

## **CUSTOMS AND BORDER PROTECTION DIRECTIVE**

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**Subject: U.S. CUSTOMS AND BORDER PROTECTION MEDIA AND PUBLIC AFFAIRS POLICY**

1. **PURPOSE.** To define guidelines relating to the disclosure of official U.S. Customs and Border Protection (CBP) information to accredited news organizations, mass media, published professional journals, and stakeholder groups.
2. **POLICY.**
  - 2.1 U.S. Customs and Border Protection shall cooperate with accredited local, national, and foreign news organizations, without favoritism, in the dissemination of official information while not compromising the DHS / CBP mission. Through its authorized spokespersons, the CBP Office of Public Affairs shall provide timely and sufficient responses to news organizations to establish and maintain the public trust. Authorized individuals who release information shall exercise due care to preserve privileged information, protect the rights of individuals, and comply with applicable laws, including the Freedom of Information and Privacy Acts. Additionally, responses to news organizations shall be tempered by concerns for on-going investigations, sensitive foreign activities, operational factors, detection, targeting and selectivity factors, techniques and capabilities, exchange of intelligence, and matters in litigation.
  - 2.2 Unless otherwise delegated, official spokespersons for the U.S. Customs and Border Protection are the Commissioner, Deputy Commissioner, Assistant Commissioners, (which includes the Chief of Office of Border Patrol), Public Affairs Officers and others appointed by the Office of Public Affairs. In matters involving statements on behalf of the Administration, the only spokesperson shall be the Commissioner.
  - 2.3 The Office of Public Affairs shall serve as the news media's principal point of contact for U.S. Customs and Border Protection. The Office of Public Affairs will coordinate with the Office of Training and Development to create and provide media / crisis communications training to official spokespersons and full-time and collateral public affairs officers.

2.4 The issuance of all headquarters press statements, news releases and interviews, and journal articles shall be coordinated in advance through the Office of Public Affairs. All media requests and releases of information in the field shall be coordinated through the servicing field Public Affairs Officers.

2.5 U.S. Customs and Border Protection personnel delivering speeches, participating in panel discussions, writing for an outside journal or publication, and participating in other events that may generate media interest or have policy implications shall notify the appropriate servicing Public Affairs Office for guidance and resource materials. The field Public Affairs Officer shall be responsible for advising the CBP Headquarters Office of Public Affairs.

2.6 The Office of Public Affairs will prepare and disseminate timely and accurate public information for internal and external use, and research, develop, and produce internal communication plans and tools to improve CBP operations. The Office of Public Affairs Public Outreach Division responsibilities include management and oversight of the Publications Review Board, CBP publications and brochures, outreach material coordination, customer service center operations (public call center) and public information assessments/surveys. Internal communication responsibilities include communication audits (surveys and town hall sessions) and strategic planning, *Customs and Border Protection Today*, and [REDACTED] OPA will also provide access to writers, communications specialists, and others to assist with various communications needs. OPA will also serve as a conduit to external events planning to ensure a consistent message is relayed between internal and external audiences.

2.7 The execution of the U.S. Customs and Border Protection media and public affairs policy must involve a fair degree of discretion and the exercise of sound judgement, as every possibility can not be predicted and covered by written policy statement. However, the unauthorized disclosure of official information to the media may be the basis for criminal and civil sanctions, and administrative disciplinary action.

### 3. AUTHORITIES.





3.13 5 U.S.C. §§ 552 Freedom of Information Act

3.14 5 U.S.C. §§ 552a Privacy Act

3.15 6 C.F.R. Part 5 DHS disclosure regulations

3.16 19 C.F.R. Part 103 CBP disclosure regulations

3.17 28 C.F.R. 50.2 Department of Justice media contacts regulations

#### 4. RESPONSIBILITIES.

4.1 The Assistant Commissioner, OPA, has overall responsibility for CBP interactions with media and other public affairs programs and products, and reports directly to the Commissioner, CBP.

4.2 Persons performing public affairs work in the field, outside of headquarters, will coordinate and take direction from their respective field leadership and report to the Assistant Commissioner for Public Affairs.

