Tasks" tab.

Stop the Clock

Extend Due Date

Submission Details | Cost Fee | Admin Cost | **Assigned Tasks** | Comments (0) | Review

Create Task

Request Handling

   - If there is a fee waiver or expedited processing request, you will see them in the

   middle of the page. If they are not there, no such requests were made and you may

   move on.

Outcome ⬦	Assigned To ⬦	Assigned By ⬦	Date Sent ▼	Due Date ⬦	Closed Date ⬦	Notification	Detail
Pending	CBP	▓▓▓▓▓	01/15/2015	01/25/2015 ▦		☐	🌀
Pending	CBP	▓▓▓▓▓	01/14/2015	01/14/2015 ▦		☐	🌀

- Click on "*Pending*" to open up the request

- On the left side of the screen, you will see an option to "Edit or Close Task". Click here.

B. **Expedited Processing-** these requests are only granted when: "it is demonstrated that an individual's life or personal safety would be jeopardized by the failure to process a request immediately." See http://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests for a full description of the decision on expedited processing.

- If the person does not demonstrate a "**life or death**" situation, then we deny the request. Use the phrase *"Does not meet requirements per DHS Regulations"* for the denial reason.

C. **Fee Waiver**

- Due to the backlog we have, if someone is requesting personal records, we are granting their fee waiver

- If the FOIA request is a NONTRAVEL request (i.e. media, commercial, etc.) then do not respond to the fee waiver. Instead, reassign the request to the NONTRAVEL queue and save changes

  **NOTE: There are some cases that will have BOTH a fee waiver and an expedited processing request. If you see this, please make sure to address both requests.

10. Once the tasks are taken care of (if there were any), click on the "Make Assignment" tab on the left side of your screen.
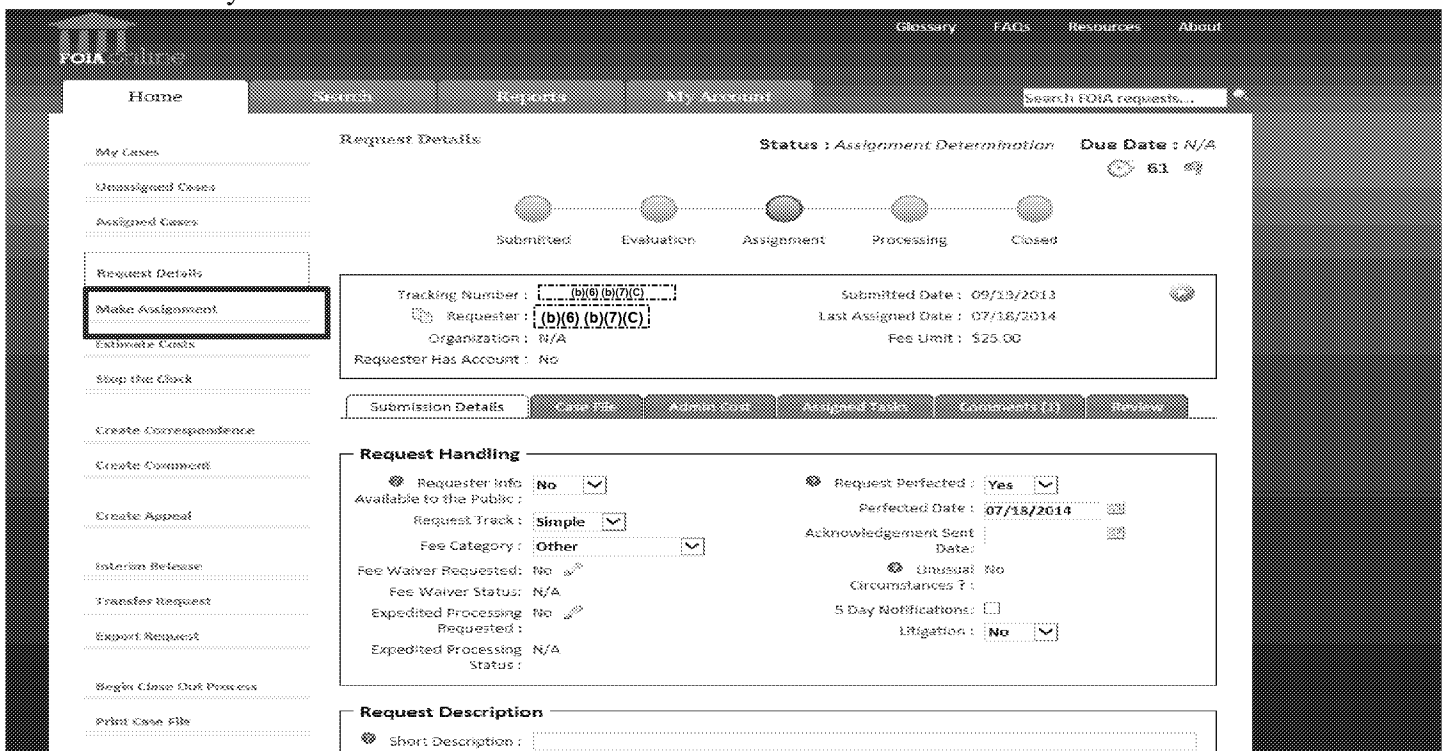
11. In the Make Assignment box, click on the gray rectangle beside "Organization Assignment."
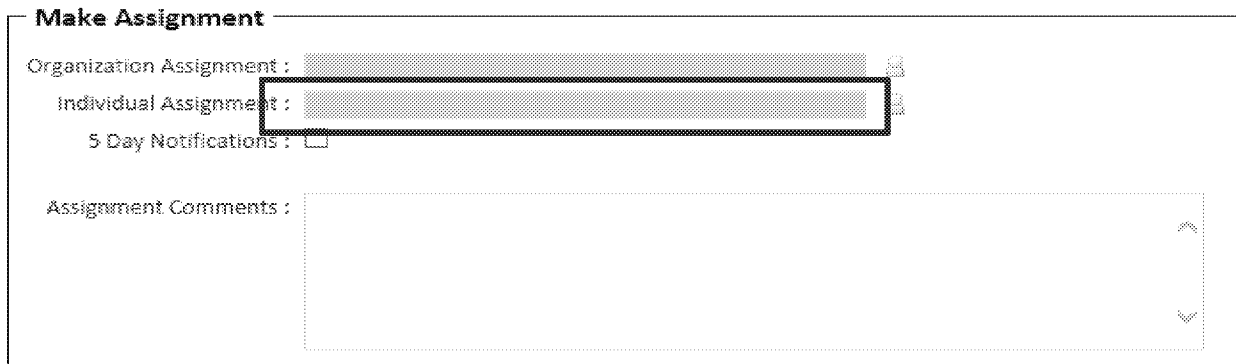
12. Select the queue that you want and click on the Select button. When you select a queue, you

will be taken back to the Make Assignment box. Click on Save Changes.

Search Results

26 items found, displaying 1 to 5.

Acronym	Name	Organization

(b)(7)(E)

Make Assignment

Organization Assignment : (b)(7)(E)

Individual Assignment :

5 Day Notifications : ☐

Assignment Comments :

*See page 10 for further instruction regarding where to assign different types of cases.

How to Close Out Insufficient Requests

1. Click "Begin Close Out Process" on the bottom of the screen

Begin Close Out Process

Generate Invoice

Print Case File

Description Available to the Public : No ☑   Has Description Been Modified? ☐

Additional Information

Request Type : Entry/Exit ☑

2. Set the *Disposition* to "Improper FOIA Request for Other Reason" and set Letter Template to

"Insufficient Request Notice"

A. **BOLD** and <u>UNDERLINE</u> the reason their FOIA request is insufficient. If the reason is

not one of the five listed, please add the reason and then **BOLD** and <u>UNDERLINE</u> it

3. Click "Begin Close Out" at the bottom of the screen

4. Click on "Assigned Tasks" and then "Pending". On the left side of the screen click "Close Out Task"

5. If the requester provides an email, scroll to the bottom of the screen and click "Send" and type in your FOIA Online Password

   A. If the requester does not provide an email, click on the link that says "Final Disposition Letter" and print it to be physically mailed. Then click "Send" at the bottom of FOIA Online and type in your password

A-File Processing

How to spot an A-file request

1. On a requester's Form G-639 under section 2, you will see that the requester checked the "Complete Alien File (A-file)" box.

12

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form G-639, Freedom of Information/Privacy Act Request

NOTE: Use of this form is optional. Any written format for a Freedom of Information or Privacy Act request is acceptable.

START HERE - Type or print in black ink. Read instructions before completing this form.

1. Type of Request *(Check appropriate box. NOTE: If you are filing this request for records on behalf of another individual, please respond to Number 1 as it would apply to that individual.)*

☐ Freedom of Information Act (FOIA): I am not a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.

■ Freedom of Information Act (FOIA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting documents other than my own records.

☐ Privacy Act (PA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.

☐ Amendment of Record (PA only): I am a U.S. citizen/Lawful Permanent Resident and I am requesting amendment of my own records.

☐ Other: _____

2. Description of Record(s) Requested:

NOTE: While you are not required to respond to all items in Number 2, failure to provide complete and specific information as requested may result in a delay in processing or an inability to locate the record(s) or information requested.

■ Complete Alien File (A-File)

☐ Other (please specify): _____

---

2. The requester asks for their entire immigration record.

requested may result in a delay in processing

□ Complete Alien File (A-File)

☑ Other *(please specify)*: My Immigration Record (including but not limited to all arrest at the border.)

Purpose: *(Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the*

3. The requester requests their complete A-file as well as all CBP records.

How to Close Out an A-File Request

6. Click "Begin Close Out Process" on the bottom of the screen

Begin Close Out Process	◉ Description Available to the Public : No ☑ Has Description Been Modified? □
Generate Invoice	
Print Case File	┌ **Additional Information** ───────
	◉ Request Type : Entry/Exit ☑

7. Set the *Disposition* to "Not An Agency Record" and set Letter Template to "A-file Referral

   Notice to Requester"

   A. If the requester does not have an account **AND** if it is a third party request, after the

   word client, put the client's name in the Afile letter

   • Ex: "records for you or your client, John Doe, is being...."

8. Click "Begin Close Out" at the bottom of the screen

   Final Disposition

   | * Disposition: | Not an agency record | ☑ |
   | Letter Template : | A-file referral notice to reques ☑ | |

9. Click on "Assigned Tasks" and then "Pending". On the left side of the screen click "Close Out

   Task"

10. If the requester provides an email, scroll to the bottom of the screen and click "Send" and type

in your FOIA Online Password

    A. If the requester does not provide an email, click on the link that says "Final Disposition

    Letter" and print it to be physically mailed. Then click "Send" at the bottom of FOIA

    Online and type in your password

Document Review Checklist for Conducting Searches

- There are multiple G-639 and G-28 forms, so you may need to search through the documents to

  find the necessary information

- They do not need to provide a G-639 or a G-28 for consent. Consent can be provided on any

  piece of paper, it just needs a declaration statement (stating that we can release records to a

  designated party) and a signature from the subject.

(b)(7)(E)

Searching for Duplicates

    A. Open the (b)(7)(E) and minimize it. You do not need to use it, but you need to have

it open on your computer in order to use the " (b)(7)(E) " program within the (b)(7)(E)

(b)(7)(E)

    B. Open the (b)(7)(E) excel chart you would like to check for duplicates and delete

"Column B" with all of the search information.

    C. Highlight the **NEW** "Column B" which contains the links to the (b)(7)(E) .

1	Foiaonline tracking number	(b)(7)(E) Document ID	(b)(7)(E) D	TECS ID	Crossing Date/Time
2					2012-10-31T00:00:01
3					2012-10-31T00:00:00
4					2012-10-24T00:00:00
5					2012-10-24T00:00:01
6					1996-09-11T00:00:24
7					2014-08-26T15:17:38
8	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	2003-10-31T17:56:00
9					2012-10-22T23:00:01
10					2013-10-20T23:31:17
11					2011-11-05T22:58:41
12					2014-10-19T22:43:00
13					2009-10-20T20:08:35
14					2016-03-18T00:00:00
15					2016-03-25T00:00:01

D. While "Column B" is highlight, click **(b)(7)(E)** That will search "Column B" for duplicate document numbers.

   **Note: If you get an error message after clicking (b)(7)(E), click (b)(7)(E) and move on. It will not cause any issue.

E. Delete all of the lines of data that correspond with the (b)(7)(E) boxes in "Column B" as those are duplicates. After deleting all of the (b)(7)(E), you can go retrieve the remaining documents.

