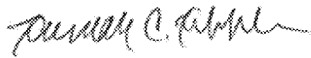




U.S. Immigration  
and Customs  
Enforcement

AUG 31 2009

MEMORANDUM FOR: Assistant Director  
Deputy Assistant Directors  
Special Agents in Charge

FROM: Kumar C. Kibble   
Acting Director, Office of Investigations

SUBJECT: Border Searches of Electronic Devices Directive

On August 18, 2009, Assistant Secretary John Morton issued a new directive; No. 7-6.1 entitled "Border Searches of Electronic Devices." This directive supersedes U.S. Immigration and Customs Enforcement (ICE) Directive No. 7-6.0 entitled "Border Searches of Documents and Electronic Media" with respect to electronic devices only. With the exception of the March 5, 2007, OI guidance entitled "Field Guidance on Handling Detained or Seized Electronic Devices from Persons of National Security Interest at Ports of Entry" and the December 12, 2008, OI guidance entitled "Recordkeeping Procedures Regarding Detentions of Documents and Electronic Devices," all other issuances on this subject issued by ICE prior to the date of this Directive are hereby superseded.

Border searches are a well-recognized and long-established exception to the probable cause and warrant requirements of the Fourth Amendment. Even so, the conduct of such border searches, as with any search, must be reasonable. A lawful border search is one that is both reasonable under the Fourth Amendment and consistent with current statutes. Under statute, border search authority is only granted to "customs officers." The term "customs officers" within ICE includes Special Agents. The primary purpose of a border search by customs officers is to search for merchandise or evidence relating to merchandise.

The Office of Investigations, in conjunction with the Office of the Principal Legal Advisor, Office of International Affairs, and Office of Professional Responsibility, has revised the current ICE Directive governing border searches to address timeframes for completing border searches of electronic devices, mechanisms to ensure the capture of reliable statistics relative to these searches, and annual auditing processes to ensure compliance with the Directive.

Questions regarding this new directive should be addressed to Acting National Security Unit Chief (b)(6),(b)(7)(C) at (202) 732-(b)(6),(b)(7)(C) or (b)(6),(b)(7)(C)@dhs.gov.