4.3 The U.S. Customs and Border Protection Headquarters Office of Public Affairs is responsible for the dissemination of all official information to the public via the media which affects national policies and is of national concern and importance. Field Public Affairs Officers are responsible for the disclosure of official information regarding CBP activities within their area of responsibility. Matters potentially involving national media attention must promptly be reported to and coordinated through the CBP Headquarters Office of Public Affairs.

4.3.1 The U.S. Customs and Border Protection Headquarters Office of Public Affairs is responsible for reviewing materials that will be used to represent the agency through external journal articles by employees, brochures, pamphlets, content and placement of specific information on the CBP websites, public speaking engagements such as panel discussions, conferences, trade shows, and local and regional organization meetings; this does not include materials for litigation or negotiations with government organizations, or union negotiations, nor does it include purely internal communications.

OPA manages and oversees the Publications Review Board and maintains membership on the Board to ensure accurate and relevant information is released to public entities. Field Public Affairs Officers are responsible for reviewing all materials that will be used regarding CBP activities within their area of responsibility. External information sharing involving Customs and Border Protection national policy must be coordinated with the CBP Headquarters Office of Public Affairs.

4.3.2 The U.S. Customs and Border Protection Headquarters Office of Public Affairs is responsible for the creation of the agency's monthly newsletter, *Customs and Border Protection Today*, and other select agency-wide distribution of public information to the internal audience via established channels such as the [REDACTED] and informational television programming.

4.4 The U.S. Customs and Border Protection offices with personnel performing public affairs duties shall ensure that those individuals are properly trained and conduct all public affairs related business in full coordination with the CBP Office of Public Affairs.

4.5 It is the responsibility of CBP Office of Public Affairs proactively to inform the public of the identity of U.S. Customs and Border Protection and its missions, as a component agency of the Department of Homeland Security.

## 5. PROCEDURES.

### 5.1 CRIMINAL PROCEEDINGS:

5.1.1 The disclosure of official enforcement information to the news media will be fully coordinated with the appropriate office or agency.

5.1.1.1 In matters involving post-complaint or post-indictment arrests and seizures, all statements and news releases will be coordinated with the appropriate U.S. Attorney prior to release.

5.1.1.2 In matters involving post-complaint or post-indictment arrests and seizures, comments will be coordinated with the appropriate U.S. Attorney prior to release.

5.1.1.3 No information shall be disclosed which details grand jury proceedings or prejudices either potential or on-going criminal actions.

5.1.1.4 At no time shall any personnel of the U.S. Customs and Border Protection furnish any statement or information to influence the outcome of a trial. [REDACTED]

[REDACTED]

[REDACTED]



5.1.3 There may be situations in which these proscriptions will limit the release of information which would not be prejudicial under the particular circumstances. If a CBP official believes that in the interest of the fair administration of justice, the law enforcement process, or the homeland security needs of the United States that information beyond these guidelines should be released in a particular case, he or she shall request the permission of the Commissioner or designee and, if the matter is to be referred or has been referred for prosecution, in coordination with the appropriate Department of Justice officials to do so.

## 5.2 MEDIA REQUESTS TO PHOTOGRAPH DEFENDENTS OR DETAINEES

5.2.1 Photographing of defendants / detainees by news organizations in public places or in transit is neither encouraged nor discouraged, but the accused shall not be posed.

Upon request of the media, mug shots of defendants / detainees may be provided in the interest of public safety, i.e. fugitives, developing investigative leads, crime deterrence, etc. To ensure the integrity of investigations and judicial process, requests for mug shots should be coordinated with the appropriate law enforcement agency.

5.2.2 When news organizations arrive at the scene of an enforcement action in progress without prior CBP knowledge, CBP personnel shall not interfere with photographing defendants in public places or in transport. Generally, other than by reasons of judicial order or the specific need to take reasonable steps to limit activity of the news media if such activity will endanger the safety of CBP personnel or the public, CBP personnel shall not prevent the lawful efforts of the news media to photograph, tape, record or televise an enforcement action from outside a designated perimeter so as the CBP-controlled area has not been breached.

5.2.3 Decisions to allow any photographing, videotaping or filming by the media at CBP facilities shall be made in consultation with the servicing Public Affairs Officer and with the concurrence and control of the appropriate CBP supervisor.