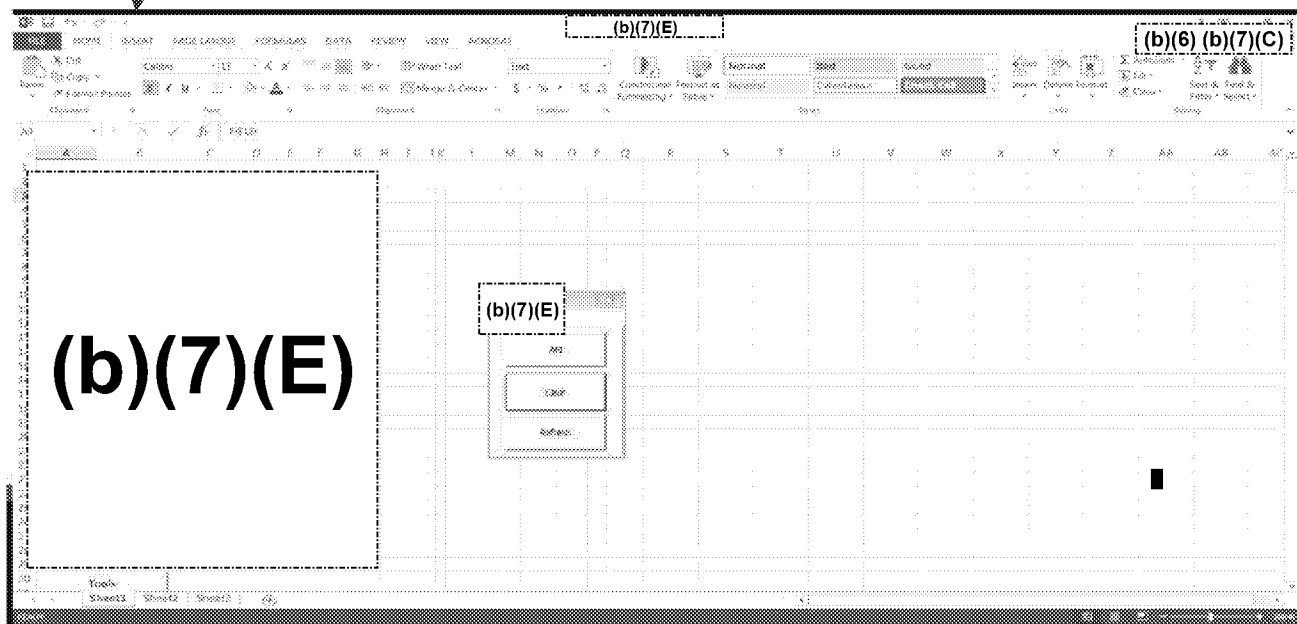| 29				
30				
31				
32	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)
33				
34				
35				

(b)(7)(E)

Using (b)(7)(E) to Create Batch Search Charts

1. To use the (b)(7)(E) input the data from FOIA Online into the corresponding row under the

   information column.

   A. There are some specific requirements for the (b)(7)(E) to run properly

   (b)(7)(E)

2. Once all of these requirements are met, just click the (b)(7)(E) located on the
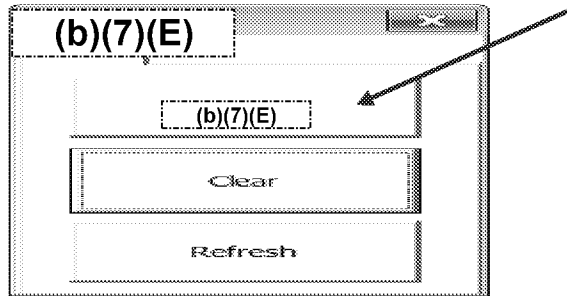
   (b)(7)(E) form ((b)(7)(E)

   (b)(7)(E))

   A. (b)(7)(E)

   (b)(7)(E)

(b)(7)(E)

3. After pressing this button the program will create another excel sheet and input the information

you added to the (b)(7)(E) onto this new excel sheet

A. (b)(7)(E)

(b)(7)(E)
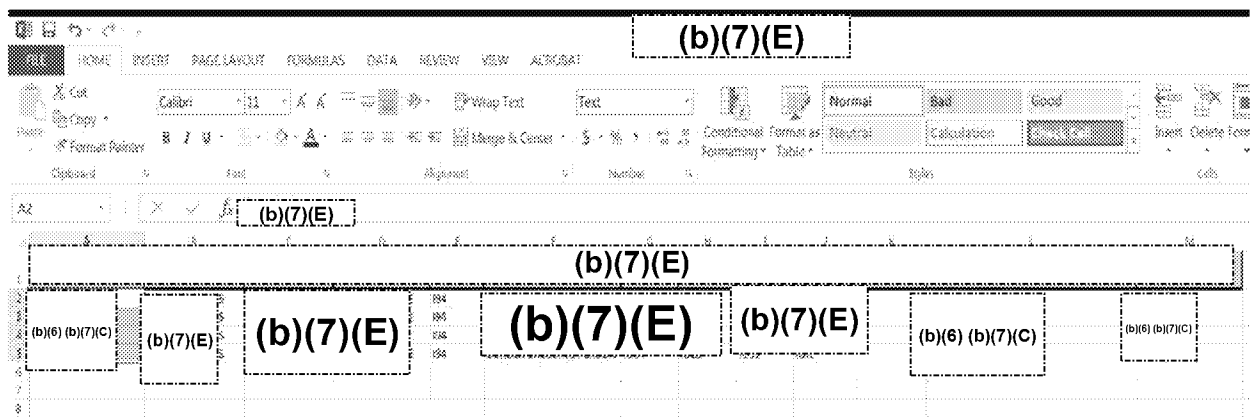
4. **(b)(7)(E)**

5.

A. For entry/exit templates, save it is "*Entry/Exit Transfer*"
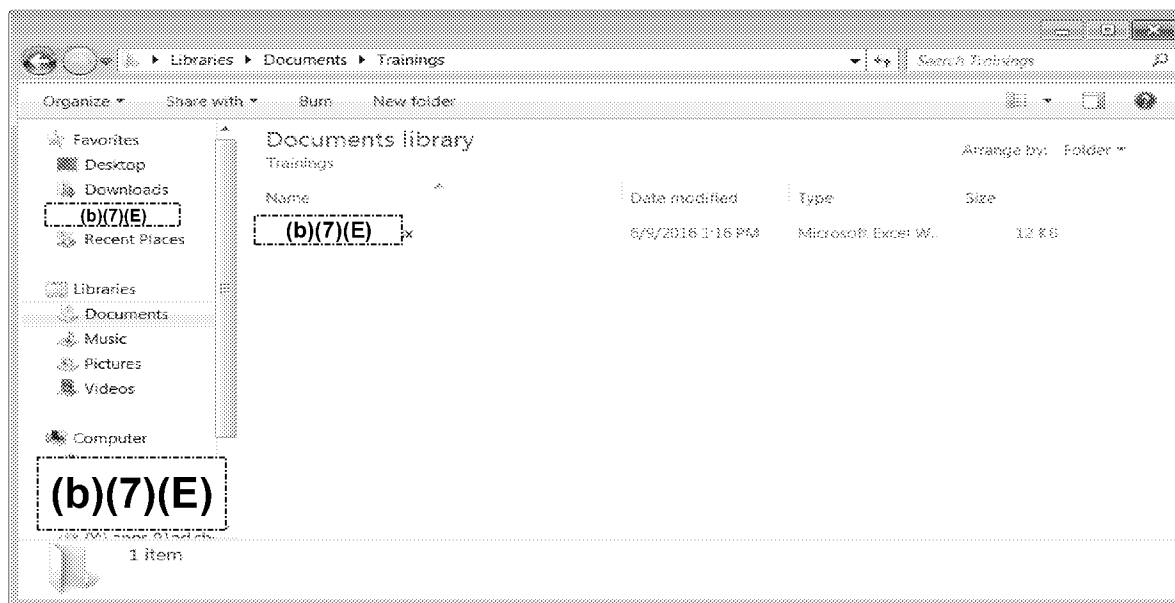
Retrieving Batch Search Results

1. Navigate to the (b)(7)(E) and select the (b)(7)(E) folder.
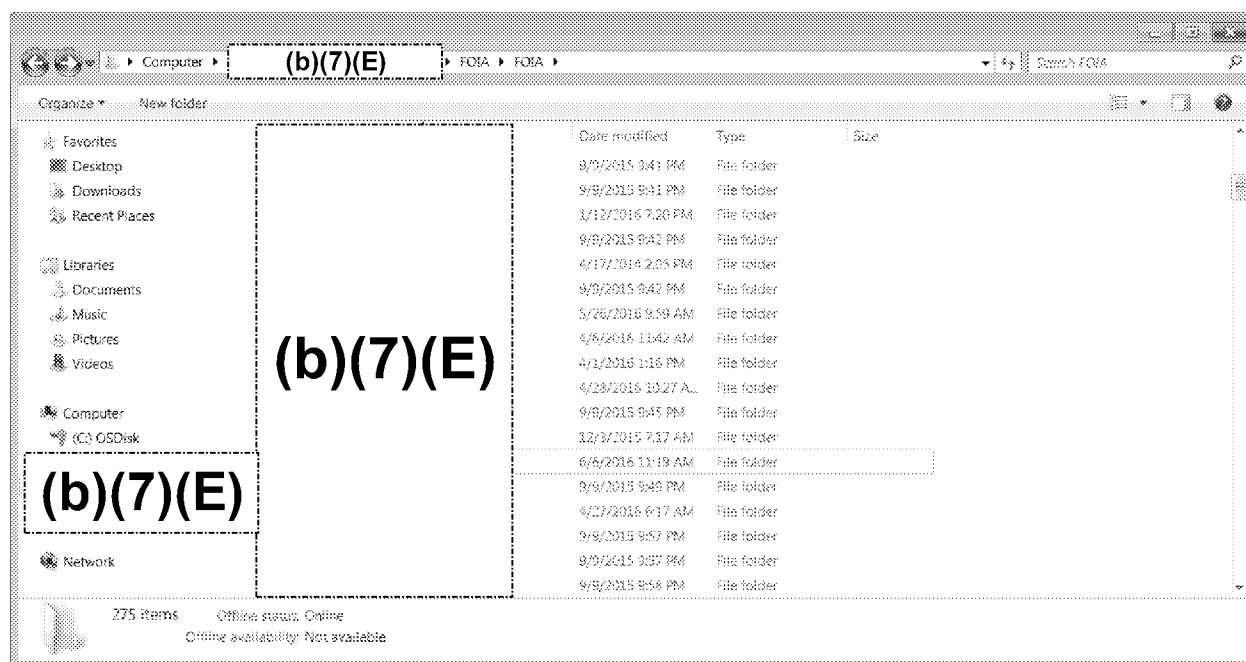
2. Locate your folder (sorted by name) and open it (any date folders that do not say "Completed" need to be worked)
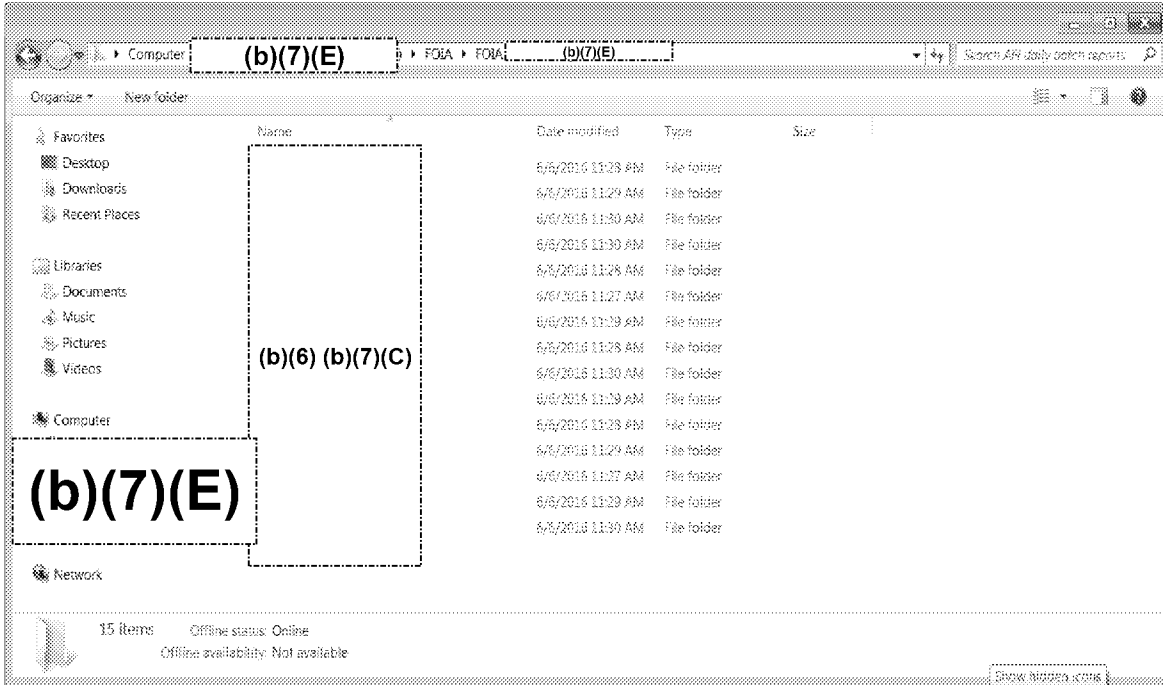
3. Locate the [**(b)(7)(E)**] excel chart within your folder. Open that up and in a separate window, navigate to your Records folder on your desktop.
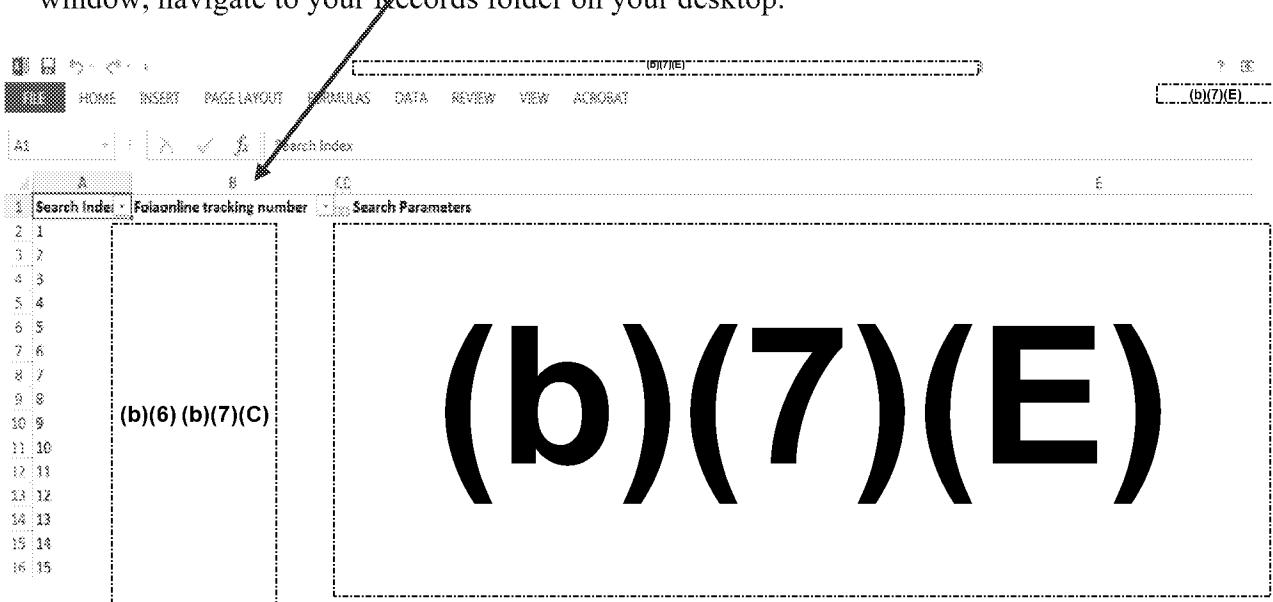
4. For every case you see in the '[(b)(7)(E)]' excel chart, create a file folder in your records folder.

