



**U.S. Customs and  
Border Protection**

**AUG 19 2014**

MEMORANDUM FOR: Directors, Field Operations  
Director, Preclearance Operations  
Office of Field Operations (b) (6), (b) (7)(C)

FROM: Acting Executive Director  
Admissibility and Passenger Programs

SUBJECT: Legal Representation During Inspection

On occasion travelers may present themselves for inspection by U.S. Customs and Border Protection (CBP) accompanied by an attorney or representative who seeks to advise the traveler during the inspection. There is no right to representation for an applicant for admission during either a primary or a secondary inspection, unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody. 8 CFR 292.5(b). Section 292.5(b) also applies to deferred inspections as a continuation of secondary inspection.

It is critical that during the primary and secondary inspection process CBP Officers are able to execute the broad law enforcement authorities associated with inspecting travelers without external parties controlling the questioning or answering for the applicant. It is the policy of the Office of Field Operations representatives, including attorneys, are not normally permitted to participate in the primary or secondary inspection of applicants for admission at a port of entry unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody.

The restriction on representation during primary and secondary inspection does not preclude CBP from allowing a family member, friend, or representative from being present during an applicant's primary or secondary inspection in appropriate circumstances. Examples could include the inspection of minors, elderly persons, inexperienced travelers, or whenever the accompanying individual can assist in providing information pertinent to the inspection.

At a deferred inspection, an applicant for admission is not entitled to representation. However, an attorney may be permitted to be present with the alien during the deferred inspection with port management concurrence. If port management elects to permit an attorney to be present at a deferred inspection, then the role of the attorney is limited to that of an observer.

An attorney who attempts to impede or interfere with the inspection process in any way should be courteously reminded of the provisions of 8 CFR 292.5(b), and if necessary, may be asked to

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leave. Ports should not hesitate to contact appropriate CBP Associate/Assistant Chief Counsel to assist in resolution of any particular question regarding legal representation during inspectional processes.

Should you have any questions or concerns regarding this memorandum, please contact (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Director, Enforcement Programs Division (EPD) at (b) (6), (b) (7)(C) or Branch Chief (b) (6), (b) (7)(C)