5.2.4 Detention of persons or media and/or the detention of recording equipment, film or notes are prohibited unless the person has violated federal law, unlawfully breached the security of a CBP facility, or has endangered the safety of CBP personnel.

### 5.3 CUSTOMS AND BORDER PROTECTION ENFORCEMENT ACTIONS – ARRESTS, SEIZURES, SEARCH WARRANTS, SURVEILLANCE

5.3.1 In cases in which a search warrant is to be executed, no advance information shall be provided to the news media about actions to be taken by law enforcement personnel, nor shall media representatives be invited to be present.

5.3.2 If the media arrive at the scene of enforcement actions, the officer in charge (or designee) or the Public Affairs Officer shall be the only authorized spokespersons within the previously stated guidelines. Authorized spokespersons may provide public information after safeguarding the integrity of the enforcement action and ensuring the safety and protecting the identity of participating law enforcement officers.

### 5.4 CIVIL PROCEEDINGS

5.4.1 Guidelines for civil cases (information concerning fines, penalties, and forfeitures cases) in 19 C.F.R. 103.32 (and, to the extent the matter has been referred and is handled by the Department of Justice, in coordination with the appropriate Justice Department officials acting pursuant to 28 C.F.R. 50.2 (c) or successor regulations) shall be followed.

5.4.2 It is the policy of CBP to seek to deter violations of 19 USC Section 1592 and other customs and immigration laws by making known, when appropriate, penalty and forfeiture actions taken by the agency.

5.4.3 After the assessment of a civil penalty, payment of a mitigated amount or judicial action, the identity of the violator, the section of the law violated and the nature of the violation, the amount of the penalty assessed, loss of government revenue, mitigated amount (if applicable), the amount of money paid, the alleged violator's right to seek mitigation, judicial review or appeal from a penalty assessed, and other information available under FOIA may be disclosed to the public by the appropriate Assistant Commissioner, Director of Field Operations or CBP port director (and/or Public Affairs Officer or other designated CBP officer).

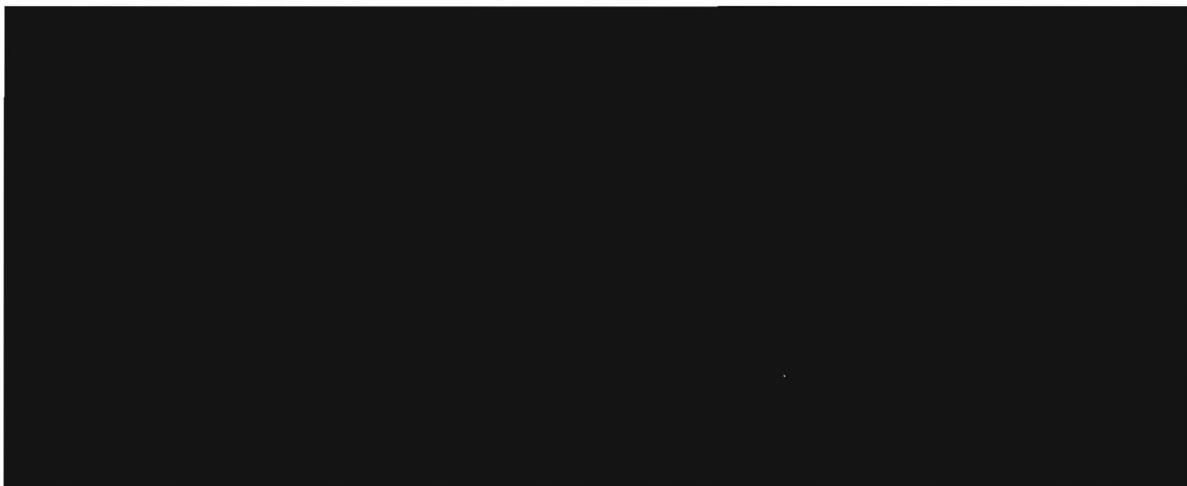
5.4.4 Public disclosure of any other item of information concerning such cases, whether open or closed, shall only be made in conformance with the procedures provided in the Freedom of Information Act.