	Name	Date modified	Type	Size
Favorites				
Desktop		6/7/2016 10:48 AM	File folder	
Downloads	(b)(6) (b)(7)(C)	6/7/2016 10:48 AM	File folder	
(b)(7)(E)		6/7/2016 10:49 AM	File folder	
Recent Places				

Organize ▾   Include in library ▾   Share with ▾   Burn   New folder

Records ▸   Search Records

5.

(b)(7)(E)

(b)(7)(E)

HOME   INSERT   PAGE LAYOUT   FORMULAS   DATA   REVIEW   VIEW   ACROBAT

(b)(7)(E)

Count

6.

(b)(7)(E)
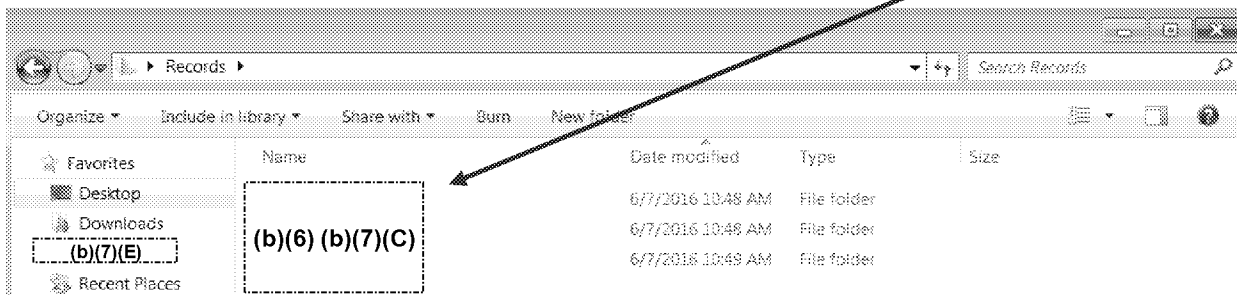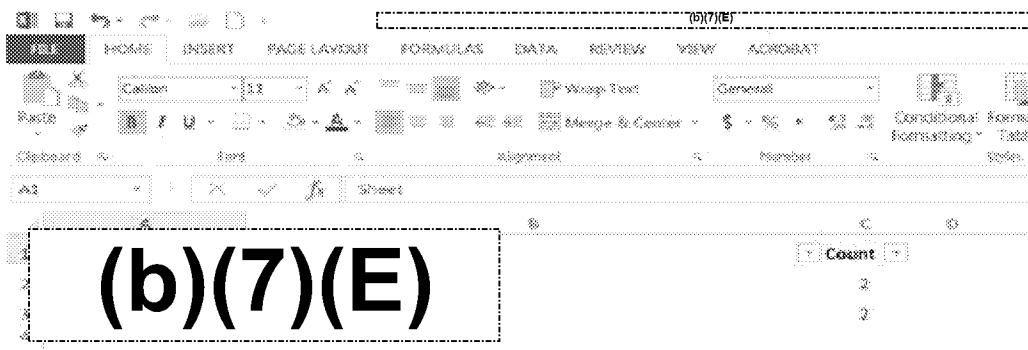
Search Criteria

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

(b)(7)(E)

Table of Contents | A-I004 | B-REMARKS_REMARK

(b)(7)(E)

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

(b)(7)(E)			Last Nam	First Nam	Date of Birth	Ag	Gend	Race	Ethni
(b)(7)(E)	(b)(7)(E)	(b)(7)(E)	(b)(6) (b)(7)(C)		(b)(6) (b)(7)(C)	28	Female	BLACK OR AFRICAN AMERICAN	NOT OF HISPANIC
						28	Female	BLACK OR AFRICAN AMERICAN	NOT OF HISPANIC

Table of Contents | (b)(7)(E) | (b)(7)(E)

7. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

9.

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)
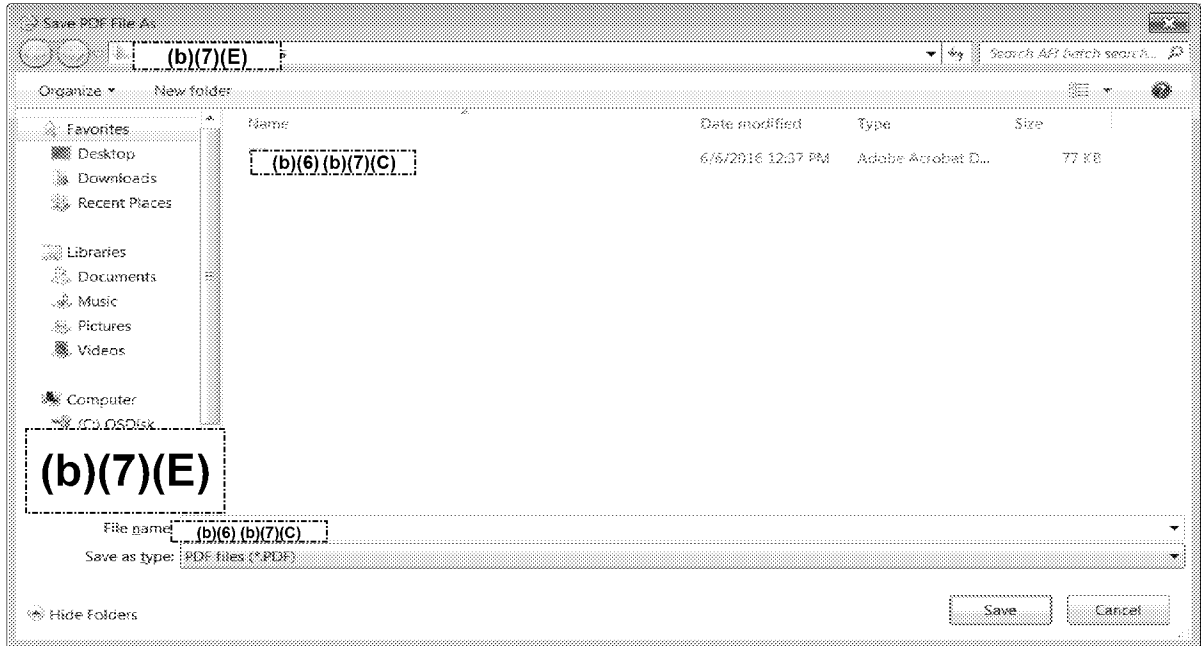
**Note: If you get this prompt, just click cancel

(b)(7)(E)

10.

(b)(7)(E)

(b)(7)(E)

**Note: For the cases that had no responsive records, please see the FAQs on the last page.

11. Then go to FOIA Online, enter the FOIA number from Column A and click on "Upload

Responsive Records". Upload the .pdf to the corresponding case as UU (Unredacted,

Unreleasable) and click "Save Changes".

