

EN Part 6 Chapter 4

Foreign Representatives

22. Officers will not arrest, detain, or handcuff:
- a) a Diplomatic Agent or members of their family who are part of their household;
 - b) a Consular Officer or members of their family who are part of their household;
 - c) Administrative or Technical staff of a **diplomatic mission**, who are not Canadian citizens or permanent residents of Canada, or members of their family who are part of their household;
 - d) Representatives or Senior Officials of an international organization; or
 - e) Representatives or Experts of the United Nations.

Note: See Appendix A for General Guidelines on Customs Enforcement Actions Against Foreign Representatives.

23. Officers may intervene with foreign representatives to stop the commission or the continuation of the commission of an offence.

Note: Intervention may consist of strong verbal persuasion, removal of goods, ignition keys, or conveyance from the person's possession, and, as long as it does not involve touching the foreign representative or blocking the person from re-entering the drivers seat of a vehicle. It may also consist of assisting them to find an alternate means of transportation, contacting the person's diplomatic mission, consulate, organization, etc., contacting the police, or contacting the Office of Protocol - FAC ((613) 992-8055) and requesting and acting on their advice.

24. Officers will report, through their superintendent, all serious Customs infractions and *Criminal Code* offences committed by foreign representatives by calling:

- a) Manager, Contraband Programs Section, Policy and Contraband Programs Division, Customs Contraband, Intelligence and Investigations (CCII) at (613) 954-7593; and
- b) Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer, at (613) 992-8055 or after hours at (613) 292-1723.

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25. In incidences involving impaired driving, a form E641 *Criminal Code* Incident Report is completed, and forwarded by fax to:
 - a) Manager, Contraband Programs Section, Policy and Contraband Programs Division, CCII, (613) 952-9863; and
 - b) Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer, (613) 943-8801.

Firearms

26. If an officer has absolute certain knowledge that foreign representatives with alpha code "J" or "white" identity cards possess a firearm on their persons, they may be treated the same as a regular traveller. They are obligated to have the required documents. Unreported firearms may be seized.

Note: Refer to D21-1-1 for a listing of foreign representatives identity cards and their alpha codes.

Note: "Absolute certain knowledge" is formed if the person has declared the firearm or if the officer has seen an undeclared firearm on the person.

27. If an officer has absolute certain knowledge that foreign representatives with alpha code "D", "C", "I", or United Nations "Laissez-Passer" identity cards possess firearms on their person but do not have the necessary paperwork, they will request that they surrender the weapon immediately. The same applies to prohibited devices, ammunition, weapons and other goods regulated under the *Firearms Act*. These items should be turned over to the RCMP.

Note: Refer to D21-1-1 for a listing of foreign representatives identity cards and their alpha codes.

Note: Refer to Part 2 Chapter 3, Firearms and Weapons.

28. In the event of a foreign representatives' (alpha code "D", "C", "I", or United Nations "Laissez-Passer" identity cards) refusal to comply, officers will record the offence in their notebook without seizing or confiscating the firearm.
29. Officers will report, through their superintendent, all incidences of unacceptable firearm possession by foreign representatives by calling:

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- a) the Manager, Contraband Programs Section, Policy and Contraband Programs Division, Customs Contraband, Intelligence and Investigations (CCII) at (613) 954-7593; and,
- b) the Office of Protocol, FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723.

Impaired Driving Related Offences

- 30. Designated officers will request identification from a foreign representative to determine whether or not they are entitled to diplomatic privileges when the officer has reasonable and probable grounds to believe the foreign representative has committed an impaired driving related offence. This includes operating a motor vehicle or vessel, operating or assisting in the operation of an aircraft or railway equipment, and having care and control of a motor vehicle, vessel, aircraft or railway equipment whether it is in motion or not.
- 31. Designated officers will take such reasonable measures as are necessary to ensure that a foreign representative that has care and control of a vehicle, vessel or aircraft is not a threat to the public safety or to themselves.
- 32. Designated officers with reasonable grounds to suspect that a foreign representative who has care and control of a vehicle is committing an impaired driving related offence, will so inform the foreign representative and request that they take an Approved Screening Device (ASD) or an Approved Breath Analysis Instrument (ABAI) test.

Note: Persons with **diplomatic immunity** are not obligated to submit to such tests, nevertheless, they may wish to agree to the request in order to establish that they are not driving while committing an impaired related offence.

Note: The ASD or ABAI "Demand" as provided in officer notebooks or cards is NOT to be utilized in situations with foreign representatives, since they are simply "requested" to take the tests.

- 33. If a foreign representative agrees to take an ASD and fails, designated officers will proceed by first advising them that they have the right to retain and instruct counsel, caution them against making any statements, and give them every reasonable opportunity to contact counsel. The officer may also request that the foreign representative take an ABAI. The local police should be contacted and advised.

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Note: Officers are not to make an arrest.

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34. In cases of suspected impaired driving related offences, regardless of whether they have taken the ASD, designated officers will contact the police agency of jurisdiction and request their attendance and that charges are laid, regardless of the immunity of the person concerned.
35. Designated officers will not allow a foreign representative driver whom they have reasonable grounds to suspect of an impaired driving related offence to leave the area in the vehicle that has been stopped unless that person is in the care of another person willing and able to assume responsibility for the vehicle.
36. Designated officers may arrange for the vehicle to be moved to a secure location for public safety reasons and the protection of the vehicle.
37. In cases where an officer believes that it would be unsafe for a foreign representative to continue driving, (i.e. a “WARN” on the ASD, or indicators such as the strong smell of alcohol on breath), the officer will request that they park the vehicle and wait until their level of sobriety improves.
38. Should a foreign representative refuse to comply with a request to park their vehicle based on the officers’ judgement that it would be unsafe for them to continue to drive, designated officers may keep them in temporary protection and call the foreign representatives Mission or FAC, Office of Protocol.

Note: FAC has indicated that they will not intervene in cases where an officer has prevented a foreign representative, even one with diplomatic status, from driving, where the officer has acted in accordance with this policy and to protect public safety.

Note: “Temporary protection” may be established through strong verbal persuasion or by removing the ignition keys or conveyance. As long as it does not involve touching the foreign representative, officers may block the driver from re-entering the driver seat of the vehicle.

Note: See Appendix B for a listing of provincial and territorial Office of Protocol addresses and phone numbers.

39. Although under certain circumstances designated officers may undertake temporary protection, they must not detain, arrest, or handcuff a foreign representative with diplomatic immunity.

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40. Should a foreign representative become violent or threaten to use a weapon, officers may protect their security, the public safety, and eliminate the danger.

Note: Section 27 of the *Criminal Code* authorizes individuals to use as much force as is necessary to prevent the commission of an offence.

Note: Refer to Part Six, Chapter Five, Use of Force.

41. Officers will immediately report, through their superintendent, all cases of impaired driving related offences by foreign representatives, suspected or otherwise by calling:

- a) the Manager, Contraband Programs Section, Policy and Contraband Programs Division, Customs Contraband, Intelligence and Investigations (CCII) at (613) 954-7593; and
- b) the Office of Protocol, FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723.

42. Officers will complete a form E641 *Criminal Code* Incident Report and, even if formal charges have not been laid, fax it through the superintendent to:

- a) Manager, Contraband Programs Section, Policy and Contraband Programs Division, CCII, (613) 952-9863 and,
- b) Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer, (613) 943-8801.

Note: Refer to Part Six, Chapter Eight, *Criminal Code* Offences, Appendix C for a copy of the E641.

ROLES AND RESPONSIBILITIES

Customs Officers

43. Customs officers are responsible for:

- a) adhering to this policy and procedures;
- b) respecting the immunities of foreign representatives and any family members that are afforded immunities;

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- c) reporting offences by foreign representatives to their superintendent; and
- d) completing a *Criminal Code* Incident Report (E641) in all cases involving a foreign representative, suspected or otherwise, of an impaired driving related offence.

Superintendents

44. Superintendents are responsible for:

- a) ensuring compliance with this policy and procedures;
- b) respecting the immunities of foreign representatives and any family members that are afforded immunities;
- c) contacting the Office of Protocol - FAC for advice when requested and/or necessary;
- d) reporting all offences by foreign representatives to the Manager, Contraband Programs Section, Policy and Contraband Programs Division, Customs, Contraband, Intelligence and Investigations (CCII);
- e) reporting all serious Customs infractions and *Criminal Code* offences by foreign representatives to the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer; and
- f) ensuring breaches of this policy or procedures are dealt with accordingly.

Customs Contraband, Intelligence and Investigations

45. Customs Contraband, Intelligence and Investigations (CCII) is responsible for:

- a) developing and modifying these policies and procedures as required;
- b) providing guidance and support to the field;
- c) reviewing all reports of offences committed by foreign representatives;
- d) liaising with the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer; and

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- e) confirming all serious offences/infractions committed by foreign representatives have been reported to the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer.

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PROCEDURES

Foreign Representatives

Offences by Foreign Representatives

46. Through the superintendent, consult the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292 -1723 when you require advice on the immunities of foreign representatives.
47. Notate all offences by foreign representatives in case prosecution is eventually allowed.
48. Report, through the superintendent, all serious Customs infractions and *Criminal Code* offences committed by foreign representatives by calling the Manager, Contraband Programs Section, Policy and Contraband Programs Division, CCII at (613) 954-7593.
49. Report serious infractions and offences by foreign representatives to the Office of Protocol - FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer to return your call can also be left at 1-800-387-3124).

Impaired Driving Related Offences

Non-Designated Officers

50. If you encounter the driver of a vehicle bearing diplomatic, consular, or “other representative” licence plates and reasonable grounds exist to suspect them of an impaired driving related offence:
 - a) suspend primary questioning;
 - b) advise the superintendent/office that a designated officer is required and that you are dealing with a foreign representative;
 - c) resume Customs primary questioning;
 - d) turn over control of the interview to the designated officer as soon as possible; and
 - e) make detailed notes about the occurrence.

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Note: The Province of Ontario issues red licence plates to foreign representatives with the following prefixes:

- i) "CD" – Diplomatic agents and members of the family (includes International Organizations)
- ii) "CC" – Consular Officers and members of the family
- iii) "XT" - Other staff at diplomatic missions, consular posts and international organizations
- iv) "XO" – Taipei Economic and Cultural Offices as well as Hong Kong and Economic Trade Office

51. If a designated officer is not available:

- a) complete any required Customs processing;
- b) release the person and, to prevent the continuation of the offence, request the driver voluntarily park the vehicle and seek alternate transportation;
- c) assist the driver to find an alternative means to continue their journey (e.g. contacting the Mission or a member of the driver's family, or arranging for public transportation);
- d) immediately report the details of the incident to the police agency of jurisdiction if the driver fails to park the vehicle;
- e) immediately report all incidents of impaired driving related offences, suspected or otherwise, involving foreign representatives through your superintendent to FAC – Office of Protocol, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer to return your call may also be left at 1-800-387-3124);
- f) maintain accurate and detailed notes for the entire time that you spend with a foreign representative suspected or otherwise of impaired driving related offences, and, in particular, record objective substantiation of the evidence of impairment;
- Note: This is very important, as FAC may take action even when formal charges have not been laid.
- g) complete a *Criminal Code* Incident Report (E641);

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Note: Refer to Part Six, Chapter Eight, *Criminal Code Offences*, Appendix C for a copy of the E641.