## 5.5 WHISTLEBLOWER ACT

5.5.1 U.S. Customs and Border Protection officials designated as spokespersons may comment on allegations made by declared whistleblowers. However, the quantity and type of information for potential release will be determined on a case-by-case basis by the Office of Public Affairs and servicing Public Affairs Officers. This policy requires employees not to disclose information protected by the Privacy Act in personnel or investigative files.

## 5.6 RIDE-ALONG REQUESTS

5.6.1 Media ride-alongs on CBP conveyances are prohibited during the execution of arrest and search warrants. All other ride-along requests shall be handled on a case-by-case basis. Media related requests shall be coordinated in advance with the servicing Public Affairs Officer. All ride-along requests shall include a signed "hold harmless" agreement. Approval of ride-along requests on CBP aircraft is contingent on applicable federal regulations regarding non-essential passengers on government law enforcement aircraft.





## 5.8 ACCIDENTS AND INCIDENTS

5.8.1 Principal field officers and/or Public Affairs Officers shall ensure the timely coordination and release of accurate information released to the media as soon as possible after an accident involving CBP aircraft or vessels; or serious vehicle accidents involving CBP personnel. This is to prevent or dispel rumors that could promote misinformation in media reports.

5.8.2 The names of all injured or deceased accident victims will be withheld pending notification of next of kin. Unless there are exigent circumstances to the contrary, following notification of next of kin, names of CBP employees may be released along with job title and duty station.

5.8.3 If news media arrive at the scene of an accident, the officer in charge or the Public Affairs Officer shall be the only official(s) authorized to release official

information. The integrity of the incident site must be preserved and any exposed classified or law enforcement sensitive material immediately will be removed prior to permitting news media photography.



## 5.9 INTERNATIONAL OPERATIONS

5.9.1 U.S. Customs and Border Protection provide training to those employees serving abroad. Accordingly, the Office of International Affairs (INA) and other CBP offices with CBP employees abroad or conducting international training programs abroad may, at their discretion and with the concurrence of appropriate U.S. embassy personnel, provide information about such programs and training to the media. When such events occur, CBP personnel abroad should inform the CBP Office of Public Affairs prior to the disclosure of information, whenever possible. In the event that notification to Public Affairs cannot be made, the Office of International Affairs will notify the CBP Headquarters Office of Public Affairs as soon as possible of any such media event. With more than [REDACTED] CBP employees stationed abroad, as well as attachés from U.S. Immigration and Customs Enforcement, OPA must ensure employees are informed and that issues of interest are communicated to OPA and INA prior to media involvement.

5.9.2 The Office of Public Affairs will proactively reach out to media to provide a clear and concise plan that outlines the Container Security Initiative (CSI) goals and strategies. Working closely with the Office of International Affairs, the Office of Public Affairs will ensure timely coordination and release of major CSI events, such as Declaration of Principles and CSI ports becoming operational. These releases will be coordinated with the State Department, foreign country administrations, and the country manager with the Office of International Affairs. The American public should be aware that this initiative enhances security while maintaining the free-flow of commerce.

5.9.3 The Office of Public Affairs will publicize CBP's efforts to secure the global trading system with various international organizations, such as the World Customs Organization, European Union, and the Joint Customs Cooperation Committee. OPA's effort should help to express our commitment in pursuing international cooperation.

5.9.4 Public Affairs Officers will work jointly with the Office of International Affairs and country officials to prepare and distribute press releases on Customs Mutual Assistance Agreement.

## 6. MEASUREMENT

6.1 The Office of Public Affairs will accurately and efficiently provide information regarding U.S. Customs and Border Protection policies and activities to the public through interaction with accredited media, production of brochures, pamphlets, and other internal and external publications, and operation and review of interactions with the public and other stakeholders. Effective communication begins with effective planning and continues throughout the project. Some of the following methods will be used to track effectiveness of communications: web tracking, user surveys and questionnaires, telephone surveys, user observation, focus group feedback, and feedback cards.

On a quarterly basis, the results of the performance measurement will be analyzed to determine if there are areas needing specific attention. If it is determined that a target has not been met, an explanation will be sought and corrective action (s) will be identified.

## 7. NO PRIVATE RIGHTS CREATED

7.1 The procedures set forth in this directive are for U.S. Customs and Border Protection internal use only and create no private rights, benefits, or privileges for any private person or party.

Commissioner

U.S. Customs and Border Protection