12. After all records and search results are uploaded into the case file, Click "Make Assignment" and assign the request to organization "TO15"
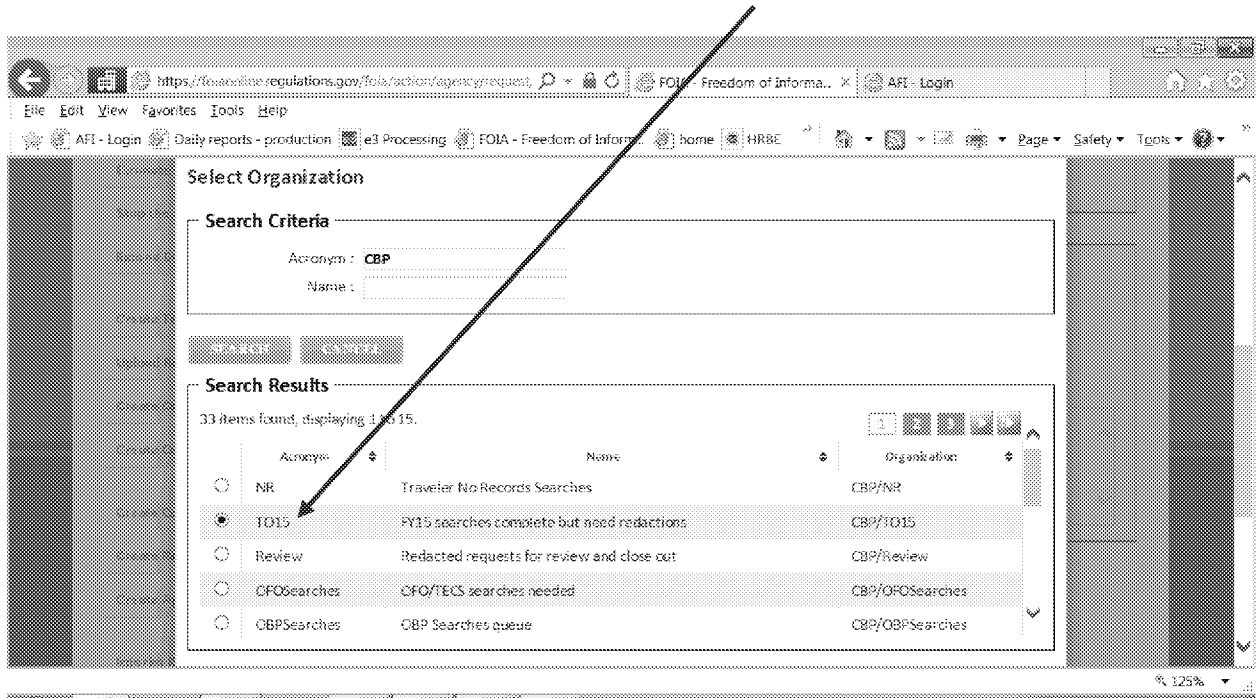
13. Once you complete all uploads, go back to the folder and right click on the one you just completed, find Rename and click it, then type "Completed" after the date/folder name.
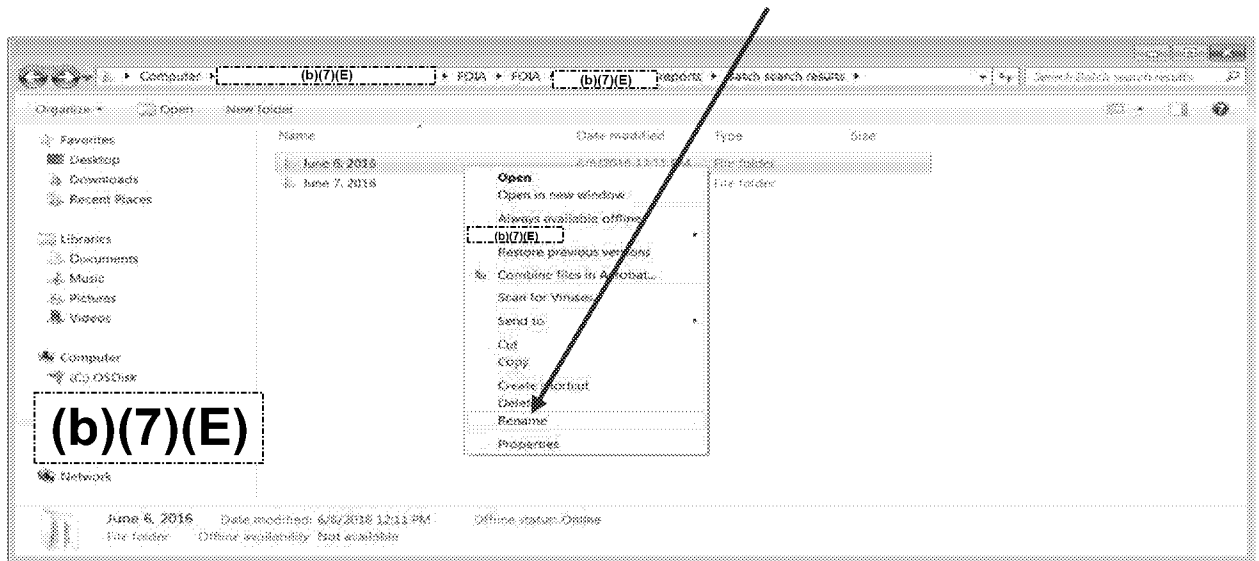
Entry, Exit, and I-94 Searches and Retrievals

1. Open ⌐(b)(7)(E)⌐ from your desktop and minimize it but keep it open. The ⌐(b)(7)(E)⌐

   MUST be open for the (b)(7)(E) PDF (and the ⌐(b)(7)(E)⌐ to work. As long as you leave

   it open, you only need to do this step once.

2. Set your Default printer to ADOBE. Click Start, then "Devices and Printers"
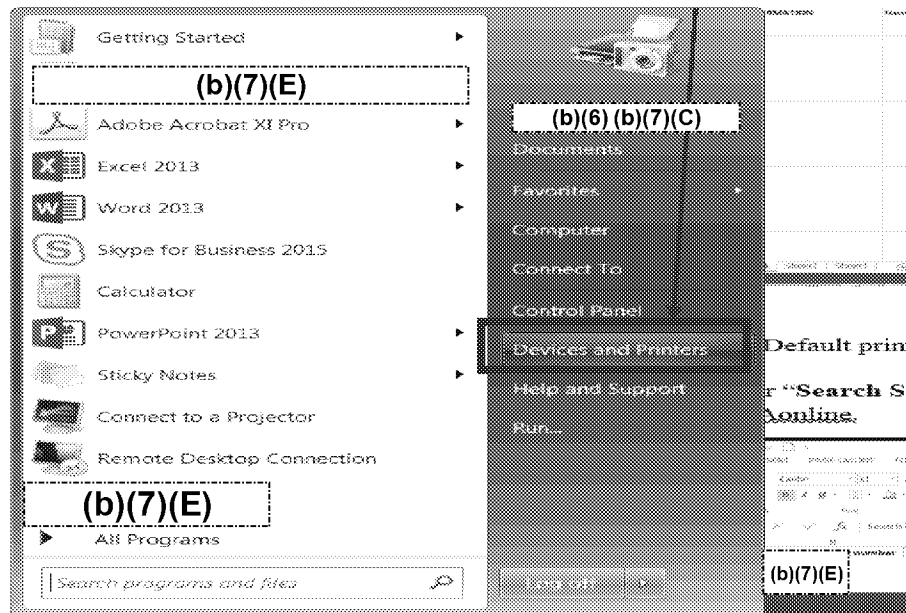
3. Right click on Adobe and then select "Set as Default Printer"
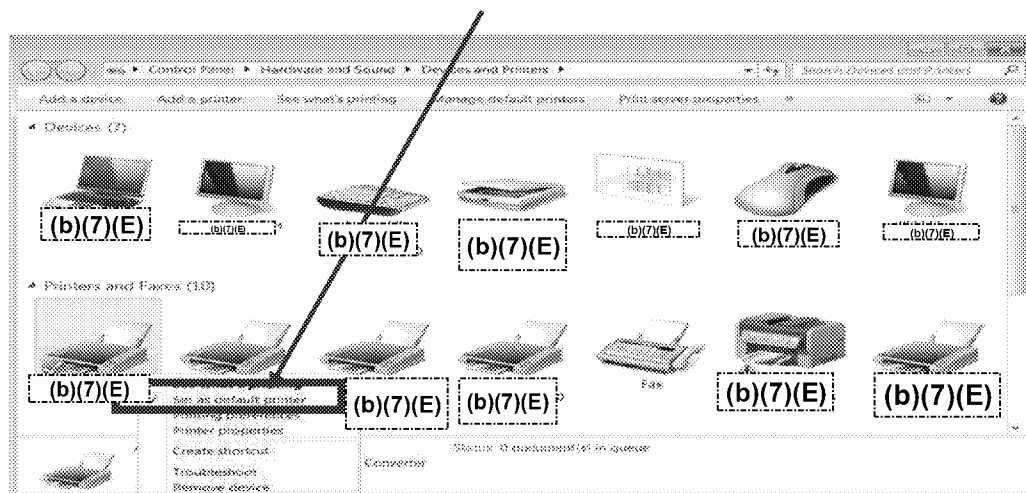
4. Copy and Paste the excel charts from your folder in the ⌐(b)(7)(E)⌐ to a "Records" folder on

   your desktop (Search Summary, ⌐(b)(7)(E)⌐ I-94 charts)

5. Open the "[(b)(7)(E)]" excel chart and identify the first case to work on. Open that case in "FOIA Online" and review the request description. Open the **(b)(7)(E)**, the I-94, or both excel charts (depending on the request description)

Search Index	FOIAonline tracking number	Search Criteria	Match Count	Export Count
1			48	48
2			7	7
3			66	66
4			89	89
5	(b)(6) (b)(7)(C)	**(b)(7)(E)**	129	130
6			129	130
7			177	130
8			129	130

6. With the open **(b)(7)(E)** and I-94 excel charts, select "Sheet A". Click the down arrow of "Column A" and UNCHECK the case you need. Click "Ok" and delete the remaining rows of data. Go Back to the down arrow of "Column A" and reselect the case you unchecked (it should be the only one left).

	Search Criteria	Document ID	PHC ID	(b)(7)(E)	Document I
(b)(7)(E)	**(b)(7)(E)**	**(b)(7)(E)**	(b)(7)(E)	(b)(7)(E)	(b)(7)(E)

7. Run a check for duplicates (***see page 30*)** for instructions on duplicate checks.

8. After you have deleted all of the duplicate, click "[**(b)(7)(E)**]" for I-94 cases). It will organize the data in a way that is easy to review.

	A	B	C	D	E	F	G
	Document I	Last Name	First Name	Middle Nan	Crossing Date/Time	Date of Birth (DoB)	Inbound/Outbound
2					7/16/2015 7:35 PM		Inbound
3					12/16/2015 8:15 PM		Outbound
4	(b)(7)(E)	(b)(6) (b)(7)(C)	(b)(6) (b)(7)(C)		1/5/2014 3:02 AM	(b)(6) (b)(7)(C)	Inbound
5					1/6/2013 3:31 AM		Inbound
6					8/10/2012 9:08 AM		Inbound

(b)(7)(E)

9. From this screen, you will review all data rows to ensure the data is responsive to both the request and the subject of the request. If some rows of data are not, simply delete them.

A. It is helpful to organize "Column E" from "Oldest to Newest". This puts the data in chronological order which is more organized and easier to review.

10. Once you have review everything and have determined that all the remaining data rows are responsive to **BOTH** the request and the subject of the request, click (b)(7)(E)

(b)(7)(E)

A **(b)(7)(E)**

**Note: Save the entry/exit records as 2016-0XXXXX-ee_RC and the I-94 records as 2016-0XXXXX-I94_RC. Save these records into the corresponding case folder in the Records folder on your Desktop

11. Upload the .pdf to the corresponding request and then close the case selecting "Full Grant" for the Disposition and "Full Grant" for the Disposition letter.

Reassigning cases for review:

1. If a case has (b)(7)(E) records, it needs to be redacted. For those cases, upload all .pdfs you created (potentially secondary inspections, entry/exit, and I-94 records) to FOIA Online, along with **ALL** of the excel chart data sources.

    **Note: Attaching all of the excel charts to FOIA Online is important because it will save time if an error is made and will be easier to go back and redo a retrieval of a specific data source if need be.

Frequently Asked Questions for (b)(7)(E) , Entry/Exit & I-94 Searches

1. *What do I do if there were no records located for a specific case?*

    A. If no records were located, upload the " (b)(7)(E) excel chart to those cases and assign the case to the "No Records" queue.

2. *There are multiple sheets in each of the excel charts. Which sheet do I print from?*

(b)(7)(E)

3. *What do I do with the* (b)(7)(E) *" excel program?*

   A. "The (b)(7)(E) " excel program is our new "Order of Events" sheet. We will use this to show all of the search combinations we conducted. You will save the same search summary for all corresponding request numbers on the summary.

4. *What do I do if the process does not start when I hit* (b)(7)(E) *?*

   A. First Check to be sure that your (b)(7)(E) is open

   B. If a does not resolve the problem check to be sure you have the most recent version of (b)(7)(E) saved and ONLY that version

5. *What do I do if the PDF does not generate?*

   A. Check to be sure your default printer is Adobe OR if you recently printed something to an actual printer, click print and select Adobe and then back and (b)(7)(E) again and it should work going forward (unless you print again, then you will need to do the process again)

6. *What do I do if they request both Entry/Exit and I-94 records?*

   A. You would simply complete the above steps twice, once for the Entry/Exit chart and once for the I-94 excel chart.

E3/Enforce Searches

- Enforce/ E3 processing is an application that captures all enforcement actions for Border Patrol agents and CBP officers.

- ENFORCE is used when the requestor is looking for records occurring at the border.

(b)(7)(E)

• Cases in FOIAonline:

- Request Type is <u>Border Apprehension/Encounters</u>

    Searches needed: [(b)(7)(E)]

- Request Type is <u>Travel and Apprehension Records</u>

    Searches needed: [(b)(7)(E)]

Logging into E3 system

Validate assigned site dialogue box:

[(b)(7)(E)]

Once logged into E3

(b)(7)(E)

Search Parameters

For each request search the following:

(b)(7)(E)

[(b)(7)(E)]

[(b)(7)(E)]

If records are found that match the subject, save them as an [(b)(7)(E)] file and upload the

record(s) into FOIAonline case file, utilizing the following steps*

[(b)(7)(E)]

2. Next select Print

3. Then select Print again

4. Once the document opens save it as a pdf using the following naming convention:

> ## (b)(7)(E)

- Repeat those four steps for any query result matches.