- h) forward the E641 through your superintendent to the Office of Protocol-FAC, RCMP Diplomatic Security Liaison Officer in Ottawa via facsimile. The facsimile number is (613) 943-8801; and
- i) forward a copy of the E641 through your superintendent to the Manager, Contraband Programs Section, Policy and Contraband Programs Division, CCII at (613) 952-9863.

Designated Officers

52. If you encounter the driver of a vehicle bearing diplomatic, consular, or "other representative" licence plates and reasonable grounds exist to suspect them of an impaired driving related offence, request the driver present identification to determine whether or not they are entitled to diplomatic privileges.

Note: The Province of Ontario issues red licence plates to foreign representatives with the following prefixes:

- i) "CD" – Diplomatic agents and members of the family (includes International Organizations);
- ii) "CC" – Consular Officers and members of the family;
- iii) "XT" - Other staff at diplomatic missions, consular posts and international organizations;
- iv) "XO" – Taipei Economic and Cultural Offices as well as Hong Kong and Economic Trade Office

Note: Diplomatic passports do not automatically grant diplomatic privileges.

Note: See Appendix A for General Guidelines on Customs Enforcement Actions Against Foreign Representatives.

53. If a foreign representative only provides a diplomatic, consular, or official passport from the country employing them and does not have a FAC issued identity card, contact the Office of Protocol - FAC through your superintendent to confirm the person's status by calling the RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at

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(613) 292-1723 (messages for the officer can also be left at 1-800-387-3124).

54. If a foreign representative cannot provide a foreign representative identity card, or if the person cannot provide a diplomatic, consular or official passport, which can be used to confirm his status with FAC's Office of Protocol, treat them as you would any other person while performing the normal duties of an officer.
55. Inform foreign representatives suspected of an impaired driving related offence of your suspicion and ask them to take a voluntary ASD or ABAI test.

Note: Persons with **diplomatic immunity** are not obligated to submit to such tests, nevertheless, they may wish to agree to the request in order to establish they are not driving while impaired.

Note: The ASD or ABAI "Demand" as provided in officer notebooks or cards is NOT to be utilized in situations with foreign representatives, since they are simply "requested" to take the tests.

56. If a foreign representative agrees to take an ASD and fails, advise them that they have the right to retain and instruct counsel, caution them against making any statements, and give them every reasonable opportunity to contact counsel if this is their wish. The officer may also request that the foreign representative take an ABAI. The local police should be contacted and advised of the situation.
57. Take all reasonable measures to prevent foreign representatives suspected of impaired driving related offences from operating any vehicle. Such measures include:
 - a) strong verbal persuasion;
 - b) removal of the ignition keys;
 - c) removal of the vehicle to a secure area;
 - d) preventing the driver from re-entering the driver seat of the vehicle;
 - e) assisting the driver to find an alternate means to continue their journey by:
 - i) contacting the Mission or a member of the drivers' family; or

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- ii) arranging for public transport
- iii) contacting the police; and/or
- f) contacting the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer to return your call can also be left at 1-800-387-3124) and requesting and acting on their advice.

Note: FAC has indicated that they will not intervene in cases where designated Customs officers have prevented a foreign representative, even one with diplomatic status, from driving, where they have acted in accordance with this policy and to protect public safety.

- 58. If you have reasonable grounds to suspect a foreign representative driver of an impaired related offence, do not allow them to leave the area in the vehicle they arrived in unless that person is in the care of another person willing and able to assume the responsibility and drive the vehicle.
- 59. In cases where you believe that it would be unsafe for a foreign representative to continue driving (i.e. a WARN on the ASD, or indicators such as the strong smell of alcohol on breath), request that they park the vehicle and wait until their level of sobriety improves.
- 60. Should they refuse to comply with the request to park the vehicle and wait until their level of sobriety improves:
 - a) keep them in temporary protection; and
 - b) contact the foreign representatives' Mission.

Note: "Temporary protection" may be established through strong verbal persuasion or by removing the ignition keys or conveyance. As long as it does not involve touching the foreign representative, officers may block the driver from re-entering the driver seat of the vehicle.

Note: Although under certain circumstances designated officers may undertake temporary protection, remember foreign representatives with diplomatic immunity cannot be detained, arrested, or handcuffed.

- 61. If contact with the foreign representatives' Mission is not possible, contact the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer can also be left for the officer at 1-800-387-3124).

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- ii) arranging for public transport
- iii) contacting the police; and/or
- f) contacting the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer to return your call can also be left at 1-800-387-3124) and requesting and acting on their advice.

Note: FAC has indicated that they will not intervene in cases where designated Customs officers have prevented a foreign representative, even one with diplomatic status, from driving, where they have acted in accordance with this policy and to protect public safety.

- 58. If you have reasonable grounds to suspect a foreign representative driver of an impaired related offence, do not allow them to leave the area in the vehicle they arrived in unless that person is in the care of another person willing and able to assume the responsibility and drive the vehicle.
- 59. In cases where you believe that it would be unsafe for a foreign representative to continue driving (i.e. a WARN on the ASD, or indicators such as the strong smell of alcohol on breath), request that they park the vehicle and wait until their level of sobriety improves.
- 60. Should they refuse to comply with the request to park the vehicle and wait until their level of sobriety improves:
 - a) keep them in temporary protection; and
 - b) contact the foreign representatives' Mission.

Note: "Temporary protection" may be established through strong verbal persuasion or by removing the ignition keys or conveyance. As long as it does not involve touching the foreign representative, officers may block the driver from re-entering the driver seat of the vehicle.

Note: Although under certain circumstances designated officers may undertake temporary protection, remember foreign representatives with diplomatic immunity cannot be detained, arrested, or handcuffed.

- 61. If contact with the foreign representatives' Mission is not possible, contact the Office of Protocol – FAC, RCMP Diplomatic Security Liaison officer at (613) 992-8055 or after hours at (613) 292-1723 (messages for the officer can also be left for the officer at 1-800-387-3124).

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68. Forward a copy of the E641 Criminal Code Incident Report through your superintendent to the Manager, Contraband Programs Section, Policy and Contraband Programs, Division, CCII. The fax number is (613) 952-9863.

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REFERENCES

69. *Foreign Missions and International Organizations Act* (1991)
Privileges and Immunities (North American Treaty Organization) Act (1985)
Vienna Convention on Diplomatic Relations (1961)
Vienna Convention on Consular Relations (1963)
Convention on the Privileges and Immunities of the United Nations (1946).
Policy on Impaired Driving – DFAIT Protocol
D-Memorandum 21-1-1, Customs Privileges for Diplomatic Missions,
Consular Posts, and International Organizations

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SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 4

FOREIGN REPRESENTATIVES POLICY AND PROCEDURES

Appendix A

**GENERAL GUIDELINES FOR CUSTOMS ENFORCEMENT ACTIONS
AGAINST FOREIGN REPRESENTATIVES**

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APPENDIX A

**GENERAL GUIDELINES FOR CUSTOMS ENFORCEMENT ACTIONS
AGAINST FOREIGN REPRESENTATIVES**

Diplomatic Personnel

Category	Arrest and Detention	Personal Search	Vehicle Search	Baggage Search	Prosecution	Recognized Dependents
Diplomatic Agents	NO	NO	NO	NO	NO	SAME
Admin. & Technical Staff	NO	NO	NO	USA – NO Other State- YES*	NO	SAME
Service Staff.	YES	YES	YES	YES	YES	NONE

Consular Personnel

Category	Arrest and Detention	Personal Search	Vehicle Search	Baggage Search	Prosecution	Recognized Dependents
Career Officers	Yes for Serious Crime w/warrant only.	NO	YES	NO	Not for acts performed in the course of their official duties.	SAME
Honorary Officers	YES	YES	YES	YES*	Not for acts performed in the course of their official duties.	S/.ME
Admin. & Technical Staff	YES	YES	YES	YES*	Not for acts performed in the course of their official duties.	S/.ME
Service Staff	YES	YES	YES	YES	YES	NONE

* The search of baggage of any person associated with a diplomatic mission or consular post must take into consideration that the person may be carrying "archives" (i.e. files, correspondence), and these documents will not be searched under any circumstances. If a person claims to be carrying "archives", these must be excluded from search.

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Category	Arrest and Detention	Personal Search	Vehicle Search	Baggage Search	Prosecution	Recognized Dependents
Reps and Senior Officials	NO	NO	NO	NO	Not for acts performed in the course of their official duties.	NONE
Officials	YES	YES	YES	YES	YES	NONE

United Nations Personnel

Category	Arrest and Detention	Personal Search	Vehicle Search	Baggage Search	Prosecution	Recognized Dependents
Reps and Experts	NO	NO	NO	NO	Not for acts performed in the course of their official duties.	NONE
Officials	YES	YES	YES	YES	YES	NONE

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Appendix B

FEDERAL, PROVINCIAL, AND TERRITORIAL OFFICES OF PROTOCOL

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APPENDIX B

FEDERAL, PROVINCIAL, AND TERRITORIAL
OFFICES OF PROTOCOL

Federal Office of Protocol

Canada

Office of Protocol
Foreign Affairs Canada
125 Sussex Drive
Ottawa, Ontario
K1A 0G2
Telephone No.: (613) 992-8055 (or after hours (613) 292-1723)
Fax: (613) 943-8801

Provincial and Territorial Offices of Protocol

British Columbia - Victoria

Mr. David N.S. Harris, M.V.O., C.D., A. de C.
Chief of Protocol of British Columbia
Protocol and Events Branch
Department of Governmental Services
553 Superior Street, 2nd floor
Victoria, British Columbia
V8W 9V1

Telephone No.: 250-356-1138
Fax No.: 250-356-2814

Alberta - Edmonton

Mrs. Betty Anne Spinks
Chief of Protocol
Executive Council
1201 Legislature Annex
9718 - 107 Street
Edmonton, Alberta
T5K 1E4

Telephone No.: 780-422-2236
Fax No.: 780-422-0786

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Mrs. Emily Anderson
Deputy Chief of Protocol

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Saskatchewan - Regina

Mr. Michael Jackson, L.V.O., C.D.
Executive Director of Protocol and Government House
Protocol Office
1919 Saskatchewan Drive, 10th floor
Regina, Saskatchewan
S4P 3V7

Telephone No.: 306-787-3001
Fax No.: 306-787-1269

Manitoba - Winnipeg

Mr. Dwight MacAulay
Director of Protocol of Manitoba
Executive Council Office
Legislative Building, Room 338
450 Broadway Street
Winnipeg, Manitoba
R3C 0V8

