

**UNITED STATES CUSTOMS AND BORDER PROTECTION,  
OFFICE OF FIELD OPERATIONS**

and

**UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT  
OFFICE OF INVESTIGATIONS**

**POLICY**

**DATE: February 18, 2010**

**SUBJECT: CONTROLLED DELIVERIES, COLD CONVOYS AND PASS-  
THROUGH OPERATIONS AT PORTS OF ENTRY**

**1. PURPOSE**

1.1 To establish national policy guidelines for U.S. Customs and Border Protection (CBP), Office of Field Operations (OFO) and U.S. Immigration and Customs Enforcement (ICE), Office of Investigations (OI) for facilitating controlled deliveries, cold convoys, and pass-through operations (collectively "investigative operations") of all contraband, monetary instruments, persons, documents, and merchandise (collectively "suspect loads") identified in smuggling attempts at U.S. ports of entry (POEs). With regard to persons, this policy covers those being smuggled as well as those who may be victims of human trafficking. This policy covers both inbound and outbound operations.

1.2 OFO and OI have agreed to issue this policy in identical form to be governed by a Memorandum of Agreement (MOA) linking the two documents. As such, each policy may not be amended in any way unless in accordance with the governing MOA (Attachment).

**2. BACKGROUND.**

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**3. DEFINITIONS.** For purposes of this policy, the following definitions apply:

3.1 *Alien* is defined as any person who is not a citizen or national of the U.S.

3.2 *Contraband* is anything the possession, importation or exportation of which is prohibited by U.S. law.

3.3 *Director, Field Operations (DFO)*: DFOs are responsible for providing centralized management oversight and operational assistance within their area of jurisdiction for CBP OFO.

In this policy, the use of "DFO" means the individual holding the position or his or her designee. The DFO may delegate responsibilities herein on a permanent, recurring basis or on a one-time basis, to be determined by the DFO.

3.4 *Investigative Operations* include "controlled deliveries," "cold convoys," and "pass-through," as defined herein.

A. "*Cold Convoy*": An investigative technique, usually initiated at a POE, in which the violator is unaware that merchandise has been discovered, is not cooperating with agents, and is allowed to proceed to his or her destination while under the surveillance of agents.

B. "*Controlled Delivery*": An investigative technique involving the transportation of suspect loads to suspected violators while under the direction or surveillance of law enforcement officers. Controlled deliveries often involve informants, cooperating defendants, or undercover agents.

C. "*Pass-Through*": An investigative technique in which a controlled importation or exportation of a suspect load occurs at the direction of the Government for investigative purposes.

3.5 *Human Smuggling* is defined as transnational activity that involves a person being transported from any country to or from the U.S. in such a way that evidences intent to circumvent proper reporting requirements.

3.6 *Human trafficking* is defined as the recruitment, transportation, harboring, or receipt of people for the purpose of exploitation.

3.7 *Mark holder* is one who owns a symbol, design, word, letter, etc. used by a manufacturer or dealer to distinguish a product or products from those of competitors: usually registered and protected by law.

3.8 *Merchandise* means goods, wares, and chattels of every description. This includes electronic or digital media and documents (not to include letter class mail sealed against inspection, 19 C.F.R. 145.3).

3.9 *Monetary Instruments* are defined as (1) coin or currency of the United States or of any other country that are customarily used in the country of issuance, (2) traveler's checks in any form that have been issued by a bank or selling agent, and which have not been negotiated by the payee, (3) negotiable instruments (including checks, promissory notes, and money orders) in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery, (4) incomplete instruments (including checks, promissory notes, and money orders) that are signed but on which the names of the payees have been omitted, and (5) securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery. Monetary instruments do not include (i) checks or money orders made payable to the order of a named person which have not been endorsed or which bear restrictive endorsements, (ii) warehouse receipts, or (iii) bills of lading.

3.10 *Port Director (PD)*: PDs are responsible for daily CBP, OFO port specific operations within their port. In this policy, the use of “PD” means the individual holding the position or his or her designee. The PD may delegate responsibilities herein on a permanent, recurring basis or on a one-time basis, to be determined by the PD.

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3.12 *Smuggling Attempt* is defined as attempting to move any suspect load across the border in a manner that indicates intent to circumvent proper reporting requirements.

3.13 *Special Agent in Charge (SAC)*: SACs are responsible for all ICE investigative activities within their area of jurisdiction. The use of “SAC” means the individual holding the position within the Office of Investigations, or his or her designee. The SAC may delegate responsibilities herein on a permanent, recurring basis or on a one-time basis, to be determined by the SAC.

3.14 *Suspect Loads* are all contraband, monetary instruments, persons, and merchandise identified in smuggling attempts at U.S. POEs, regardless of mode of transportation. Suspect loads may include persons being smuggled as well as individuals who may be victims of human trafficking.

#### 4. POLICY

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**5. AUTHORITY/REFERENCES**

Seized Asset Management and Enforcement Procedures Handbook, CBP HB 4400-01A; CBP's Inspectors Field Manual; ICE Special Agent Handbook, USCS-HB-98-01, Chapter 15 "Controlled Deliveries"; Immigration and Nationality Act (INA) Section 212; 18 USC 545; 18 USC 554; Significant Public Benefit Parole Protocol for U.S. Customs and Border Protection

and U.S. Immigration and Customs Enforcement for Law Enforcement Purposes, dated September 22, 2005.

**6. OI RESPONSIBILITIES**

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7. OFO RESPONSIBILITIES

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8. PROCEDURES

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**9. NO PRIVATE RIGHTS CREATED.**

This document is an internal policy statement of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and does not create or confer any rights, privileges, or benefits on any person or party.

**10. DISCLOSURE AND AMENDMENT.**

This policy contains information which may be exempt from disclosure to the public under the regulations of the Department of the Homeland Security and the Freedom of Information Act. No part of this policy shall be disclosed or amended without express authority from U.S. Customs and Border Protection, Office of Field Operations and U.S. Immigration and Customs Enforcement, Office of Investigations, pursuant to the Memorandum of Agreement governing its inception and applicability (Attachment).

For CBP:

(b) (6), (b) (7)(C) FEB 18 2010

Thomas S. Winkowski  
Assistant Commissioner, OFO  
U.S. Customs and Border Protection

For ICE:

(b) (6), (b) (7)(C) FEB 18 2010

James A. Dinkins  
Director of Investigations  
U.S. Immigration and Customs Enforcement

ATTACHMENT

MEMORANDUM OF AGREEMENT

WHEREAS both CBP, OFO and ICE, OI (herein, "the components") recognize the importance of working in conjunction to facilitate the investigation of smuggling, or attempted smuggling, of merchandise, contraband, monetary instruments, and persons;

The components have jointly drafted a policy entitled "Controlled deliveries, cold convoys, and pass-through operations at ports of entry" (herein, "the policy").

The components agree to issue the policy as drafted and to not change the policy, in any manner, without first obtaining the agreement of the other component. Local protocols developed pursuant to Section 4.1.6 of the directive will not be considered to be changes to the policy.

If the components cannot agree to a proposed modification, the components may either agree to which parts of the policy remain effective, and issue guidance to the field, or either component may cancel the policy with 60 days written notice to the other component.

For CBP: /

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

Thomas S. Winkowski  
Assistant Commissioner, OFO  
U.S. Customs and Border Protection

For ICE: /

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

James A. Dinkins  
Director of Investigations  
U.S. Immigration and Customs Enforcement