Once searches are complete

If **NO RECORDS were found** during Enforce search.

Check request type. If request type is Border Apprehension/Encounters this case is a no records case and should be assigned to the NR (no records queue)

If **RECORDS were found** during Enforce search: 4 options

Option 1: Records found and request type is border apprehension/encounters

1. Assign to the TO15 queue.

   Option 2: Records found and request type is Travel/Apprehension <u>AND</u> (b)(7)(E) records are already uploaded into case file

2. Assign to the TO15 queue

   Option 3: Records found and request type is Travel/Apprehension <u>AND</u> the comment says (b)(7)(E) submitted but it's not uploaded in the case file

3. Assign to the 2015PR queue

   Option 4: If request type is Travel/Apprehension AND there is NO comment and NO (b)(7)(E) records uploaded

4. Assign to OFOSearches queue

**Note: Please add a comment when assigning to the various queues stating what search you have completed (e.g. "E3 records have been searched and uploaded") and what is now needed with for case.

Document Review Checklist Prior to Releasing Records

- If the subject has **NOT** signed for consent, the request is insufficient therefore records should not

  be released

- Make sure you look through all of the documents thoroughly to ensure the information provided

  by (b)(7)(E) and Enforce is accurate

  - Make sure the subject name and birthdate match.

  - Make sure all records match the subject name, birthdate, alias(es), and alien number

- Make sure searches were conducted for Alias(es) and a potential Alien Number

  - Make sure you **THOROUGHLY** read through the attachment or the request to ensure

    you select the correct Request Type

  - Make sure the requester's email address and/or mailing address is on file

    - A phone number will do, but one of the above is preferable

- If it is a first person request, there does not need to be any attachments to the case. The only

information we need would be a description of their request, their full name, and their DOB. All

this can be entered in by them on FOIA Online and does not require an attached document

- Make sure the information on the FOIA Online case cover page is accurate in regards to the

information in the request descriptions (if one is provided). Check for misspellings, mistyped

DOBs, etc.

- If it appears to be a first-party request, expand the requester information and check the email. If it

is an email to a law firm, the case may be insufficient.

(b)(7)(E)

- Potential Types of Personally Identifiable Information (PII) (does not include all types)

  - Names

- Alien Number/Permanent Resident Card Information

- Social Security Number

- Passport Information

Redacting

Please see redacting instructions in separate documents, provided here:

LINK

LINK

How to Process a IA Request

IA (OPR) FOIA Process

1. Confirm that the request for IA (OPR) documents is perfected. The majority of the records requested from OPR are maintained within a system of record requiring the authorization of the subject of the record or proof that they are deceased along with fulfilling the other requirements in DHS' FOIA regulations.

   A. Determine what information is necessary to perfect an IA request.

   - When a requester is seeking their own records, a DOB and perjury statement is necessary.

   - When requests pertain to a deceased individual, proof of death is necessary.

   - When requests are agency-specific and does not pertain to an individual, no supplemental authorization is needed.

   B. Primary records requested from OPR:

   - Background investigations

   - Polygraph reports and/or other polygraph records

   - Reports of Investigation triggered by:

     - Allegations of misconduct;

     - Death of an employee under some circumstances;

     - Significant events that happen, some examples:

       - Shooting of an individual;

       - Vehicle accidents (if there is an allegation of misconduct);

- Deaths of individuals in CBP custody.

C. Below are common words or phrases used for IA requests:

- Unsuitable or Not suitable;

- Unfavorable background investigation;

- Report of Investigation (ROI) or ROI #XXXXXXXXX (examples #201699999, 201099999

- Polygraph or Polygraph Summary Report or Polygraph examination;

- JIC (Joint Intake Center);

- Special Agents;

- BIPI (Background Investigation Personal Interview);

- e-QIP (Electronic Questionnaire for Investigative Purposes);

  - SF-86;

  - SF-85P;

- Background check failed;

2. All requests for IA (OPR) documents should be assigned to the IA queue. The IA POC will assign to the proper OPR division based on the information requested.

A. Personnel Security Division (PSD) – responsible for initiating and adjudicating background investigations on all U.S. Customs and Border Protection (CBP) applicants and employees as well as contractors and consultants seeking employment with CBP. PSD renders suitability and security eligibility determinations and grants/denies/revokes security clearances.

CBP-AP-2023-000315-000053

- Suitability Background Investigations (BI) – all applicants, employees, contractors and consultants have a BI performed and deemed suitable in order to work at CBP.

- Security Clearances – performed on an as-needed-basis. Must be requested by the employee's supervisor with supporting justification for a clearly defined need for the employee to have the security clearance requested.

- Records are maintained by the following means:

  - Integrated Security Management System (ISMS) – web-based case management tool designed to support the lifecycle of Department of Homeland Security personnel security, administrative security, and classified visit management programs. Currently in use.

    (b)(7)(E)

  - Paper – prior to (b)(7)(E) records were maintained in paper form and are now in storage at the National Record Center (NRC).

B. Investigative Operations Division (IOD) – responsible for conducting investigations of alleged criminal and serious, non-criminal misconduct on the part of CBP employees.

- Records are maintained electronically in the following systems:

  - Joint Integrity Case Management System (JICMS) – serves as the primary case management and supervisory support tool for IOD.

  - Records too large to upload into JICMS are maintained in the (b)(7)(E) (b)(7)(E) .

C. Credibility Assessment Division (CAD) – primary mission is to enhance the integrity of the CBP workforce as part of the enhanced Background Investigation process through applicant screening polygraph examinations.

- Records are maintained electronically in the following systems:
  - **(b)(7)(E)** is the current system.
  - (b)(7)(E) is the future system.

3. Once responsive records are located and uploaded into FOIAonline, the request should be assigned to the IA complete queue by POC.

   A. Add any comments into the Comments section that are necessary for review and processing of the records.

   B. Review and apply appropriate redactions.

   - The information that the public/requester is privileged to is determined on a case-by-case basis.

   - Information that needs to be protected is determined on a case-by-case basis.

   - Common redaction codes used are b2, b5 (pre-decisional), b6, b7A (if investigation is still open), b7C, b7D (confidential informant/sources), and b7E.

   C. Other types of records requested are:

   - Statistics - These documents need to be reviewed depending on how they are pulled.

   - Reports of inspections for contracting companies - Only documents so far that also pull in the use of the b4 exemption code regarding business practices of the

companies contracting with CBP to conduct background investigations to include the methods used to protect their systems from being hacked.

- Lists of investigations conducted - These documents are usually restricted to b2, b6, and b7C redaction codes.

4. From the IA complete queue, evaluate and approve records for a final release.

5. Close the request choosing the appropriate Disposition and Final Response Notification.

6. The current IA (OPR) FOIA liaison is **(b)(6) (b)(7)(C)**, Management and Program Analyst.

How to Process a Referral/Consultation Request

FOIA Referral Requests

What happens if you processing a FOIA request, the requester seeking all of their records, however all of their records in **(b)(7)(E)** are under the purview of other federal government agencies?

OR

What happens if you are processing a FOIA request, the requester is seeking all of their records, during the search you find responsive CBP records, but there are other records that are under the purview of other federal government agencies?

These are examples of FOIA requests that we refer to as Referrals. Referrals are FOIA requests that CBP receives and during your search for responsive records:

1. You discover the requester is seeking records that belong to another federal government agencies, such as an "A File" (USCIS maintains all A Files); arrest documents (USICE maintains arrest records, CBP has no authority to arrest citizens only detain them until USICE Agents arrive).

2. You are processing a request of a requester seeking all of their records. You search produces 10 CBP records, 2 USCIS records, and 1 USICE records.

3. You are processing a request with no responsive CBP records but you find records 2 US State Department records and 1 IRS record.

4. You may receive a FOIA request referred to CBP by DHS. Please review all of the documents carefully. DHS is the head agency; they have the authority to refer requests to this office. However, as the head agency they are not held accountable for forwarding the FOIA request to the right component. You must read the documents carefully, DHS routinely forwards a FOIA request to all of the components to cover all bases but the agency with the responsive records are held responsible for processing the request.

In simple terms, referrals are FOIA requests that you are attempting to process but you discover the responsive documents belong to another federal another agency so you forward the request to the appropriate agency; or another federal government agency is processing a FOIA request and discover that CBP has additional records responsive to that FOIA request.

How do you prepare a referral FOIA package?

You must have a copy of the original FOIA request. Our agency referral memo stating: We do not have any records responsive to the request, but the records are under the purview of another government agency, we ask the purview agency to process the request OR while processing the request, we discover additional records responsive to the request that are under the purview of another agency.

A copy of the CBP response letter notifying the requester that the responsive records are under the purview of another federal government agency. **(b)(7)(E)**

If your search produced response records belonging to another federal government agency, provide the other federal government agency with a clean copy of their records.

Freedom of Information Action Consultation Request

When CBP receives a request for a record and maintains that record is CBP's responsibility for responding to the request, the FOIA analyst will be provided with the records. All redacting will be handle the same as with any Non-traveler request. In determining which records are responsive to a request, CBP ordinarily will include only records in its possession as of the date that it begins its search. If any other date is used, CBP shall inform the requester of that date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.

When records originated with CBP processing the request, but contain within them information of interest to another component, agency, or other Federal Government office, CBP FOIA analyst processing the request should typically consult with that other component or agency prior to making a release determination.

On receipt of any request involving classified information, the CBP FOIA Office shall determine whether the information is currently and properly classified and take appropriate action to ensure compliance with part 17 of this title. Whenever a request involves a record containing information that has been classified or may be appropriate for classification by another component or agency under any applicable executive order concerning the classification of records; our FOIA Office shall refer the responsibility for responding to the request regarding

that information to the component or agency that classified the information, or that should consider the information for classification. Whenever our office receive a consultation requests with records that contains information that has been derivatively classified (for example, when it contains information classified by another component or agency), CBP FOIA analyst shall refer the responsibility for responding to that portion of the request to the component or agency that classified the underlying information.

When responding or the timing of responses to consultations and referrals, remember all consultations and referrals received by CBP FOIA Office will be handled according to the date that the FOIA request initially was received by the first component or agency. That date should be discussed with POC that sent the request. Please make sure that the deadline date is in writing and email. Our office may establish agreements with other components or agencies to eliminate the need for consultations or referrals with respect to particular types of records.

How to Process a HR Request

Human Resources Request FOIA Process

1. Reviews the HR request

    A. CBP HR records are not accessible by the FOIA Division, so all records must be requested from another CBP program office or referred for processing. There are four locations where CBP HR records are held. Determine if one of the following CBP HR offices can be identified as the owner of the responsive records based on the initial request:

    - Indianapolis Finance Center (IHC)

    - Minneapolis Hiring Center (MHC)

    - CBP Human Resource Headquarters

    - National Archives

2. Prepare task or assignment for documents to the applicable office via FOIA Online. Requester will seek information on the process of a CBP application and document(s) on vacancy announcements, such as:

    A. Border Patrol Vacancy Announcements with MHC followed by Vacancy Number (MHC-01234) should be assigned to **(b)(6) (b)(7)(C)** in the Minneapolis Hiring Center.

    - BQ List

    - Selection Certificate

    - Interview Notes

    - Interview questions

- POC will locate documents(s) and/or responsive records and forward to the

  FOIA Division for final response.

B. Border Patrol Vacancy Announcements with IHC followed by Vacancy Number

(IHC-01234) should be assigned to (b)(6) (b)(7)(C) in the Indianapolis Hiring Center.

- Contact information (b)(6) (b)(7)(C)

- BQ List

- Selection Certificate

- Interview Notes

- Interview questions

- POC will locate documents(s) and/or responsive records and forward to the

  FOIA Division for final response.

3. Fields to be redacted:

A. Certificates - (b)(6)

- Names and personal information of individuals that did not accept the

  referenced position

- Addresses, phone numbers, SSN of those that accepted

  - References (names, phone #'s, e-mails)

  - Subject name and personal information is NOT redacted.

- Note: Selection Certificate is a certificate created by HRM is sent to the

  selection official for decision. The certificate contains the name, address, phone

  number, email address and the last four number of their social security number

  (SSN).

A. Interviewing Notes

- Interviewing notes are not part of the HRM file. If the requester requests interviewing notes, questions and/or answers, contact the selecting official. (Office that conducted the interview).

- Selecting Official may reply that he has destroyed the notes once he/she made the selection. In that case, there are no responsive records.