Telephone No.: 204-945-8845
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Ontario - Toronto

Mr. Roy Brent Norton
Executive Director of International Relations
and Chief of Protocol
Office of International Relations and Protocol
Ministry of Economic Development and Trade
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M5S 2B1

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Quebec - Québec

Mr. Michel Gagné
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Ministry of International Relations
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Telephone No.: 418-649-2346
Fax No.: 418-649-2657
Montréal Office: 514-864-4840

Nova Scotia - Halifax

Mrs. Colleen McDonald
Chief of Protocol of Nova Scotia
Protocol Office
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P.O. Box 1617
Halifax, Nova Scotia
B3J 2Y3

Telephone No.: 902-424-6740
Fax No.: 902-424-4309
Web Site: www.gov.ns.ca

New Brunswick - Fredericton

Ms. Anne Reynolds
Protocol Officer
Protocol Office
Intergovernmental Affairs
736 King Street
P.O. Box 6000
Fredericton, New Brunswick
E3B 5H1

Telephone No.: 506-453-2671
Fax No.: 506-453-2995

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Prince Edward Island - Charlottetown

Mr. Merril Wiggington
Acting Protocol Officer
Protocol Office
Province of Prince Edward Island
P.O. Box 2000
Charlottetown, Prince Edward Island
C1A 7N8

Telephone: (902) 368-5895
Fax: (902) 368-6500

Newfoundland and Labrador - St. John's

Mr. David Dempster
Director of Protocol of Newfoundland and Labrador
Executive Council
Government of Newfoundland and Labrador
P.O. Box 8700
St. John's, Newfoundland and Labrador
A1B 4J6

Telephone No.: 709-729-3670
Fax No.: 709-729-6878

Northwest Territories - Yellowknife

Ms. Carmen Moore
Protocol Officer
Department of the Executive
P.O. Box 1320
Yellowknife, Northwest Territories
X1A 2L9

Telephone No.: 867-873-7167
Fax No.: 867-873-0104
Web Site: www.assembly.gov.nt.ca

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Yukon Territory - Whitehorse

Ms. Pamela Bangart
Protocol Officer
Executive Council Office
Government of the Yukon Territory
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

Telephone No.: 867-667-5875
Fax No.: 867-393-6214

Nunavut - Iqaluit

Ms. Annette Bourgeois
Press Secretary to the Premier and Protocol Officer
Executive & Intergovernmental Affairs
P.O. Box 2410
Iqaluit, Nunavut
X0A 0H0

Telephone No.: 867-975-5059
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Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

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FOREIGN REPRESENTATIVES POLICY AND PROCEDURES

Appendix C

**OFFICE OF PROTOCOL POLICY RELATING TO IMPAIRED DRIVING AND
OTHER SERIOUS TRAFFIC OFFENCES**

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APPENDIX C

Office of Protocol, Department of External Affairs and International Trade

UNCLASSIFIED

CIRCULAR NOTE NR. XDC-0427

Impaired Driving Policy

The Department of Foreign Affairs and International Trade presents its compliments to Their Excellencies the Heads of Missions accredited to Canada and to the international organizations established in Canada, and has the honour to inform them of the Department's revised policy with respect to instances where persons with diplomatic, consular or equivalent status in Canada are alleged to be driving while impaired, or to have committed other serious traffic offences.

The Department reminds Heads of Missions that, pursuant to Article 41 (1) of the Vienna Convention on Diplomatic Relations and Article 55 (1) of the Vienna Convention on Consular Relations, it is the duty of all persons enjoying privileges and immunities to respect the laws and regulations of the receiving State, without prejudice to their privileges and immunities. The Department's revised policy is based upon that principle, as well as the position that the operation of a motor vehicle by persons enjoying privileges and immunities in Canada is not a right but a privilege. In implementing the policy, the Department will be guided by the paramount importance of ensuring the protection and safety of Canadians and others in Canada including members of the diplomatic community. At the same time, the Department reiterates the importance it attaches to the Vienna Conventions and its commitment to respect the obligations contained therein.

Policy Relating to Impaired Driving or Other Serious Traffic Offences

Stopping of Vehicles with Diplomatic Licence Plates: On reasonable suspicion that the driver of a vehicle bearing diplomatic or consular licence plates has consumed alcohol or is otherwise impaired, police forces may stop the vehicle and request the driver to present identification. Persons enjoying consular immunity are covered by the policy set out in the Department's Note No. XDC-4146 and may be required to submit to roadside screening and breathalyser tests. Notwithstanding the privileges and immunities the driver may enjoy, police forces may take such reasonable measures as are necessary to ensure that the driver is not a threat to public safety or to himself or herself. Such measures may include requests to establish whether the person's co-ordination or faculties are affected by alcohol or other substances. In the event that a police officer assesses that the driver is impaired, the officer will so inform the driver and may request that he or she take a roadside screening test or a

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breathalyser test. Persons enjoying diplomatic immunity are not obligated to submit to such tests, but may nevertheless wish to agree to the request in order to establish that they are not driving while impaired. If the police officer continues to have a reasonable suspicion that the driver is impaired, he or she will take all reasonable measures to prevent the driver from operating the vehicle. Such measures may include removal of the keys and preventing the driver from re-entering the vehicle. The police will offer assistance to the driver to find an alternative means to continue his or her journey by, *inter alia*, contacting the Mission or a member of the driver's family, or arranging for public transportation. The police will not permit a driver, for his or her own safety, to leave the area where the vehicle has been stopped unless that person is in the care of another person willing and able to assume that responsibility. For public safety reasons and the protection of the vehicle, the police may arrange for the vehicle to be moved to a safe location. The Department will not intervene in cases where police forces have prevented a person with diplomatic status from driving, where the police have acted in accordance with this policy and to protect public safety.

Subsequent Actions: In every case where the Department receives a police report on an incident where police forces have intervened to prevent a person enjoying immunity from driving in the interests of public safety, the Department will contact the relevant Head of Mission in writing and inform him or her of the incident and the allegations of the police. The Department will inform the Head of Mission that police forces or other authorities may lay criminal charges. The Department will request in writing that the sending State waive administrative immunity so that the Department may hold the licence of the individual concerned and contact the relevant authorities to seek the suspension of that licence for a period of up to one year. If the sending State agrees to waive immunity for this purpose, a note will be required from the Mission to the Department confirming the waiver of immunity. Alternatively, the Department may accept a written undertaking by the Head of Mission that he or she will ensure that the person concerned will not drive in Canada for a period of up to one year. In the event that a person, whose privilege to drive in Canada has been suspended, fails to respect this condition of his or her continued assignment in Canada, the Department will immediately request that person's recall.

Criminal Charges: In cases of impaired driving or other major traffic offences, police forces have been encouraged by the Department to lay charges under the *Criminal Code of Canada*, regardless of the immunity of the person concerned. In accordance with the Vienna Convention on Diplomatic Relations, police forces shall not detain or arrest a person with diplomatic status.

Should a person enjoying immunity be charged with impaired driving or another major traffic offence, the Department will contact the Head of Mission to formally

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request the sending State to waive immunity. In the event that the sending State waives immunity, the Department will notify the appropriate local authorities.

The Department expects that the person charged will comply with the decision of the court where the matter is adjudicated, including the payment of any fines and the completion of any mandatory education or treatment programs.

Should the sending State decide not to waive the immunity, the Department may accept a written undertaking by the Head of Mission that he or she will ensure that the person charged will not drive in Canada for a period of at least one year.

In the event that a person, whose privilege to drive in Canada has been suspended, fails to respect this condition of his or her continued assignment to Canada, the Department will immediately request his or her recall.

In the absence of an acceptance of one of the aforementioned options, the Department will request the recall of the individual.

Repeated Incidents or Other Serious Traffic Offences: If a person enjoying privileges and immunities is involved in a second instance of impaired driving, or is charged with a traffic offence involving death or injury, the Department will request the relevant Mission to waive immunity. If the sending State decides not to waive immunity, the Department will require the person concerned to leave Canada. In some exceptional circumstances, the Department may require the individual to leave Canada even in cases where the sending State agrees to waive immunity.

Conclusion: The Department recognizes that the vast majority of persons enjoying privileges and immunities in Canada comply with their duty to respect local laws. However, the failure of even a small minority of persons to respect Canadian laws can lead to tragic consequences for Canadians and the persons involved. For this reason, the Department is determined to work closely with police forces to rigorously implement the policy on impaired driving. In this regard, the police will be informed in writing of any action taken by the Department pursuant to a report received by the Office of Protocol related to impaired driving or other serious traffic offences. The Department requests that Missions review the revised policy with their personnel across Canada to ensure that the policy is clearly understood. The Department wishes to inform Heads of Missions that their co-operation in ensuring that this policy is fully respected is both appreciated and expected. The Department will consider transgressions of this policy by persons accredited to Canada, including failures to respect undertakings made pursuant to this policy, as the responsibility of the Head of Mission. The Office of Protocol would be pleased to provide any further clarification of this policy.

The Department of Foreign Affairs and International Trade avails itself of this opportunity to renew to Their Excellencies the Heads of Missions accredited to

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Canada and to the international organizations established in Canada the assurances of its highest consideration.

CUSTOMS ENFORCEMENT MANUAL

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 5

USE OF FORCE POLICY AND PROCEDURES

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Use of Force

Please refer to the following link for all related policies on the Use of Force:

[Arming Initiative Reference Manual](#)

CBSA ENFORCEMENT MANUAL

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 6

PERSONAL SEARCH POLICY AND PROCEDURES

06/03/06

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Personal Search

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to detect, detain, arrest, and to conduct personal searches on persons entering Canada suspected of having concealed contraband on or about their person (i.e. body packed, swallowed, within body cavities).

DEFINITIONS

2. Refer to chapter 11 – Glossary.

AUTHORITIES

Customs Act

3. Section 11.2 – allows the designation of areas as customs controlled areas. Section 11.3 – owners or operators of customs controlled areas may grant access to authorized or prescribed persons only.
4. Section 98 – provides that a border services officer (BSO) may search any person who the officer suspects on reasonable grounds has goods concealed on or about their person that may contravene the Act, could be evidence of a contravention of the Act, or the importation or exportation of which is prohibited, controlled, or regulated by this or any other act of Parliament. The person has the right to be taken before a senior officer to object to the search. It is up to the senior officer at this point to determine if there are reasonable grounds to conduct a search. Only officers of the same sex as a person may search them and if an officer of the same sex is not available, an officer may authorize any suitable person of the same sex to perform the search. The authority is limited to:
 - a) any person who has arrived in Canada, within a reasonable time after their arrival,
 - b) any person about to leave Canada, at any time prior to their departure, or
 - c) any person who has had access to an area designated for persons leaving Canada and has left the area, but has not left Canada, within a reasonable time after they leave the designated area.

