

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ICE Policy System (IPS)**

OFFICE OF PRIMARY INTEREST: OFFICE OF PROFESSIONAL RESPONSIBILITY

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DIRECTIVE TITLE: Release of Office of Professional Responsibility Records

1. **PURPOSE and SCOPE.** This Directive establishes procedures and responsibility for the official release of Office of Professional Responsibility (OPR) records. This Directive applies to all components of U.S. Immigration and Customs Enforcement (ICE).
2. **AUTHORITIES.**
 - 2.1 Department of Homeland Security Delegation Number 7030.2, issued November 13, 2004.
 - 2.2 ICE Delegation Order Number, ICE DO 04-008, issued June 18, 2004.
3. **BACKGROUND.**

The principal categories of sensitive records generated by OPR are: reports of investigation, personnel security records, audit reports and documentation, proactive program documents, and management inspections documents. Although these records remain the property of OPR, they are routinely provided to other ICE Offices for review or action and may remain in the custody of these Offices for extended periods of time. Formal procedures for access to and release of OPR records are required.
4. **DEFINITIONS.**
 - 4.1 **Sensitive records** include official documents related to OPR reports of investigation, personnel security records, audit reports and documentation, proactive program documents and management inspections documents.
 - 4.2 **Report of Investigation** is the formal written account of the results and findings of an OPR investigation.

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- 4.3 **Personnel security records** include employees' background investigations, security clearances, and related documents.
- 4.4 **Proactive programs** include specialized methods and techniques utilized by OPR.
- 4.5 **Disclosure** means the release of information contained within an official record or document.
- 4.6 **Need-to-know** means that an individual, acting in an official capacity, requires access to a specific piece of information in order to perform official duties.
- 4.7 **Director**, for this policy, means the Director, Office of Professional Responsibility.
- 4.8 **Offices** is used to indicate one of the ICE operational components as well as all other key components of ICE.
- 4.9 **Principal Field Office** refers to all staff working in an area of responsibility for an ICE field leader (i.e., Special Agent In Charge, Field Office Director).
- 4.10 **Administrative Action** means disciplinary measures levied against an employee as a result of a finding of misconduct.
- 4.11 **Routine Administrative Use** means common day-to-day use of information in its intended daily function (i.e., budget, planning, personnel).

5. POLICY.

All OPR sensitive records will be handled, transmitted, and stored in a manner that precludes release to the public or unauthorized persons. OPR records may or may not reflect a control marking (i.e., 'For Official Use Only' or 'Law Enforcement Sensitive'). Disclosure of OPR records is authorized when an administrative action is proposed. This disclosure must be limited to those officials or parties with an articulated need-to-know. However, at the discretion of the OPR Director, the following categories of information [in sections 5.1 to 5.7 below] may be withheld when the need to protect the information clearly outweighs other considerations.

- 5.1 Confidential sources and information furnished only by confidential sources.
- 5.2 Information that could endanger the life or physical safety of any individual, including any law enforcement personnel.
- 5.3 Classified information.
- 5.4 Other information that could reveal investigative techniques and procedures.


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- 5.5 Internal documents (i.e., internal agency communications containing opinions, advice, etc.).
- 5.6 Information that could interfere with an ongoing investigation.
- 5.7 Information that could constitute an unwarranted invasion of an individual's personal privacy.
- 6. **RESPONSIBILITIES.**
 - 6.1 The Director of OPR is responsible for determining the manner in which OPR records are handled, transmitted, and stored.
 - 6.2 Office Directors and Principal Field Officers are responsible for safeguarding OPR records and complying with all aspects of this directive.
- 7. **PROCEDURES.**
 - 7.1 OPR records that are in the temporary custody of ICE Offices, and serve as the basis for proposals of administrative action, cannot be released to the employee or the employee's representative without consulting with staff from OPR or the Employee and Labor Management Relations (ELMR) office, as necessary.
 - 7.2 OPR will mark those paragraphs or sentences in OPR records exempt from disclosure by placing the letter (E) following the paragraph or sentence. When such a marking is made, ELMR staff shall seek approval from the local OPR office before releasing this information. Any dispute over the release of information so marked shall be referred to the Director of OPR for resolution in consultation with the ICE Office of the Principal Legal Advisor when appropriate.
 - 7.3 All other requests for access to OPR records shall be referred to Headquarters OPR.
 - 7.4 Management inspection reports are permanently retained by OPR Headquarters staff but are provided to ICE Offices for administrative use. When management inspection documents are in field office custody, no dissemination will be made beyond that required for administrative review. Any additional disclosures require authorization by OPR Headquarters staff.
 - 7.5 Requests by the Government Accountability Office (GAO) or the Department of Homeland Security (DHS) Office of the Inspector General (OIG) for access to OPR records shall be referred to OPR Headquarters staff. The exemptions cited above regarding integrity investigations also are applicable to records requested by GAO or OIG. OPR Headquarters staff will make decisions about disclosures of OPR records to GAO or OIG in consultation with OPLA when appropriate.

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- 7.6 The procedures noted above do not preclude routine administrative use of the OPR Records cited. Other than the exceptions noted above, all disclosures of OPR Records shall be made by OPR Headquarters staff.
- 7.7 The ICE Office of Investigations Information Disclosure Unit processes all initial requests for records under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a. The Privacy Office at the Department of Homeland Security processes all appeals of initial disclosure determinations.
- 8. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It is not intended to and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States; its department, agencies, or other entities; its officers or employees; or any other person.

APPROVED



John P. Clark
Acting Assistant Secretary

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