- Note: you have to show a good faith effort that you requested interviewing notes from the selecting official.

B. Emails/Other - (b)(2)

- Stored Report ID, Information that might describe what they are looking for so someone could tailor their resume to fit the position

- Interview question details – such as ratings for each question

- SF50 – (for other parties) not part of the hiring package, can be deleted or redacted

- Leave in names of those that accepted and their responses

- Strike through **"For Official Use Only"** on all pages

C. Resumes - (b)(6)

- Redact all dates and time frames, times on service

D. Reference Checks (360's) – (b)(6)

- Name of individual providing reference

- Dates candidate was employed

- Printed name and Signature on bottom

- Check the document for any other names that might be referenced (previous supervisors)

- Can use discretion if something very negative is included

E. Questionnaires – (b)(6)

- Any dates or time in service

- Email address of subject

F. US Border Patrol Dashboard Applicant Review Tool (DART)-(b)(6)

- The names and scores of the requester may be left in as well as the names of the individuals that accepted the position, but **their scores are redacted**. (b)(6)

4. Final Responses

A. Be sure to address what the requester is seeking in your response.

B. Check the comments section of the request for any notes added by (b)(6) (b)(7)(C)

C. Do NOT send responses to gov't e-mails, if that is all the info they have, reach out and get a personal e-mail or address

5. Requester seeking information on SES Positions

A. SES - POC - **(b)(6) (b)(7)(C)**

B. Assign request in FOIA Online to **(b)(6) (b)(7)(C)** ;

C. CBP has shared services with ICE and CIS where CBP advertises the vacancy announcements they do their own SES FOIA request, even if CBP have the document(s). ICE and/or CIS will receive a request for SES positions; they will forward the request to **(b)(6) (b)(7)(C)** who will send the document(s) directly to ICE or CIS to respond directly to the requester. CBP do not process ICE or CIS SES FOIA request even if we have the documents with CBP.

D. Request concerning ICE and CIS SES Announcements, Best Quantified (BQ), and Selection Certificate are referred to ICE or CIS to process the FOIA. ICE/CIS will

request the documents from [(b)(6) (b)(7)(C)] who will pull the document(s) and send them to their ICE or CIS Human Resources or FOIA Division.

Example: Within HRM, there are no CBP regulatory requirements or rules regarding the creation or maintenance of placement factors, various scoring measures, or interview notes regarding prospective employees. When an applicant is interviewed any notes taken by interviewing/reviewing agency personnel are for their personal use and such preliminary, non-employee information is not subsequently integrated into CBP/Human Resources Management's record system(s) or otherwise maintained in the successful applicant's personnel folder that is subsequently established after the successful candidate accepts an offer of "CBP employment. Alternatively, there are no agency records pertaining to this aspect of your information request.

E. Position Descriptions

- Position Descriptions are available on the OPM internet, www.opm.govand CBP Position Descriptions are on the CBP intranet. Position Descriptions are released and the signature is redacted. If the signature is the signature of someone acting, then their name and signature is redacted.

F. Employee Personnel File

- When responsive records are held at CBP Human Resource Center or it is a payroll/ time and attendance request for Indianapolis Finance Center, the Processor emails the request to the external office to request the responsive records. The Processor drafts and sends an acknowledgment letter to the Requester. However, OPF personnel file information, the requester is sent a letter stating that they can access the information via the web portal or

contacting eOPF Help Desk at eopf_hd@telesishq.com or call 1-866-275-8518.
For medical, they must contact Human Resource Management's Medical
Fitness Branch by e-mail at FITNESSFORDUTY@cbp.dhs.gov or through its
secured electronic fax: [_____(b)(7)(E)_____]

G. National Archives:

- If responsive records are held in the National Archives, the Processor sends an
  acknowledgement letter to requester and determines the records to be pulled.
  The Processor will call or email the National Archives to request specific
  records.

- Employees that separated from CBP one year or more, their OPF is located at
  the Archive National Records Center (NRC). The requester can write directly to
  the following address and request their OPF.

  Archive National Records Center

  III Winnebago Street

  St. Louis, MO 63118

  (314) 801-9250

- Update and make notes to the case file stating that the request is out for
  documents, and that the acknowledgement letter has been sent.

- The case is now in a holding pattern until we receive a response from the
  contacts we have tasked. If all contacts respond that they have no records, then
  a no records letter is generated and Final Actions are performed, and the case is
  closed. If the contact responds with records, I move on to the next step.

- Once documents are received back via mail or electronic

- Evaluate and redact records. When the records are redacted and finalized, the final response letter is generated with redactions cited.

- Final redacted documents are uploaded into FOIA Online. Letter and e-mail correspondence are also uploaded into FOIA Online.

- When the final response has been mailed out, Final Actions and Closing of case is performed in FOIA Online.

U.S. CUSTOMS AND BORDER PROTECTION DIRECTIVE

CBP DIRECTIVE NO. 2120-009B **DATE:** June 17, 2015
ORIGINATING OFFICE: OC-PDO
REVIEW DATE: June 2018

SUBJECT: FREEDOM OF INFORMATION ACT COMPLIANCE REQUIREMENTS

1.   PURPOSE. This Management Directive establishes the procedures and designates the duties and responsibilities required to ensure that all U.S. Customs and Border Protection (CBP) Offices and employees fully comply with the Freedom of Information Act (FOIA).

2.   SCOPE. This Management Directive applies to all CBP offices, programs, and employees.

3.   POLICY. It is the policy of CBP to fully implement the FOIA in a uniform and consistent manner, and to provide the maximum allowable disclosure of agency records upon request from individuals or permissible organization and through discretionary posting on CBP's Internet based FOIA Reading Room.

4.   AUTHORITIES/REFERENCES

4.1   The Freedom of Information Act, as amended (5 U.S.C. 552).

4.2   Paperwork Reduction Act of 1995, Pub. L. No. 104-13.

4.3   Department of Justice Fee Waiver Policy Guidance, dated April 2, 1987.

4.4   Executive Order (E.O.) 12600, "Pre-disclosure Notification Procedures for Confidential Commercial Information," dated June 23, 1987.

4.5   E.O. 13526, "Classified National Security Information," dated December 29, 2009.

4.6   Freedom of Information Reform Act of 1986; Uniform Freedom of Information Act Fee Schedule and Guidelines; 52 Federal Register 10012, dated March 27, 1987.

4.7   President's Memorandum for Heads of Departments and Agencies, subject: The Freedom of Information Act, dated October 4, 1993.

4.8   Attorney General's Memorandum on the 1986 Amendments to the Freedom of Information Act. (December 1987)

4.9   President's Memorandum for Heads of Executive Departments and Agencies Regarding the FOIA, dated January 21, 2009.

4.10   White House Memorandum on Safeguarding Information Regarding Weapons of Mass Destruction and Other Sensitive Documents Related to Homeland Security, dated March 19, 2002.

4.11   Department of Homeland Security Management Directive Number 0460.1, Freedom of Information Act Compliance, March 1, 2003.

4.12   Department of Homeland Security Management Directive Number 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information, January 6, 2005.

5.   RESPONSIBILITIES

5.1.   Executive Director, Privacy and Diversity Office (PDO). The Executive Director, PDO shall:

5.1.1   Establish the policies, procedures, internal controls and performance measures necessary to ensure that CBP fully implements and complies with the FOIA and all applicable policies.

5.1.2   Ensure all CBP FOIA Reports are completed and submitted to the DHS Disclosure Officer for inclusion into the Department of Homeland Security's Annual FOIA Report to the Attorney General, and for all other reporting purposes, as required.

5.2   Assistant Commissioners, Chief, Office of Border Patrol, and Independent Office Directors. The Assistant Commissioners, Chief, Office of Border Patrol, and Independent Office Directors shall:

5.2.1   Designate a responsible staff member, point of contact, to receive notice of receipt of a FOIA request from an individual or organization.

5.2.2   Designate responsible staff members, FOIA researchers, to conduct thorough and timely document/record searches, enter the result of all searches into CBP automated FOIA tracking system - FOIAonline within prescribed time frames.

5.2.3   Ensure that all document/record searches are conducted in accordance with CBP's established policies and procedures.

5.2.4   If responsive documents/records are found, attach the responsive document(s)/record(s) to **FOIAonline**, or as prescribed by the FOIA Division.

5.2.5   Confer with CBP's FOIA Division before disposing of any records/documents posted to the FOIAonline or CBP's FOIA Reading Room.

5.2.6   Upon notice from the FOIA Appeals, Policy and Litigation Branch of receipt of a FOIA appeal, all Assistant Commissioners, Chief of the Office of Border Patrol and

Independent Office heads are responsible for designating a responsible staff member to assist in the review and processing of the appeal, which may include, but not limited to conducting new searches, explaining existing record systems and providing subject matter expertise and guidance regarding the sensitivity of any records.

5.2 Assistant Commissioner for the Office of Information Technology shall:

5.3.1 Ensure a thorough search for all responsive records/documents that are created pursuant to his or her duties as the CBP Chief Information Technology Officer and all other assigned duties.

5.3.1.1 Provide technical assistance as necessary to CBP's FOIA web site, and other systems utilized by CBP to support FOIA, through an interagency agreement or memorandum of understanding.

5.3.1.2 Establish and maintain an index of all major information systems and a description of major information and record locator systems utilized by CBP.

5.3.1.3 Ensure the availability of a CBP-wide, cost-effective, state-of-the-art technical solution for the electronic redaction of documents.

5.3.1.4 Provide information and technology guidance to CBP's FOIA Officer, web masters, and records management officers regarding information posted in the CBP FOIA Reading Room.

6. **CBP'S FOIA Officer.** The CBP FOIA Officer shall:

6.1 Provide day-to-day leadership, management and oversight for CBP's FOIA program and FOIA staff.

6.2 Establish internal procedures and controls consistent with the Department of Homeland Security (DHS) Management Directives, and all applicable laws and regulations to ensure the effectiveness of CBP's FOIA program.

6.3 Ensure that all CBP employees who are responsible for any phase of FOIA processing are knowledgeable about the provisions and requirements of the FOIA.

6.4 Ensure that all CBP employees responsible for conducting record searches pursuant to the FOIA receive the training necessary to locate and retrieve CBP records/documents that are subject to the FOIA.

6.5 Ensure that all mandatory FOIA compliance data is submitted to the DHS Disclosure Officer for the DHS Annual FOIA Report to the Attorney General and all other reporting purposes as required.

3

6.6   Ensure that all records subject to section (a)(2) of the FOIA, which have been created on or after November 1, 1996, are posted to the CBP FOIA Reading Room.

6.7   Determine, in consultation with the appropriate FOIA liaisons, which records/documents in response to FOIA requests have become, or are likely to become, the subject of repeated requests and ensure these records/documents are posted in the CBP FOIA Reading Room.

6.8   Ensure that reasonable efforts are made to maintain records/documents in forms or formats that are reproducible for purposes of the FOIA.

6.9   Ensure consistency and completeness of a CBP response, including whether to grant or deny requests for access to records/documents or fee waivers, and a requester's category for fee purposes.

6.10   Notify the requester(s) of determinations made regarding the request.

6.11   Determine costs incurred by CBP to process the request and determine if fees will be charged to the requester.

6.12   Ensure that requests are processed in accordance with all applicable disclosure requirements.

6.13   Compile and provide data for the Annual FOIA Report.

6.14   Provide technical assistance to CBP FOIA staff and AC offices regarding the posting of records/documents to the CBP FOIA Reading Room, and complying with CBP procedures for maintaining and posting these records.

6.15   Retrieve records retired to the Federal Records Center as required in processing a request.

6.16   Track and ensure that all record/document searches assigned to CBP Offices are completed and attached/posted to the automated FOIA request tracking system in a timely manner.

7.   CBP's FOIA Appeals, Policy and Litigation Branch: The CBP FOIA Appeals, Policy & Litigation Branch is responsible for the following:

7.1   Providing policy guidance, advice and assistance on the disclosure of information under the FOIA.

7.2   Processing all FOIA appeals.

7.3   Assisting the Office of Chief Counsel in their representation of the agency in FOIA litigation involving matters which were the subject of FOIA appeals.

7.4 Providing training, as necessary, to CBP personnel about their responsibilities under the FOIA.

7.5 Compiling and providing appeals data for the Annual FOIA Report.

7.6 Upon receipt of an administrative appeal, either affirm, reverse, modify or remand adverse determinations or denials of requests.