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Note: The Supreme Court of Canada has interpreted that Section 98 extends to searches to determine whether goods are concealed within the body.

5. Section 99.2 – authorizes a border services officer to search a person, including prescribed persons or members of a prescribed class of persons, leaving a customs controlled area, if they have reasonable grounds to suspect the person has goods concealed on or about their person that may contravene the act, could be evidence of a contravention of the Act, or the importation or exportation of which is prohibited, controlled, or regulated by this or any other act of Parliament. The person has the right to be taken before a senior officer to object to the search. It is up to the senior officer to determine if there are reasonable grounds to conduct a search.
Only officers of the same sex as the person will search them and if an officer of the same sex is not available, an officer may authorize any suitable person of the same sex to perform the search.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

6. Section 15 – authorizes border services officers to search any person, if they have reasonable grounds to suspect that a person has concealed currency or monetary instruments that are greater than the amount prescribed on or about their person and have not reported it. The person has the right to be taken before a senior officer to object to the search. It is up to the senior officer to determine if there are reasonable grounds to conduct a search. Only officers of the same sex as a person may search them and if an officer of the same sex is not available, an officer may authorize any suitable person of the same sex to perform the search. The authority is limited to persons:
 - a) arriving in Canada, within a reasonable time after their arrival,
 - b) about to leave Canada, at any time prior to their departure, or
 - c) who has had access to an area designated for persons leaving Canada and has left the area but has not left Canada, within a reasonable time after they leave the designated area.

The Canadian Charter of Rights and Freedoms

7. Section 8 – states everyone has the right to be secure against unreasonable search or seizure.
8. Section 9 – states everyone has the right not to be arbitrarily detained or imprisoned.

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9. Section 10 – states everyone has the right on arrest or detention:
 - a) to be informed promptly of the reasons for arrest or detention;
 - b) to retain and instruct counsel without delay and to be informed of that right; and
 - c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.
10. In *R. v. Simmons*, the Supreme Court of Canada held that for persons entering Canada, the degree of personal privacy reasonably expected at customs is lower than it is in most situations. Searches performed by customs officers are reasonable based on a standard of reasonable grounds to “suspect”.
11. In the *R. v. Monney* decision, the Supreme Court of Canada re-affirmed the decision of *R. v. Simmons* and held that the authority of section 98 extends to the collection of body wastes. Customs officers have the authority to detain persons for the purposes of collecting samples of bowel movements under monitored conditions where they have reasonable grounds to “suspect” these wastes contain evidence of a contravention.
12. The Supreme Court of Canada has divided the types of searches that customs officers perform into three categories based on the *Charter* issues. The categories are as follows:
 - a) The first category of search involves the routine questioning of persons arriving in Canada, the inspection of baggage, pockets, wallets, and purses, and the pat down of outer clothing. The Court viewed these as part of routine processing, which does not raise *Charter* concerns.

Note: See Part Four, Chapter Three, Personal Baggage, Goods, and Conveyance Examination Policy and Procedures for guidelines pertaining to pocket searches for evidence.
 - b) The second category of search is that which involves the removal of clothing (disrobing). Searches of the second category are viewed as detentions that invoke rights such as the right to be informed of the reasons for the detention and the right to retain and instruct counsel. For a category two search, which includes the collection of body wastes, officers must have “reasonable grounds” to suspect that the person has secreted contraband on or about his/her body.

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- c) The third category is that which involves actual physical contact for examination of the body, (i.e., the administration of x-rays, or the probing of body cavities). A third category search must be considered to be, at a minimum, also a detention.

Note: Neither category two or three searches are considered "routine" processes and are deemed to constitute a detention within the meaning of Section 9 of the *Canadian Charter of Rights and Freedoms*.

Criminal Code of Canada

- 13. Section 2 – defines border services officers as "peace officers" when performing any duty in the administration of the *Customs Act*.
- 14. Section 25 – states that as "peace officers" border services officers with reasonable grounds, have the authority to use as much force as is necessary to complete a search.

Note: Refer to Part Six, Chapter Five, Use of Force Policy and Procedures.

- 15. Section 26 – states that officers who use excessive force are criminally responsible for their actions.

BACKGROUND

- 16. For years, border services officers have been detecting persons who have swallowed drugs, inserted drugs into body orifices, and/or packed currency and/or drugs around their bodies to circumvent the law and bring it illegally into Canada. Although less prevalent, other contraband such as jewellery has been smuggled in this manner as well.
- 17. To discover if suspicions of contraband concealed on or about a person are correct, it may be necessary to conduct a personal search. Border services officers have the authority to conduct personal searches in accordance with section 98 of the *Customs Act*.
- 18. In terms of legal authorities in this regard, in *R. v Monney*, the Supreme Court of Canada ruled that under section 98 of the *Customs Act*, a customs officer may search a traveller, providing the officer suspects on reasonable grounds that contraband has been "secreted on or about his person" and that the search occurs "within a reasonable time" of the person's arrival in Canada. The phrase "secreted on or about his person" not only refers to prohibited material on or about the surface of a person's body but also secreted or concealed within their body.

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19. The Supreme Court ruling further stated that the actions of the customs officers in detaining Monney in a “drug loo facility” and conducting a “bedpan vigil” amounted to a search within the second of the three categories of border searches established in the *Simmons* case and were reasonable for the purposes of section 8 of the Charter.
20. The Court found that a passive “bedpan vigil” is not as invasive as a body cavity search or medical procedures such as the administration of emetics.

PURPOSE AND SCOPE

21. The purpose of this policy is to guide border services officers in the personal search, including monitored bowel movements and cavity search, of persons suspected of attempting to smuggle contraband.
22. This chapter is an extension of Part Six, Chapter One, Arrest and Detention and Chapter Two, Care and Control of Persons in Custody and must be used in conjunction with them.
23. This policy applies to all border services officers.

POLICY GUIDELINES

Approval

24. After completing all routine customs processing, if a border services officer has reasonable grounds to suspect that a person has secreted contraband on or about their body, they will convey their suspicions to a senior officer.
25. Border Services officers must obtain approval from a senior officer to proceed with the detention of a person for a personal search.

Note: A personal search may include a monitored bowel movement. If the search involves monitored bowel movements or a visit to a medical facility, the approval must be in writing.

Rights and Cautions

26. Prior to undergoing a personal search under section 98 of the *Customs Act*, a person must be under detention and, therefore, must be advised of their rights and cautions, and given the opportunity to contact counsel.

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- Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.
27. Persons must be directed to read the section 98 poster or section 98 in the *Customs Act*.
 28. If persons have difficulty reading, officers will read the provision of section 98 to them.
 29. Persons must be asked, if they understand section 98 and whether they wish to be taken before a senior officer to contest the search.
 30. If a person does not understand Section 98, its meaning must be explained to them in words or a language that is understood. After the meaning of section 98 is explained to the traveller in a language that is understood, the officer should take notes of what was explained to the traveller.
 31. Officers must take reasonable steps to obtain an interpreter or other suitable person capable of speaking the language of a person when a language barrier is identified.
 32. Persons using an interpreter or other suitable person must be re-informed through the interpreter or other suitable person of the detention, their right to retain and instruct counsel, and of section 98, all prior to the commencement of any search.
 33. At any time when a person has admitted to unlawful conduct and has not been previously cautioned, they will be immediately cautioned concerning the making of any further statements. Such statements are considered to be spontaneous utterances and are admissible as evidence.
 34. Officers must record in their notebooks the time at which each advisement/caution was given, the answers received when asked if the advisement/caution was understood, as well as the decision made by the person concerning contacting counsel and being taken before a senior officer.

Contesting Grounds under Section 98

35. When a person elects to contest the reasonable grounds for a search under section 98, the officer requesting the search will advise a senior officer of the reasonable grounds.

Note: At ports of entry where a senior officer (i.e. superintendent, chief, manager) is not available, border services officers will telephone the

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- closest CBSA office where a senior officer is in charge. Persons will be allowed to talk to the senior officer by telephone.
36. The searching officer will ensure that the person has had the opportunity to verbally advise the senior officer of their objection.
 37. When a person talks to a senior officer, the senior officer must deliver a secondary caution.
 38. Senior officers will assess reasonable grounds and decide whether the search is to take place. The senior officer reviewing the grounds cannot be the same person who approved the original request to conduct the search. If a second senior officer is not available, one must be contacted by phone.
 39. Senior officers who review the grounds for conducting a search must record in their notebook all contact with the suspect person, whether or not they approved or denied the personal search and the reasons for their decision.

Officer Health and Safety

40. If a frisk for officer safety has not yet been conducted, prior to entering the search room, immediately after a person has been advised of their rights or as a simultaneous action, a frisk must be performed as a safety precaution for the searching officers. All detainees are to be frisked prior to entering a search room.

Note: Refer to Chapter Six, Part One, Arrest and Detention Policy and Procedures for guidelines on conducting frisks for officer safety.

41. Officers will discontinue personal searches when they find that because of a frisk for officer safety their reasonable grounds for conducting a further personal search have disappeared. For example, if an officer suspected the person of carrying a body pack and the frisk revealed no such pack, the personal search would be discontinued.
42. Officers conducting personal searches will wear protective gloves. Officers may also wear safety glasses and/or masks, if they feel it is necessary (e.g. when the person being searched is suspected of being a carrier of a life threatening virus or a communicable disease).
43. Officers will shield any breaks or lesions on their skin (i.e. with dressings, bandages, barrier creams, etc.) to protect them from contamination.

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44. Officers will be especially careful when handling faeces and when they come into contact with bodily secretions such as blood, urine, sputum, vaginal secretions, saliva, and vomit or areas soiled by any of these.

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45. The CBSA will fully support officers' decisions to tactically reposition at any point in a situation if, in their judgement, the use of force would present undue risk to the safety of themselves, another officer or a member of the public.

Note: Refer to Part Six, Chapter Five, Use of Force Policy and procedures for use of force options, including tactically repositioning.

Personal Search

Note: An Internal Carriers and Body Packers training course is recommended for all officers and supervisors involved in personal searches.

46. To justify a detention, officers will record in their notebook all reasonable grounds, indicators, and non-verbal and verbal responses, including inculpatory and exculpatory statements relating to a person.
47. Officers must get the approval of a senior officer to perform a personal search.
48. Before a person is escorted into a search room, it must be made sterile and devoid of any loose articles.
49. All personal searches are to be conducted by an officer of the same sex as the person being searched.
50. An assisting officer of the same sex as the person must also be present.

Note: Refer to Appendix A, Authorizing Assistance for a Personal Search, for further instructions if two officers of the same sex as the person are not available.

51. When deemed necessary, the search of a child will be undertaken in the presence of an adult, preferably the child's travelling companion.

Note: A child is defined per the *Youth Criminal Justice Act* as a person under the age of 12 years. A youth is someone over 12 but less than 18 years old. There is no legal obligation to allow a young person suspected of having committed an offence that is to be the subject of a personal search to contact a parent or other appropriate adult person. It is the CBSA policy, however, to allow the young person to do so. See Part 6 Chapter 3 for information about the arrest and detention of young persons.

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52. Officers will keep persons undergoing a personal search under constant observation, as continuity of evidence must be maintained throughout the search process.
53. Officers will ensure that personal searches are conducted in a professional and dignified manner.
54. Officers will politely answer but without elaboration, particularly if an argument may result, when a person asks any questions.
55. Officers may ask a person to remove some or all clothing as is needed to conduct a personal search for contraband. The person is obligated to comply.
56. Officers may ask a person to bend over or squat at which time the vagina and anus areas may be viewed for indicators (strings, lubricants, etc.) that would suggest the insertion of foreign objects into the cavity. Persons may be asked to spread their buttocks.
57. When illicit contraband is found during a personal search, persons may immediately be placed under arrest, if circumstances warrant, and advised of the reason for the arrest, their right to retain and instruct counsel, and cautioned about making any incriminating statements.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

58. Officers will record the time of the arrest as well as all answers received to the rights and caution statements in their notebook and on the Personal Search/Aрест Report in ICES or for non-automated ports on a paper version of the form.
59. At the time of arrest, even if a person requests to contact counsel, personal searches already underway will be continued until completed. Upon completion of the search, persons must be allowed to contact counsel immediately.
60. At the conclusion of a search, officers will inform the person that the search is complete and, if they are no longer detained or under arrest, that they are free to leave.
61. Unless they are still detained or have been arrested, officers will allow a person to get dressed in private.

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62. Officers will watch detained and arrested persons closely as they dress in case there is a need to secure weapons such as needles or razor blades, or additional contraband that have been concealed but not discovered during the search.
63. Officers will escort detained or arrested persons to a detention cell, a secure area of the customs facility, or where applicable to a Specimen Isolation Unit (SIU) room or appropriate alternative.
64. When an enforcement action has resulted from a personal search, but the person is no longer being detained and has not been placed under arrest, officers will inform them that certain information is needed to complete the enforcement action and that their co-operation would be appreciated and will facilitate their departure from the CBSA area.

Note: Refer to Part Six, Chapter Two, Care and Control of Persons in Custody Policy and Procedures.

Use of Force to Complete Search

Note: Refer to Part Six, Chapter Five, Use of Force Policy and Procedures for detailed guidelines.

65. Officers should attempt to control difficult situations without jeopardizing their safety, the safety of another officer or a member of the public.

Note: Verbal intervention should be the principal method of trying to obtain a person's co-operation.
66. Officers will perform a proper risk assessment to assess their ability to use force to conduct the search and will use as much force as necessary to conduct the search as long as they have reasonable grounds.

Note: Refer to Part Six, Chapter Five, Use of Force Policy and Procedures for detailed guidelines.
67. Officers may restrain a person, if they attempt to leave the CBSA area before undergoing a personal search. In addition, persons may be arrested for resisting, hindering, and/or wilfully obstructing a peace officer in the performance of their duties.

Body Packs

68. When body packs are discovered during the course of a frisk, personal search, or at any other time, persons may be placed under arrest

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immediately, advised of the reason for arrest, their right to retain and instruct counsel, and cautioned.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

69. As deemed necessary for evidentiary purposes, officers may take pictures of persons with body packs in place with their clothes on, in various stages of undress, and entirely disrobed.
70. Unless the subject is hostile, officers may allow persons to remove body packs themselves. If scissors or some other kind of cutting instrument is required, officers will complete the removal process.

Vaginal or Anal Inserts

71. When vaginal or anal inserts are discovered during the course of a personal search, persons may be placed under arrest immediately, advised of the reason for arrest, their right to retain and instruct counsel and cautioned about making any incriminating statements. It is recommended that the officers read the reasons for arrest, rights to counsel and cautions directly from their issued notebook insert CE1-1 Officers Reference Booklet.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

72. When vaginal or anal inserts are discovered during a personal search, officers will offer to call medical assistance and proceed to a medical facility, if requested by the person.
73. Under no circumstances will officers attempt to remove any objects from a person's body cavities.
74. Officers may allow persons to remove a vaginal or anal insert themselves, if they can remove the insert without complications and are willing to do so.
75. Officers may transport the person to a medical facility for removal of inserts:
 - a) upon a person's request;
 - b) when a person is unwilling or unable to remove them themselves;
 - c) if officers believe that the risk of complications is great; or
 - d) to confirm that all inserts have been removed.

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Note: Refer to Part 6, Chapter 12 Transporting Persons Under Arrest or Detention.

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Monitored Bowel Movements

76. Before a person may be detained for the purposes of a monitored bowel movement, all routine CBSA processing must be completed and a personal search conducted to eliminate the possibility that the person is importing contraband on their body, in their baggage, or in their vehicle (where applicable).
77. To proceed to a Specimen Isolation Unit (SIU) room or reasonable alternative for monitored bowel movements, a senior officer's approval and one of the following must occur:
 - a) the person admitted to ingesting drugs;
 - b) the person admitted to inserting drugs into a body cavity;
 - c) the officer has formulated by way of indicators the suspicion that the person has ingested drugs and a supervisor has given written approval based on these grounds; or
 - d) the officer has witnessed an orifice with suspect drugs inside.
78. Persons detained for the purposes of producing a bowel movement will be re-advised of the right to retain and instruct counsel, their right to be brought before a senior officer and be given as many additional opportunities to contact counsel as is reasonable.
79. A person who admits to carrying drugs internally may be placed under arrest, advised of the reason for arrest, advised of their right to retain and instruct counsel and cautioned about making any incriminating statements, but need not be turned over to the police until all evidence is produced.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

80. The health and safety of persons suspected of carrying drugs internally will be considered at all times.
81. Medical assistance will be sought immediately at the first sign of illness or whenever a detained person requests medical attention.
82. All persons, regardless of condition, must be advised that medical assistance can and will be made available, if requested or required.

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83. Monitored bowel movements will be conducted using an authorized SIU, a portable toilet or in cases where neither of these are available, a secured washroom facility.
84. Public washrooms will not be used as a secured washroom facility.
85. In the case of a secured washroom facility, such as a staff washroom, officers will turn off the main water source and empty any remaining water out of the toilet tank as a safeguard against the intentional or accidental disposal or destruction of any evidence produced.
86. If a person has produced three bowel movements and no contraband is found, the detention would normally be terminated.
87. At any point in a detention, where the officer believes the detention will exceed 24 hours, the person will be brought before a Justice of the Peace to have the grounds for detention reviewed. A detention cannot exceed 24 hours without such a review of the grounds.
88. A bowel movement that produces evidence of an offence may result in the immediate arrest of the person.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

Cases of Medical Emergency

89. Persons may experience medical complications as the result of inserting or ingesting drugs or complications caused by other medical conditions. In either case, medical assistance will be sought immediately.
90. When a person's health is in jeopardy, an ambulance will be called and one officer, of the same sex as the person, preferably the searching officer, must accompany the person in the ambulance to the medical facility.
91. Officers will ensure medical facility security is notified when there is a detained person in the facility.
92. Where medical staff determines that the person must stay in hospital, officers will ensure the police are contacted, advised of the particulars, and requested to attend.
93. An officer must stay with persons at all times until they are turned over to the police.

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94. Once discharged, persons will be transported back to the CBSA port following the approved policy and procedures.

X-rays, Probing, and Removal

95. The administration of x-rays and the probing of and removal of contraband from body cavities by medical personnel can only be performed when:
 - a) the person voluntarily provides an informed written consent; or
 - b) when they have been arrested and the x-ray/probe/removal is necessary for the health and safety of the person.
96. Officers are to utilize the expertise of qualified medical personnel and obtain their assistance in identifying any obstructions or blockages found while examining an x-ray or conducting a probe.

Note: Refer to Part 6, Chapter 12 Transporting Persons Under Arrest or Detention.

97. Section 98 of the *Customs Act* does not authorize an officer to demand that a traveller submit to an x-ray. To expedite the monitored bowel movement process, the CBSA allows travellers who are detained on suspicion of internally carrying illicit drugs to volunteer to be x-rayed by a medical professional. In order to facilitate this process and to document the traveller's consent to this procedure, the traveller is asked to sign form K-155, *X-ray Consent/Waiver*. Having signed this form, it remains that the individual may withdraw his or her consent at any time prior to the x-ray being taken.
98. Despite the fact that the traveller has volunteered to undergo the x-ray and has consented to allow the medical staff to provide the results to the CBSA, the traveller continues to be lawfully detained during this time. In this respect, CBSA officials continue to have all the same powers and authorities to limit the traveller's liberty and to supervise his or her actions as if the traveller was lawfully detained in a cell at a port of entry.

Note: Officers should ensure that they be allowed to monitor the detained person at all times and should ensure that hospital staff do not permit a detained person to have unsupervised access to a hospital washroom (or other area that could result in the loss or destruction of evidence) unless such access is deemed medically required.

99. It is essential to ensure that the traveler is constantly monitored. In so doing, should the hospital refuses to disclose the x-ray results or the

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individual withdraw his or her consent, the detention (monitored bowel movement) would continue with the detained traveller returning to the port of entry until such time as officers are satisfied that he or she is not carrying illicit drugs internally.

Medical and Ambulance Fees

100. The CBSA will pay the costs associated with the x-ray examination of a person for purposes of determining, if they have ingested contraband.
101. The person or their health or medical insurance will pay costs for all other medical related expenses except in cases where the person has no cash, credit card or health or medical insurance.
102. In-province residents must provide their health card and medical insurance information to the medical facility for billing of other medical related expenses.
103. For out of province or out of country residents, officers will make all reasonable attempts to have the person pay for their medical attention and/or ambulance fees.
104. The CBSA must accept responsibility for payment to the medical facility when the person (out of province or out of country resident), does not supply a health card, medical insurance card, cash or credit card. In such cases, officers will supply the hospital with their manager's name, address, and phone number for billing purposes.
105. A person's money may be used to purchase medication, only if they grant consent.
106. Officers will advise the attending physician when a person has no coverage or money and medication is prescribed.

Note: In these cases, the physician may choose to dispense hospital medications.

107. Officers will place receipts for medication purchased by a person in a personal belongings envelope for return to them.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody.

ROLES AND RESPONSIBILITIES

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Personal Search

Border Services Officers

108. Border services officers are responsible for:

- a) adhering to this policy and procedures;
- b) conducting personal searches, which may include monitored bowel movements, transporting persons to a medical facility, and monitoring cavity searches where and when so directed;
- c) following all necessary health and safety precautions, including ensuring they have the necessary vaccinations; and
- d) assist other officers by clearing search and SIU rooms, preparing evidence bags, protective gloves, and paperwork, and keeping detailed, accurate notes.