8. Employees. All CBP employees are responsible:

8.1 If applicable, perform their assigned FOIA research duties as trained and in a timely and professional manner.

8.2 Conduct thorough and complete searches for responsive records/documents as assigned and within the time frames established by CBP's FOIA Division.

8.3 Provide appropriate recommendations regarding proposed releases and applying required redactions to responsive records/documents as assigned and within the time frames established by CBP's FOIA Division.

8.4 Comply with DHS and CBP policies regarding the identification and safeguarding of sensitive but unclassified (SBU) information.

9. MEASUREMENT. The effectiveness of this program will be measured by performance standards established by the Executive Director, PDO.

10. NO PRIVATE RIGHTS CREATED. This document is for internal CBP use only, and does not create or confer any rights, privileges, or benefits for any person or entity. United States v. Caceres, 440 U.S. 741 (1979).

R. Gil Kerlikowske
Commissioner
U.S. Customs and Border Protection

U.S. CUSTOMS AND BORDER PROTECTION

DIRECTIVE NUMBER:

5430-001

DIRECTIVE TITLE:

Public Release of CBP Directives and Policy Directorate Memorandums

EFFECTIVE DATE:

9 May 2022

U.S. Customs and Border Protection

U.S. Customs and Border Protection
Public Release of CBP Directives and Policy Directorate Memorandums

1.   PURPOSE. This directive mandates that U.S. Customs and Border Protection (CBP) Directives requiring the Commissioner's signature and CBP Policy Memorandums issued by the Office of the Commissioner, Policy Directorate (PD Memos) be released publicly unless they contain information that should not and/or cannot be released for personnel safety, privacy, or legal reasons.

2.   BACKGROUND. Prior to this directive's approval, CBP infrequently and inconsistently published policy documents. This resulted in an increasing number of Freedom of Information Act (FOIA) requests and letters from Congress, state and local governments, and nongovernmental organizations seeking to obtain copies of CBP policy documents. In some instances, it also contributed to public misunderstanding about whether CBP was adhering to its own policies and standards. Maintaining the public's trust is vital to CBP's mission and this directive is part of a broader accountability and transparency effort to maintain and foster that trust. The public release of CBP Directives and PD Memos, where appropriate, is consistent with the best practices and transparency recommendations from a variety of outside organizations and independent assessments. The public release of CBP Directives and PD Memos also aligns CBP with similar transparency initiatives underway across the Department of Homeland Security (DHS) and throughout the U.S. Government.

CBP understands and acknowledges the importance of embracing a culture of transparency and strives to carry out its homeland security and law enforcement mission with the highest standards of honor, integrity, and professionalism. This directive prioritizes and promotes transparency through the consistent public release of CBP Directives and PD Memos. This directive also establishes and implements safeguards to ensure FOIA Exempted Information is appropriately redacted from documents before public release to ensure the safety and privacy of CBP personnel. As set forth below, this directive describes the process for publicly releasing CBP Directives and PD Memos and, when necessary, the procedures for requesting and applying redactions prior to public release.

3.   SCOPE. This policy applies only to CBP Directives and PD Memos submitted for CBP Commissioner approval and signature on and/or after the effective date of this directive. This directive does not apply to CBP Intelligence Enterprise Directives signed by the CBP Key Intelligence Official. This directive is not intended to impact, alter, or constrain the execution or implementation of any individual CBP office's internal, administrative, and/or field policies, signed at the Executive Assistant Commissioner-level or below.

4.   POLICY.

4.1   All CBP Directives and PD Memos are required to undergo a specific series of internal review and clearance processes prior to public release and/or placement on an authorized, publicly accessible Government website.

4.2   CBP will take available and appropriate actions to embrace a culture of transparency, strengthen community engagement, increase its openness with the public as well as the media, and enhance Governmental accountability through the public release of CBP Directives and PD Memos.

4.3   To ensure the full range of operational, legal, technical, procedural, and transparency issues associated with a policy have been appropriately considered, all CBP Directives and PD Memos (as defined below) must follow the standardized approach outlined in this directive.

4.4   If it is determined that a CBP Directive or PD Memo contains FOIA Exempted Information that should not and/or cannot be publicly released, this directive sets the clear expectation that every effort will be made to release the document in a redacted form rather than withholding release of the document in full.

5.   AUTHORITIES/REFERENCES.

5.1   U.S. Code (U.S.C.), Title 5 § 552, *The Freedom of Information Act*, as amended.

5.2   6 U.S.C. § 211, *Establishment of U.S. Customs and Border Protection; Commissioner, Deputy Commissioner, and Operational Offices*.

5.3   *Trade Facilitation and Trade Enforcement Act of 2015*, as amended.

5.4   Presidential Memorandum M-12-18, *Managing Government Records*, dated November 2011.

5.5   Presidential Memorandum M-19-21, *Transition to Electronic Records*, dated June 28, 2019.

5.6   DHS Delegation No. 0160.1, *Delegation to Organizational Elements*, dated March 3, 2004.

5.7   DHS Delegation No. 07010.3 Revision 03.1, *Delegation of Authority to the Commissioner of U.S. Customs and Border Protection*, dated May 11, 2006 (Revision dated November 25, 2019).

5.8   DHS Directive No. 11042.1, *Safeguarding Sensitive But Unclassified (For Official Use Only) Information*, dated January 6, 2005.

5.9   DHS Directive No. 112-01 Revision 01, *Directives System*, dated September 26, 2011.

5.10   DHS Instruction No. 112-01-001-01 Revision 02.1, *DHS Directives Instruction Manual*, dated November 30, 2015.

5.11   CBP Directive No. 4320-033, *Domestic Sharing of CBP Information for Law Enforcement and Security Purposes*, dated May 24, 2021.

5.12   CBP Handbook No. HB-1400-04A, *Information Security Handbook*, dated July 2016.

5.13   CBP Policy Memorandum, *Integrating as One Agency: CBP Office Roles, Responsibilities, and Coordination*, dated September 29, 2008.

6.   DEFINITIONS.

6.1   CBP Directive and PD Memo Public Release: The public release of CBP Directives and PD Memos (as defined in this directive) to external, public-facing information platforms (e.g., CBP.gov).

6.2   CBP Directive: A policy document that establishes guidelines, responsibilities, and/or procedures requiring the Commissioner's approval and signature. CBP Directives broadly articulate and build on CBP mission-sets and priorities by formalizing programmatic purposes, authorities, responsibilities, and procedures. CBP Directives are used to officially guide, instruct, govern, and/or communicate CBP-wide policy and procedures that enable effective operations across CBP.

6.3   FOIA Exempted Information: Information falling in the categories outlined in sub-sections 6.3.1-6.3.9 below in which CBP reasonably foresees that disclosure would harm an interest protected by a FOIA exemption or where disclosure is prohibited by law.

    6.3.1   Classified Information - FOIA Exemption (b)(1): Information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

    6.3.2   Personnel Rules and Practices - FOIA Exemption (b)(2): Information related solely to the internal personnel rules and practices of an agency.

    6.3.3   Information Exempted by Statute - FOIA Exemption (b)(3): Information specifically exempted from disclosure by statute if that statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or establishes particular criteria for withholding or refers to particular types of matters to be withheld; and if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to 5 U.S.C. § 552(b)(3).

    6.3.4   Trade Secrets and Confidential Commercial Information - FOIA Exemption (b)(4): Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

    6.3.5   Privileged Information - FOIA Exemption (b)(5): Inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency, provided the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.

    6.3.6   Personal Information - FOIA Exemption (b)(6): Personnel, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

    6.3.7   Certain Law Enforcement Information - FOIA Exemption (b)(7): Records or information compiled for law enforcement purposes that (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of the right to a fair trial or impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, and/or information furnished by a confidential source; (E) would disclose techniques[1] and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure reasonably risked circumvention of the law; or (F) could reasonably be expected to endanger the life or physical safety of any individual.

---

[1] A "technique" is defined as the body of specific methods and specialized procedures utilized to conduct investigations, prosecutions, audits, or law enforcement operations; generally unknown to the public.

6.3.8   Information About Financial Institutions - FOIA Exemption (b)(8): Information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

6.3.9   Information About Wells - FOIA Exemption (b)(9): Geological or geophysical information and data, including maps, concerning wells.

6.4   Office of the Commissioner-Policy Directorate Memorandums (PD Memos): A CBP policy statement that is drafted by PD and approved and signed by the Commissioner. PD Memos facilitate the effective and timely communication of Commissioner-issued priorities, mission objectives, and CBP-wide policy updates to CBP offices and personnel.

7.   RESPONSIBILITIES.

7.1   CBP Commissioner.

7.1.1   Serves as the final review and approval authority for all CBP Directives and PD Memos.

7.1.2   Retains final, discretionary authority over all decisions relating to the proactive public release of CBP Directives and PD Memos and/or the degree to which those documents are (or are not) redacted, to the extent permitted by law.

7.2   Office of the Commissioner, Policy Directorate.

7.2.1   Oversees, on behalf of the Commissioner, the development and implementation of CBP Directives and PD Memos, and the assignment of policy classification numbers to all documents signed by the Commissioner.

7.2.2   Participates in group meetings with CBP's Office of Chief Counsel (OCC), Office of Professional Responsibility (OPR), Privacy and Diversity Office-FOIA Division (PDO-FOIA), and authoring office(s) to collaboratively review and reach a consensus (prior to the Commissioner's signature) regarding any proposed redactions to the content of a CBP Directive or PD Memo or requests to designate a document as exempt from public release.

7.3   CBP, Office of the Executive Secretariat (OES).

7.3.1   Reviews CBP Directive and PD Memo approval packages prior to the Commissioner's signature and ensures that the CBP Directive or PD Memo have been vetted through the appropriate public release clearance process and that the Commissioner's cover memorandum contains the required notation (outlined in Section 8 below) requesting that the policy document be cleared for public release in its entirety, released with redactions, or exempted from release.

7.3.2   Routes CBP Directives and PD Memos that are slated for full or redacted public release to the Publication and Branding Review Board (PBRB) for pre-public release clerical editing, branding review, and clearance prior to receiving the Commissioner's signature.

7.3.3   Coordinates with authoring office(s) to ensure the final version of CBP Directives and PD Memos receive clearance from CBP's Section 508 Compliance Team after receiving the Commissioner's signature.

7.3.4   Routes CBP Directives and PD Memos that have received the Commissioner's signature and clearance for full or redacted public release and undergone 508 Compliance verification to the Office of Public Affairs (OPA)-Digital Engagement Division (DED) and PDO-FOIA for eventual upload onto CBP.gov.

7.3.5   Ensures OPA is included on the distribution list for all CBP Directives and PD Memos slated for full or partial public release.

7.4   <u>CBP, Office of Chief Counsel.</u>

7.4.1   Reviews draft CBP Directives and PD Memos for legal sufficiency and advises authoring office(s) on legal questions related to information disclosures.

7.4.2   Participates in meetings with OPR, PD, PDO-FOIA, and authoring office(s) to provide legal advice to those offices as they collaboratively review and reach a consensus (prior to the Commissioner's review and signature) regarding any proposed redactions to the content of a CBP Directive or PD Memo or requests to designate a document as exempt from public release.

7.5   <u>CBP, Office of Information and Technology (OIT).</u>

7.5.1   Oversees the implementation of CBP's technology and information accessibility accommodations (508 Compliance) as required by Sections 501, 504, and 508 of the Rehabilitation Act of 1973, as amended.

7.5.2   Coordinates with PD to ensure the five most recently approved CBP Directives or PD Memos are posted on CBP's SharePoint homepage.

7.6   <u>OPR, Security Management Division.</u>

7.6.1   Develops, implements, and monitors policies and procedures regarding the proper safeguarding, handling, and transmission of Classified National Security Information and Sensitive But Unclassified information.

7.6.2   Provides guidance and training to CBP personnel on the implementation/management of Information Security policies and programs including any/all information designated as: For Official Use Only, Law Enforcement Sensitive, and Sensitive Security Information.

7.6.3   Participates in group meetings with OCC, PD, PDO-FOIA, and authoring office(s) to collaboratively review and reach a consensus (prior to the Commissioner's review and signature) regarding any proposed redactions to the content of a CBP Directive or PD Memo or requests to designate a document as exempt from public release.

7.7   <u>CBP, Office of Public Affairs.</u>

7.7.1   Ensures all CBP Directives and PD Memos slated for public release receive appropriate clerical editing, branding incorporation, and are assigned a CBP Publication Number from OPA-PBRB prior to the Commissioner's final review and signature.