Senior officers

109. Senior officers are responsible for:

- a) evaluating the grounds for suspicion as presented by border services officers and, where warranted, authorizing monitored bowel movements, and transport of persons to a medical facility;
- b) providing guidance and technical assistance to lead and assisting officers;
- c) ensuring search and SIU rooms are available when required;
- d) assisting in the provision of evidence bags, cameras, and protective gloves;
- e) notifying all involved officers when a seizure has commenced;
- f) advising the regional intelligence officer (RIO) and receiving police force when required;
- g) ensuring that the policies and procedures related to personal searches, transporting persons to a medical facility and cavity searches are adhered to by border services officers; and
- h) taking appropriate corrective action on any breaches of the policy.

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Personal Search

Regional Intelligence Officers

110. Regional Intelligence Officers are responsible for:

- a) ensuring that current intelligence related to smuggling of contraband is assessed according to the validity and level of risk associated with the smuggling of controlled substances; and
- b) ensuring that lookouts are issued and files containing information on known or suspected drug smugglers are maintained.

Intelligence Directorate and Criminal Investigations Division

111. The Intelligence Directorate and Criminal Investigations Division are responsible for:

- a) developing, modifying, and approving all polices in accordance with court jurisprudence related to the administration of personal searches, including the collection and analysis of body waste, transporting of persons to a medical facility and cavity searches;
- b) ongoing development and support of monitored bowel movement tools and techniques;
- c) ensuring consistent application of the policy in all regions; and
- d) providing functional guidance and training.

PROCEDURES

Personal Search

112. Request the aid of an assisting officer.

113. Ensure the person is under constant observation.

114. Notify the responsible senior officer of the reasons for performing a personal search and obtain approval to proceed.

Note: It is recommended that senior officers review the grounds written in the officers' notebook and if they approve the search, they will sign, date, time, and record their badge number underneath the officers noted grounds. Senior officers should also record the persons data in their

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Personal Search

notebook, indicate that they authorized the search, and that they agreed with the grounds presented.

115. Inform the person that they are being detained for the purposes of a personal search under section 98 of the *Customs Act* (or section 15 of the PCMLTFA) and the reason for the detention. One of the following statements is recommended:

a) For Drugs or other contraband:

"I have reasonable grounds to suspect that you are carrying non-reported goods (or suspected drugs) on or about your person and I am detaining you for the purposes of a personal search as authorized by section 98 of the *Customs Act*."

b) For Currency or Monetary Instruments:

"I have reasonable grounds to suspect that you are carrying non-reported currency or monetary instruments above the prescribed amount on or about your person and I am detaining you for the purposes of a personal search as authorized by section 15 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*."

Note: The Officer's Reference Booklet also contains a version of this statement to ensure it is easily available to on-site officers.

116. Advise the person that they have the right to retain and instruct counsel immediately.

117. Also caution the person to ensure that any statement or admission of guilt made by a person after detention or arrest is admissible evidence in court.

118. Prior to making any telephone calls, but after or while being informed of their right to counsel, frisk the person for officer safety and where available, augment the frisk with the use of a metal detector wand.

119. Allow the person to contact counsel.

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Personal Search

Note: If a call takes place in a closed or private room, the door to the room may be closed only if the person can still be observed (i.e., through a window). If a call takes place in an open room, all officers will maintain an appropriate distance so that the conversation is private and cannot be overheard.

120. At any time when a person has admitted to unlawful conduct and has not been previously cautioned, immediately caution them concerning the making of any further statements.
121. Record in your notebook the person's answers to their rights and cautions, whether they elected to contact counsel, and if counsel was reached. Include the name of counsel and phone number used to contact counsel.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures for detailed guidelines and wording regarding rights and cautions.

122. Direct the assisting officer to clear and make safe the search room.

Note: For example, papers, paperclips, pens, cups, foreign objects that could be used as weapons, and anything that could generally contaminate the evidence.

123. Make a notebook entry of the fact that the search room is clear and if applicable, any findings made while preparing it.
124. Ensure the person reads section 98 of the *Customs Act* (or section 15 of the PCMLTFA) or read section 98 and/or section 15 of the PCMLTFA to the person.
125. Ensure that they understand section 98 (or section 15 of the PCMLTFA). If not, explain section 98 and/or section 15 of the PCMLTFA to them in words they can understand. The officer should take notes of what was explained to the traveller.
126. Upon request, bring the person before a senior officer for a review of the reasonable grounds for the search. The officer reviewing the grounds cannot be the same person who approved the original request to conduct the search.
127. The senior officer must ensure that a secondary caution is provided as follows:

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Personal Search

"If you have spoken to any police officer or to anyone, or if any such person has spoken to you in connection with this case, I want it clearly understood that I do not want it to influence you in making any statement."

128. Protective gloves, masks and protective eyewear may be worn, if necessary.
129. Instruct the person to remove all items from his/her pockets.
130. Document these items in the notebook and later record the information on the personal effects record portion of a Personal Search/Arrest Report form in ICES or, for non-automated ports, complete a paper version of the form. Document the instructions and items removed chronologically.
131. Instruct the person to remove each piece of clothing, one item at a time, and hand it to the searching officer.
132. Examine each item of clothing for any hidden contraband or evidence such as receipts.
133. Closely examine waistbands and seams of garments for evidence or anything that could be used as a weapon such as needles and razor blades.
134. After examination, fold each piece of clothing and place it on a table or chair.
135. Once the person is disrobed, view all exterior parts of the body such as the hair, under-arms, legs, and bottoms of the feet, and ask to look into the person's mouth.
136. If necessary, instruct the person to bend over and/or squat and look for indicators (strings, lubricants, etc.) that suggest the insertion of foreign objects into body cavities. Instruct the person to spread the buttocks if necessary.
137. Determine if suspicion still exists for inserted or ingested contraband.
138. If circumstances warrant, arrest persons when contraband is discovered or when they have admitted to concealing contraband and advise them of the reason for the arrest, their right to retain and instruct counsel, and caution them about making any incriminating statements.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

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Personal Search

139. If a person is no longer under detention and is not under arrest, inform them that the search is complete and they are free to leave or where concealed goods have been discovered, that their co-operation in completing enforcement action documentation will facilitate their departure from the CBSA area.
140. Advise persons not under detention or arrest that they may get dressed in private.
141. Continue to observe persons under detention or arrest while they dress.
142. Escort detained or arrested persons to a detention cell, secure area of the CBSA facility, or SIU room for further processing.

Note: Refer to Part Six, Chapter Two, Care and Control of Persons in Custody.

143. Take detailed notes throughout the process, including all reasonable grounds, a list of all indicators observed (including verbal inculpatory and exculpatory statements and non-verbal responses), time of contact, detention, arrest, contact of counsel, health checks, eating and drinking, etc.
144. Record all findings of a personal search on the Personal Search/Aрест Report form in ICES or for non-automated ports complete a paper version of the form.

Body Packs

145. If body packs are found, and if circumstances warrant, arrest the person, advise the person of the reason for the arrest, advise the person of his rights, and caution the person.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

146. Advise the senior officer on duty of the discovery of body packs.
147. Take pictures of the person dressed and in different stages of undress while the body packs are still in place.

Note: Photographs will serve as evidence in court. Photographs are considered documentary evidence and must be submitted under disclosure.

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148. Instruct the person to carefully remove the packs one at a time and hand them to you. This option is only used, if the person is cooperative and poses no threat to themselves or the officers. If hostile, the person will remain handcuffed and the officer will be responsible for removing the packs or the person will be turned over to the responding police agency with the packs.
149. Take over the removal of the packs, if scissors or some other type of cutting instrument is required to remove the packs
150. Mark all evidence properly noting the location on the body from where it was retrieved. Place in evidence bags, seal, and mark. Cross-reference of evidence marking should also be included in the notebook.

Note: Refer to Part Nine, Chapter Three, Statements and Evidence Policy and Procedures.

151. Seize as evidence any clothing such as body suits, leotards, and girdles that were used to conceal the packs.
152. Take detailed notes throughout the process.
153. Note all findings on the Personal Search/Arrest Report form in ICES or for non-automated ports complete a paper version of the form.

Anal or Vaginal Inserts

154. If anal and/or vaginal inserts are found, the person may be arrested.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

155. Advise the senior officer on duty of the discovery of anal and/or vaginal inserts.
156. Offer to contact medical assistance and proceed to a medical facility if requested by the person.
157. If the person agrees and can remove the insert without complications, provide them with protective gloves.
158. Allow them to remove the insert in a manner that is most comfortable for them.
159. Stand to the side of the person where the concerned area can be viewed.

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160. Hold an evidence bag open. Tell the person to remove the insert and to carefully drop it into the bag.
161. If at anytime the person encounters problems, call in medical assistance.
162. Once the insert is placed in an evidence bag, note the location on the body from where it was retrieved, properly seal, and mark the bag.

Note: Refer to Part Nine, Chapter Three, Statements and Evidence Policy and Procedures.
163. Take detailed notes throughout the process.
164. Record all findings on a Personal Search/Arrest Report form in ICES or for non-automated ports complete a paper version of the form.

Monitored Bowel Movement

Specimen Isolation Unit

165. Articulate the grounds to the senior officer on duty and request approval to move the person into the SIU room and perform a monitored bowel movement. Senior officers must review the grounds written in the officers' notebook and if they approve the search, they sign, date, time, and record their badge number underneath the officers noted grounds. Senior officers should also record the person's identification information in their notebook, indicate that they authorized the search, and that they agreed with the grounds presented.

166. Ask the assisting officer to prepare the SIU room, make it sterile, and clear the SIU.
167. Upon entering the SIU room, detain or arrest the person for the ingestion of drugs.

Note: Refer to Part Six, Chapter One, Arrest and Detention Policy and Procedures.

168. Inform the person of the reason for the monitored bowel movement. The following statement is recommended:

"You are being detained (or arrested) on suspicion of having concealed drugs within your body. You have the right to have the validity of this

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detention reviewed by a court and to be released if the court determines the detention is unlawful. Do you understand? Do you wish to discuss this with a lawyer?"

169. Provide the person with access to a phone if they request to contact counsel.
170. Throughout the proceedings in the SIU room, continue note taking as lead and assisting officers, adding indicators noted during your time in the SIU room to the original list of indicators.
171. Before proceeding further, offer medical assistance and proceed to a medical facility if requested by the person.
172. Throughout the proceedings in the SIU room, regularly ask the person about their physical condition and look for any possible signs of distress or deterioration.
173. Advise the person of the procedures with respect to the SIU itself. For example, where to sit, where you and the assisting officer will be located, where their bowel movement will go, where it will be cleaned, and where the evidence will be placed.
174. Wear protective gloves throughout the time of contact with the person, as direct contact with bodily secretions is expected and there may also be unexpected contact with other bodily fluids.
175. In cases where exposure to bodily fluids has occurred, discard gloves in a secure, lined trash container (peel them off rolling the glove outside in), wash hands, and clean the affected area with disinfectant.
176. Tell the person to indicate to an officer when they are ready to produce a bowel movement.
177. Tell the person to keep their hands on their knees.
178. Position the assisting officer where they can clearly observe the person's hands at all times.
179. Turn on the SIU and instruct the person to proceed with the bowel movement.

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180. When the person has produced a bowel movement, clean away any faecal matter from the suspected drugs.
181. Place the drugs from the first bowel movement in two separate evidence bags as follows:
 - a) Place one single piece of evidence (pellet, condom, or balloon) in an evidence bag and mark it 1A.
 - b) Place the remainder of the first bowel movement in a second evidence bag and mark it 1B.
182. Advise the senior officer on duty of the production of the evidence.
183. Place further bowel movements in separate bags and mark them sequentially, coinciding with each movement (i.e., the second bowel movement will be placed in an evidence bag and marked 2, the third 3, etc.).
184. As soon as it appears that the detention period will exceed 24 hours, arrange to take the person before a Justice of the Peace for a hearing. The Justice of the Peace may validate a longer detention period. The appearance before a Justice of the Peace must be done before the person has been in custody for 24 hours. When it appears at the beginning of a detention that the person intends to hold out as long as possible rather than admit to ingesting contraband, take them to the Justice of the Peace immediately rather than wait until the time limit approaches.

Note: In most cases, the border service officer will be required to give evidence at the validation of detention. The officer will be required to testify to the indicators that were uncovered during dealings with the person to show reasonable and probable grounds to continue the detention.
185. Contact the police to make the necessary arrangements for transportation to a Justice of the Peace.
186. Provide the relief officer with a copy of the list of indicators before going off-shift.
187. The relief officer will record new indicators in their notebook and on the previous officer's list of indicators.
188. Treat this list as a piece of evidence. It may be entered as evidence and disclosed to the crown and defence in court proceedings.

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189. Upon exiting the SIU room, immediately remove any protective clothing such as masks, and gloves and discard in a secure, lined trash container (peel gloves off by rolling outside in), and wash hands.
190. Once a relief officer enters the SIU room, they now become the seizing officer if any evidence is produced.
191. During the person's stay in the SIU room, offer them food and/or drink at the standard times for breakfast, lunch, and dinner.

Note: Acceptable drinks are water, soft drinks, and fruit juices (excluding prune). Any type of food is acceptable.

Note: Take into consideration the persons' cultural and religious beliefs pertaining to food.

192. Advise them that the CBSA will pay for any food/meals within reason.

Note: The cost of food for the person must not exceed the meal allowance for that particular meal.

Note: Officers are not expected to use their own money. They may use money from petty cash. Receipts are required.

193. Ask if the person has any allergies before obtaining food or drinks.

194. Take detailed notes throughout the process, including all reasonable grounds, a list of all indicators observed (including non-verbal and verbal inculpatory and exculpatory statements and responses), time of contact, detention, arrest, contact of counsel, health checks, attempts at bowel movements, actual bowel movements, eating and drinking, what was consumed, etc.

195. Note all findings on a Personal Search/Arrest Report form in ICES or, for non-automated ports, complete a paper version of the form.

Alternatives to Specimen Isolation Unit

196. Where no SIU is available, use an alternative method to collect the bowel movement such as:
 - a) a hospital-type bedpan;
 - b) a portable toilet; or

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- c) a private washroom where the water has been turned off and all water is drained from the toilet tank. Use a garbage bag over the toilet seat to collect the bowel movement.

Note: Follow all other procedures outlined in the *Specimen Isolation Unit* section of this chapter.

REFERENCES

197. *Customs Act*

R. v. Simmons, Supreme Court of Canada Decision

R. v. Monney, Supreme Court of Canada Decision

Youth Criminal Justice Act

Criminal Code of Canada

Occupational Health and Safety Act

Internal Carriers and Body Packers, Contraband Enforcement Training

ICES User Reference Manual

Public Service Employment Regulations

CBSA Finance and Administration Manual

CBSA Motor Vehicle Operation Policy

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 6

PERSONAL SEARCH POLICY AND PROCEDURES

Appendix A

AUTHORIZING ASSISTANCE FOR A PERSONAL SEARCH

Appendix A

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) that during a personal search on persons entering Canada suspected of having concealed contraband on or about their person (i.e. body packed), only officers of the same sex as the person may search them.

AUTHORITIES

Customs Act

2. Section 98(1) – Provides that a border services officer may search any person:
 - a) arriving in Canada, within a reasonable time after their arrival,
 - b) about to leave Canada, at any time prior to their departure, or
 - c) who has had access to an area designated for persons leaving Canada and has left the area but has not left Canada, within a reasonable time after they leave the designated area,
who the officer suspects on reasonable grounds has goods concealed on or about their person that may contravene the Act, could be evidence of a contravention of the Act, or the importation or exportation of which is prohibited, controlled, or regulated by this or any other Act of Parliament.
3. Section 98(4) – States that no person shall be searched under Section 98 by a person who is not of the same sex, and if there is no officer of the same sex at the place at which the search is to take place, an officer may authorize any suitable person of the same sex to perform the search.
4. Section 99.2 – Authorizes a border services officer to search a person, including prescribed persons or members of a prescribed class of persons, leaving a CBSA controlled area if they have reasonable grounds to suspect the person has goods concealed on or about their person that may contravene the Act, could be evidence of a contravention of the Act, or the importation or exportation of which is prohibited, controlled, or regulated by this or any other Act of Parliament.

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Personal Search

Appendix A

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

5. Section 15 – Authorizes border services officers to search any person:
 - a) arriving in Canada, within a reasonable time after their arrival,
 - b) about to leave Canada, at any time prior to their departure, or
 - c) who has had access to an area designated for persons leaving Canada and has left the area but has not left Canada, within a reasonable time after they leave the designated area,
if they have reasonable grounds to suspect that a person has concealed currency or monetary instruments that are greater than the amount prescribed on or about their person and have not reported it.

Criminal Code of Canada

6. Section 2 – Defines border services officers as “peace officers” when performing any duty in the administration of the *Customs Act*.
7. Section 25 – States that as “peace officers” border services officers with reasonable grounds, have the authority to use as much force as is necessary to complete a search.
8. Section 26 – States that officers who use excessive force are criminally responsible for their actions.

The Canadian Charter of Rights and Freedoms

9. Section 8 – States everyone has the right to be secure against unreasonable search or seizure.
10. Section 9 – States everyone has the right not to be arbitrarily detained or imprisoned.
11. Section 10 – States everyone has the right on arrest or detention:
 - a) to be informed promptly of the reasons for arrest or detention;
 - b) to retain and instruct counsel without delay and to be informed of that right; and

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- c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

PURPOSE AND SCOPE

- 12. The purpose of this policy is to guide border services officers when another member of the CBSA is not available to assist in a personal search.
- 13. This policy must be used in conjunction with the following chapters of the Enforcement Manual:
 - a) Part Six, Chapter One, Arrest and Detention;
 - b) Part Six, Chapter Two, Care and Control of Persons in Custody; and
 - c) Part Six, Chapter Six, Personal Search Policy and Procedures.
- 14. This policy applies to all border services officers.

POLICY GUIDELINES

- 15. As per Section 98(4) of the *Customs Act*, if there is no border services officer of the same sex at the location at which a personal search is to take place, an officer may authorize any suitable person of the same sex to perform the search.
- 16. In order of priority by which they are to be contacted, the following is a list of suitable persons to assist a border services officer in a personal search:
 - a) an on duty border services officer from a nearby port of entry;
 - b) an off duty border services officer;
 - c) an employee of the CBSA;
 - d) an employee of the public service;
 - e) a Canadian police officer;
 - f) a Canadian person in a position of authority; or
 - g) a member of the travelling public.

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17. If no suitable person is readily available from Canada, the border services officer may request the assistance of United States authorities (i.e., Department of Homeland Security). The United States officer(s) must not carry a firearm when assisting in a personal search in Canada. In addition it must be explained to the United States officers that the personal search will be conducted under the authority of the *Customs Act*.
18. There is no obligation on the part of any person to assist with a personal search.

ROLES AND RESPONSIBILITIES

Border Services Officers

19. Border Services Officers are responsible for:
 - a) adhering to this policy and procedures;
 - b) conducting personal searches;
 - c) following all necessary health and safety precautions; and
 - d) assisting other officers by clearing search rooms, preparing evidence bags, protective gloves, and paperwork, and keeping detailed, accurate notes.

Senior Officers

20. Senior officers are responsible for:
 - a) evaluating the grounds for suspicion as presented by border services officers;
 - b) providing guidance and technical assistance to lead and assisting officers;
 - c) ensuring search rooms are available when required;
 - d) assisting in the provision of evidence bags, cameras, and protective gloves;
 - e) notifying all involved officers when a seizure has commenced;

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Personal Search

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- f) advising the Regional Intelligence Officer (RIO) and receiving police force when required;
- g) ensuring that the policies and procedures related to personal searches are adhered to; and
- h) taking appropriate corrective action on any breaches of the policy.

PROCEDURES

Search by a Border Services Officer and a Non-employee of the CBSA

21. When a border services officer and a non-employee of the CBSA jointly conduct a personal search, the border services officer will be responsible for:
 - a) notating the name of the person that will be assisting in the personal search;
 - b) clearly explaining to the individual to be searched that one of the persons conducting the search is not a CBSA officer;
 - c) clearly explaining to the non-employee assisting in the search that their role is to observe the examination;
 - d) being the lead in conducting the examination; and
 - e) following all other procedures for personal searches as per Part Six, Chapter Six of the Enforcement Manual.

Search by Two Non-employees of the CBSA

27. When two non-employees of the CBSA jointly conduct a personal search, one of these persons must be a law-enforcement officer.
28. The requesting border services officer must:
 - a) note all efforts made to contact a person to assist in the personal search;
 - b) note the names of the persons that will be conducting the personal search;

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- c) clearly explain to the individual to be searched that the persons conducting the search are not CBSA officers;
- d) inform the searching persons of what you are anticipating to find in the personal search;
- e) inform the searching persons that at no time are they to touch the individual being searched;
- f) inform the searching persons that when they are satisfied that the examination will be non-resultant that the search may end;
- g) inform the searching persons that the individual to be searched has been cautioned and is not obliged to say anything;
- h) inform the searching persons that if they discover any contraband or evidence of an offence that they are to take possession of it and at the end of the search immediately hand it to the requesting border services officer;
- i) caution the individual and advise them of their rights under section 98 of the *Customs Act* and of their right to counsel;
- j) close the search room door and wait outside of the examination room;
- k) note the start and end times of the search; and
- l) following the end of the search, the requesting officer will immediately take control of the individual being searched.

REFERENCES

Customs Act

Proceeds of Crime (Money Laundering) and Terrorist Financing Act

Criminal Code of Canada

The Canadian Charter of Rights and Freedoms

The Supreme Court of Canada

CBSA ENFORCEMENT MANUAL

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 7

CRIMINAL CODE OFFENCES POLICY AND PROCEDURES

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to sanction designated officers to enforce the *Criminal Code* and other federal statutes in accordance with the *Customs Act* and other pertinent Acts of Parliament.