7.7.2   Ensures all CBP Directives and PD Memos that have been cleared for public release during the preceding fiscal quarter are uploaded by OPA-DED onto CBP.gov's "Accountability and Transparency" page (or its equivalent successor) during the last week of the fiscal quarter.

7.7.3   Determines whether any press releases or policy summaries should accompany the quarterly release of CBP Directives and PD Memos and, if necessary, ensures OPA's Media Division develops those press releases and/or policy summaries in coordination with PD.

7.8   PDO, Freedom of Information Act Division.

7.8.1   Coordinates, when necessary, with relevant CBP offices to assess and identify specific CBP Directives and PD Memos that are, or are likely to become, the subject of repeated FOIA requests and works to ensure those documents (unless exempt from publication) are uploaded onto CBP.gov's "FOIA Reading Room" webpage (or its equivalent successor) in accordance with this directive.

7.8.2   Participates in group meetings with OCC, OPR, PD, and authoring office(s) to collaboratively review and reach a consensus (prior to the Commissioner's review and signature) regarding any proposed redactions to the content of a CBP Directive or PD Memo or requests to designate a document as exempt from public release.

7.8.3   Redacts and records information contained in CBP Directives and PD Memos once redactions have been agreed upon and indicates the applicable FOIA exemption(s) in the record where the redaction was applied.

7.8.4   Ensures CBP Directives and PD Memos that have been signed by the Commissioner and cleared for public release receive appropriate keyword tagging to ensure optimal accessibility.

7.9   All CBP Offices, Executive Leadership.

7.9.1   Ensure all CBP Directives sponsored or authored by their office adhere to the procedures and procedures outlined in this directive and direct the regular review, revision, or cancellation of their office's directives, as appropriate, to ensure CBP-wide policy consistency.

7.9.2   Coordinate with CBP offices who are the owners of any draft CBP Directive content being submitted for public release to ensure (once the draft content is finalized) that there are no public release concerns and/or that any exempt information is redacted appropriately.

8.   PROCEDURES.

8.1   All CBP Directives and PD Memos submitted for the Commissioner's review and signature on and/or after the effective date of this directive must be packaged and routed for formal review, signature, and public release in accordance with one of the three clearance processes outlined below.

8.2   Default Process - CBP Directives and PD Memos with No Identified Public Release Concerns.

8.2.1   If, after a draft CBP Directive or PD Memo has completed all formal review and feedback stages, the authoring office(s) identify no FOIA Exempted Information concerns in the document, the draft CBP Directive or PD Memo shall fall within this clearance process.

8.2.2   It is expected that the majority of CBP Directives and PD Memos submitted for the Commissioner's signature will fall into this clearance process.

8.2.3   Authoring office(s) must coordinate with OES to ensure CBP Directives and PD Memos complete the PBRB's pre-public release clerical editing, branding review, and clearance process prior to receiving the Commissioner's signature.

8.2.4   Authoring office(s) must formally record all concurrences using CBP's standard Blue-Sheet routing and clearance process and record (in the Blue-Sheet's "Office Comments" section) that all interested parties have no public release concerns.

8.2.5   Authoring office(s) who designate a CBP Directive fit for public release in its entirety may submit the document approval package for the Commissioner's signature via traditional routing procedures and must explicitly note in the Commissioner's cover memorandum that "all relevant CBP offices have been consulted on the final content of the Directive and no concerns were raised regarding public release of the Directive in its entirety."

8.2.6   Unless an objection to public release is specifically noted by the Commissioner, once a document approval package containing the language above receives the Commissioner's signature, the CBP Directive or PD Memo is considered cleared for public release once the document has undergone a final accessibility review from CBP's 508 Compliance Team.

8.2.7   OES will coordinate with authoring office(s) to ensure all CBP Directives and PD Memos that receive the Commissioner's signature and clearance for public release are routed for review and approved by CBP's 508 Compliance Team.

8.2.8   OES will route all signed CBP Directives and PD Memos that have been cleared for public release by the Commissioner and completed 508 Compliance verification to OPA-DED and PDO-FOIA for eventual upload onto CBP.gov.

8.2.9   During the last week of each fiscal quarter, OPA-DED and PDO-FOIA will upload all signed CBP Directives and PD Memos that were cleared for public release during that fiscal quarter onto CBP.gov's "Accountability and Transparency" and "FOIA Reading Room" pages.

8.3   CBP Directives and PD Memos with Content Requiring Redaction(s) Prior to Public Release.

8.3.1   If, during the formal review of a draft CBP Directive or PD Memo, the authoring office(s) and/or other impacted offices identify information that may fall under a FOIA exemption this information may require redaction prior to public release of the final document and must follow the requirements outlined below.

8.3.2   Authoring office(s) and other impacted CBP offices must document their rationale or justification for each proposed redaction in writing and submit that documentation to OCC, OPR, PD, and PDO-FOIA (via each office's Taskings mechanisms) in advance of a group meeting to discuss the proposed redactions.

    8.3.2.1 Documents outlining the rationale or justifications of proposed redactions to the final content of a draft CBP Directive or PD Memo must explicitly cite which of the FOIA Exempted Information categories (outlined in sub-sections 6.3.1 - 6.3.9 of this directive) apply to the content proposed for redaction and explain the linkage between the exemption categories and each proposed redaction.

8.3.3   Once all initial redaction proposals and justifications have been consolidated, subject matter experts from the authoring office(s) will expeditiously coordinate a group meeting with OCC, OPR, PD, and PDO-FOIA to discuss the proposed redactions request and the documented justification(s) provided by the impacted offices.

8.3.4   If agreement cannot be reached on all proposed redactions during the initial meeting, the parties shall expeditiously hold up to two additional meetings to address remaining disagreements relating to proposed redactions.

8.3.5   If, after three meetings, the authoring office(s) and reviewing parties remain unable to reach a consensus regarding the proposed redactions, an additional memorandum will be drafted by the authoring office(s) and included in the approval package summarizing the dispute(s), outlining the justifications for and against publicly releasing the document, and requesting a decision on the proposed redactions from the Commissioner.

8.3.6   It is expected that this resolution process shall not extend longer than two weeks from the initial meeting but may be extended if all reviewing parties agree to an extension.

8.3.7   Once the group has reached a consensus regarding the application of any proposed redactions, the authoring office(s) will submit the final redaction proposal and justification document (see sub-section 8.3.2.1) to PDO-FOIA who will complete the redaction process.

8.3.8   After all redactions have been applied and cross-referenced with the applicable FOIA exemption(s) categories, the authoring office(s) must coordinate with OES to route the redacted CBP Directive or PD Memo to the PBRB for clerical editing and branding clearance.

8.3.9   Once the redacted CBP Directive or PD Memo receives PBRB clearance, OES and the authoring office(s) will submit the final approval package, which must include:

> 8.3.9.1 An unredacted, final draft of the CBP Directive or PD Memo.
>
> 8.3.9.2 A final draft of the CBP Directive or PD Memo that includes any redactions necessary prior to public release.
>
> 8.3.9.3 A notation within the Commissioner's cover memorandum stating, "all relevant CBP offices have reviewed and agreed to the redactions proposed for this CBP Directive or PD Memo and deem the redacted version fit for public release."

8.3.10 Unless an objection to the redaction(s) is specifically noted by the Commissioner, once an approval package containing the language above receives the Commissioner's signature and has undergone 508 Compliance verification, the CBP Directive or PD Memo is considered cleared for public release in its redacted form.

8.3.11 OES will coordinate with authoring office(s) to ensure all CBP Directives and PD Memos that receive the Commissioner's signature and clearance for public release are routed for review and approved by CBP's Section 508 Compliance Team.

8.3.12 OES will route all signed CBP Directives and PD Memos that have been cleared for public release by the Commissioner and completed 508 Compliance verification to OPA-DED and PDO-FOIA for eventual upload onto CBP.gov.

8.3.13 During the last week of each fiscal quarter, OPA-DED and PDO-FOIA will upload all CBP Directives and PD Memos that were cleared for public release during that fiscal quarter onto CBP.gov's "Accountability and Transparency" and "FOIA Reading Room" pages.

8.4   CBP Directives and PD Memos Deemed Entirely Exempt from Public Release.

8.4.1   If, after all formal review stages are completed, the authoring office(s) and/or other impacted offices determine that the content within the final draft CBP Directive or PD Memo contains no nonexempt information that can be reasonably segregated from FOIA Exempted Information, or that the nonexempt information is inextricably intertwined with FOIA Exempted Information such that reasonable segregation is not possible, the authoring office(s) may submit a request that the document, in its entirety, not be publicly released.

8.4.2   Authoring office(s) and other impacted CBP offices must document the justification(s) for their public release exemption request in writing and submit that documentation to OCC, OPR, PD, and PDO-FOIA (via each office's Taskings mechanisms) in advance of a group meeting to discuss the public release exemption request.

8.4.2.1 Documents outlining the rationale and justifications for exempting a CBP Directive or PD Memo from public release must explicitly cite which of the FOIA Exempted Information categories (outlined in sub-sections 6.3.1 - 6.3.9 of this directive) apply throughout the CBP Directive or PD Memo and explain the linkage between the exemption categories and the document's overall content.

8.4.3   Once CBP offices have documented their rationale and justification for the public release exemption request, subject matter experts from the authoring office(s) will coordinate a group meeting with OCC, OPR, PD, and PDO-FOIA to discuss the public release exemption request and the documented justification(s) provided by the impacted offices.

8.4.4   If the parties above can identify reasonably segregable nonexempt information, or nonexempt information that is not inextricably intertwined with FOIA Exempted Information such that reasonable segregation is possible, the request to withhold the document from public release in its entirety will be denied and the authoring office(s) will be instructed to reroute the document in accordance with Sections 8.3 - 8.3.13 of this directive.

8.4.5   If the parties all agree that the CBP Directive or PD Memo should be exempt from public release in its entirety, they may submit an approval package for the Commissioner's final review and signature via traditional routing procedures with a notation provided in the cover memo that states, "all relevant CBP offices have reviewed the final content of the draft Directive or PD Memo and agree that it should be exempt from public release."

8.4.6   If agreement cannot be reached on the proposed public release exemption during the initial meeting, the parties shall hold up to two additional meetings to resolve any pending concerns and establish a consensus regarding the exemption proposal.

8.4.7   If, after three meetings, the authoring office(s) and reviewing parties remain unable to reach a consensus regarding the proposed public release exemption, an additional memorandum will be drafted and included in the approval package outlining the dispute(s) to request a decision on the proposed exemption from the Commissioner.

8.4.8   It is expected that this resolution process shall not extend longer than two weeks from the initial meeting but may be extended if all reviewing parties agree to an extension.

8.4.9   Unless an objection to the public release exemption request is specifically noted by the Commissioner, once a document approval package containing the language above receives the Commissioner's signature, the CBP Directive or PD Memo is considered effective and implemented but not cleared for public release.

8.4.10 CBP Directives and PD Memos exempt from public release in their entirety are not required to complete the PBRB's pre-public release clerical editing, branding review, and clearance process prior to the Commissioner's signature.

8.5   Post-Commissioner Signature - Internal Dissemination and Public Release Processes.

8.5.1   OES will coordinate with authoring office(s) to ensure all CBP Directives and PD Memos that receive the Commissioner's signature and clearance for public release are routed for review and approved by CBP's Section 508 Compliance Team.

8.5.2   OES will route all CBP Directives and PD Memos that have been cleared for public release by the Commissioner and completed 508 Compliance verification to OPA-DED and PDO-FOIA for eventual upload onto CBP.gov.

8.5.3   During the last week of each fiscal quarter, OPA-DED and PDO-FOIA will upload all signed CBP Directives and PD Memos that were cleared for public release during that fiscal quarter onto CBP.gov's "Accountability and Transparency" and "FOIA Reading Room" pages.

8.5.4   After a CBP Directive or PD Memo has been cleared by the Commissioner for public release and completed 508 Compliance verification, OIT will coordinate with PD to ensure the five most recently approved CBP Directives and PD Memos are posted on CBP's SharePoint homepage.

9.   POINT OF CONTACT. Any questions regarding this directive, the processes that it establishes, and/or the requirements outlined above can be directed to PD Taskings.

10.   NO PRIVATE RIGHTS CREATED. This document is an internal policy statement of CBP and does not create or confer any rights, privileges, or benefits for any person or party.

Chris Magnus
Commissioner
U.S. Customs and Border Protection

5/9/22
Date

Attachment 1 – CBP Policies Public Release Process Flowchart
Attachment 2 – CBP Directives - Development Guide, Requirements, and Template
Attachment 3 – Redactions Justification Worksheet