DEFINITIONS

2. See Part 11 - Glossary.

AUTHORITIES

Customs Act

3. Subsection 163.4 (1) – The Minister may designate any officer for the purposes of Part VI.1 of the Act and shall furnish the officer with a certificate of designation.
4. Subsection 163.5 (1) – A designated officer, when at a CBSA office and performing normal duties of an officer or is acting in accordance with section 99.1 has, in relation to a criminal offence under any other Act of Parliament, has the powers and obligations of a peace officer under sections 495 to 497 of the *Criminal Code*, and subsections 495(3) and 497(3) of that Act apply to the designated officer as if they were a peace officer.
5. Subsection 163.5 (2) – A designated officer when at a CBSA office and performing normal duties of an officer or is acting in accordance with section 99.1, has the powers and obligations of a peace officer under sections 254 and 256 of the *Criminal Code* and may, on demanding samples of a person's blood or breath under subsection 254(3) of that Act, require that the person accompany them for the purpose of taking samples.
6. Subsection 163.5 (3) – A designated officer who arrests a person in the exercise of the powers conferred under subsection (1) may detain the person until the person can be placed in the custody of police.
7. Subsection 163.5 (4) – A designated officer may not use any power conferred on them for the enforcement of the *Customs Act* for the sole purpose of looking for evidence of a criminal offence under any other Act of Parliament.

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Criminal Code Offences

Criminal Code of Canada

8. Section 253 – Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operations of an aircraft or railway equipment or has care or control of a motor vehicle, vessel, aircraft or railway equipment, whether it is in motion or not,
 - a) while the person's ability to operate the vehicle, vessel, aircraft or railway equipment is impaired by alcohol or a drug; or
 - b) having consumed alcohol in such a quantity that the concentration in the person's blood exceeds eighty milligrams of alcohol in one hundred millilitres of blood.
 9. Subsection 254(2) – Authorizes designated officers to demand a breath sample be taken with an approved screening device if reasonable suspicion exists that a person is operating or has care and control over a conveyance while under the influence of alcohol.
 10. Subsection 254(5) – Every one commits an offence that, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under this section.
 11. Subsection 495(1) – A designated officer may arrest without warrant:
 - a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
 - b) a person whom he finds committing a criminal offence; or
 - c) a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found.
 12. Subsection 495(2) – A designated officer may not arrest a person without a warrant for:
 - a) an indictable offence mentioned in section 553;
 - b) an offence for which the person may be prosecuted by indictment or for which he is punishable on summary conviction; or
- Note: See Appendix A for a list of section 553 offences.

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Criminal Code Offences

- c) an offence punishable on summary conviction in any cases where
 - d) he believes on reasonable grounds that the public interest, having regard to all circumstances including the need to:
 - (i) establish the identity of the person,
 - (ii) secure or preserve evidence of or relating to the offence, or
 - (iii) prevent the continuation or repetition of the offence or the commission of another offence
 - may be satisfied without so arresting the person, and
 - e) he has no reasonable grounds to believe that, if he does not so arrest the person, the person will fail to attend court in order to be dealt with according to law.
13. Section 496 – Authorizes designated officers to issue an appearance notice to a person, by virtue of subsection 495(2), who is not placed under arrest when the offence is:
- a) an indictable offence mentioned in section 553;
- Note: See Appendix A for a list of section 553 offences.
- b) an offence for which the person may be prosecuted by indictment or for which he is punishable on summary conviction; or
 - c) an offence punishable on summary conviction.
14. Subsection 497(1) – If a peace officer arrests a person without a warrant for an offence described in paragraph 496(a), (b) or (c), they will, as soon as practicable:
- a) release the person from custody with the intention of compelling their appearance by way of summons; or
 - b) issue an appearance notice to the person and then release them.

Note: It is CBSA policy to issue Appearance Notices only. If a summons is required the responding police agency of jurisdiction will be responsible to issue it.

PURPOSE AND SCOPE

15. The purpose of this policy is to provide guidelines to designated officers for enforcing the *Criminal Code* and other federal statutes.
16. This policy also provides guidelines to non-designated officers for assisting designated officers enforcing the *Criminal Code* and other federal statutes.
17. This chapter is an extension of the Arrest and Detention Policy and Procedures and the Care and Control of Persons in Custody Policy and Procedures and must be used in conjunction with them.

BACKGROUND

18. In May 1998, Bill C-18, An Act to amend the *Customs Act* and the *Criminal Code*, received Royal Assent, and was proclaimed into force on May 1, 2000. The legislation bridged an enforcement gap that previously limited the ability of border services officers to take action when a *Criminal Code* offence was encountered during the course of normal duties.
19. Bill C-18 gives authorization to designated officers at a CBSA office performing normal duties, to arrest without warrant, subject to section 495(2) of the *Criminal Code*, persons whom they believe on reasonable grounds have committed or are in the process of committing a *Criminal Code* or other federal offence. Designated officers are authorized to take enforcement action against all federal offences including impaired driving, kidnapping, stolen property, and outstanding warrants.
20. All border services officers (BSO's) have a first response mandate to identify *Criminal Code* offences. Designated officers have the authority to deal with subjects involved with a *Criminal Code* violation, process them as per standard operating procedures, and refer them to a police agency of jurisdiction. It is important to note, however, border services officers cannot use their authorities under the *Customs Act* for the sole purpose of searching for *Criminal Code* offences. Rather, during the normal course of their duties, officers who encounter *Criminal Code* offences now have the authority to act.

POLICY GUIDELINES

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21. The primary responsibility of all border services officers will be the administration and enforcement of the *Customs Act* and its regulations and other government regulations for which they have responsibility.
22. All officers will be considered for designation, with the exception of Student border services officers.
23. In order to become designated, officers must successfully complete CBSA approved training.
24. Designated officers must undergo CBSA sanctioned skills maintenance training in order to remain designated.

Note: Refer to Part 6, Chapter 5, Use of Force Policy and Procedures.

25. The CBSA designation card (RC121B) issued to designated officers will be recognized as the “certificate of designation” as required by the *Customs Act*.
26. Officers will enforce the provisions of the *Criminal Code* only when they:
 - a) are performing their normal duties at Officer Powers implemented offices;
 - b) have been designated by their Regional Director General;
 - c) have access to back up assistance; and
 - d) are mindful and confident of their abilities to take action that will result in a successful conclusion.
27. Only designated officers will exercise the authorities laid out in subsections 163.5(1) through (4) of the *Customs Act*.
28. Designated officers will not use their *Customs Act* authorities for the sole purpose of looking for evidence of a *Criminal Code* offence under the *Criminal Code* or any other federal statute as per section 163.5(4) of the *Customs Act*.
29. Designated officers will enforce the provisions of the *Criminal Code* or other federal statutes and will refer offenders to the police agency of jurisdiction for further processing and the laying of charges should it be warranted.

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30. Officers are responsible for complying with court processing requirements as specified by local Crown Counsel or the local police agency of jurisdiction.
31. For safety and security concerns, officers will run Canadian Police Information Centre (CPIC) checks on all detained or arrested persons and their vehicles.
32. Designated officers will place persons who are lawfully arrested or detained for a criminal offence in a detention facility or hold them in a secure area of the CBSA facility, preferably out of public view. All persons will be observed and monitored carefully until the police agency of jurisdiction assumes custody.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

Note: In situations where the Vehicular Transport of Persons Under Arrest or Detention policy is applied, the subject may be transported to the responding police agency location or an alternate CBSA facility. Refer to the Vehicular Transport of Persons Under Arrest or Detention policy in the EN manual Part 6 Chapter 8 for further information.

33. Designated officers, when arresting young persons, will comply with the arrest policy and procedures for young offenders including use of the specific Notice Upon Arrest and Right to Counsel for Young Offenders that is used by the local police agency of jurisdiction.
34. Designated officers will notify Citizenship and Immigration Canada (CIC) as soon as possible after the arrest of a foreign national. Further, foreign nationals will be advised and allowed to contact the embassy or consulate of their home country in addition to contacting counsel.

Note: Foreign nationals include visitors holding citizenship in another country, including U.S. visitors and U.S. resident aliens, and persons temporarily residing in Canada (e.g. work or student visas, Minister's Permit, etc.)

35. If a border services officer is conducting a customs secondary examination for contraband or if during the course of a customs secondary examination it is determined a person is in violation of any Federal offence, officers will continue customs processing and will notify CIC at the earliest opportunity.
36. If foreign representatives (i.e. diplomats, consular personnel, international organization personnel, and United Nations personnel) are suspected of

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- being involved in any *Criminal Code* offence, officers will follow the policy and procedures for dealing with offences by foreign representatives.
37. Designated officers will apply the law in accordance with on-going jurisprudence and according to the direction of the local Crown Counsel.
 38. Designated officers will adopt specific procedures for *Criminal Code* and other federal statute enforcement to be consistent with the enforcement practices of the police agency of jurisdiction, as set out in the police agency of jurisdiction agreements/Memorandum of Understanding (MOU).
 39. If a non-designated officer encounters a *Criminal Code* offence, other than an offence identified in D Memorandum R1-12-1, they will seek the immediate assistance of a designated officer. If a designated officer is not available, the non-designated officer will release the person on completion of customs processes, and immediately alert the police agency of jurisdiction.
 40. Designated officers will endeavor to conclude customs processes before commencing any *Criminal Code* enforcement activities.

Note: The necessity, however, to have a person suspected of alcohol related driving offences provide then or as soon as possible samples of their breath requires that breath testing takes priority.

41. Designated officers will enforce impaired driving offences in accordance with Section 253 and 254 of the *Criminal Code*, following procedures set out in the local police agreement/MOU.
42. Designated officers will only specifically ask a person if they have been drinking if indicators exist that this is the case. Under all other circumstances, this question falls within provincial authorities and is contrary to section 163.5(4) of the *Customs Act*.
43. In line with the first response mandate officers will not administer the Approved Breath Analysis Instrument (ABAI) test. Officers will turn the person over to the responding police agency for further processing in accordance with this policy.
44. Designated officers will not suspend the driver's license of persons for any reason including persons who fail or refuse to comply with the demand to provide a breath sample, who blow a "WARN" on the Approved Screening Device (ASD), or who are novice drivers with a positive alcohol concentration, as this authority falls under provincial legislation.

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45. Designated officers will only take enforcement action on outstanding Federal warrants issued by Canadian courts.

Note: A non-resident subject to a foreign warrant will be referred to Citizenship and Immigration Canada (CIC).

46. In all cases where the subject of an outstanding warrant is encountered, the designated officer will contact the originating agency following the procedures set out in the police agency of jurisdiction agreement/MOU and the procedures contained herein.
47. Designated officers will enforce the provisions of the *Criminal Code* dealing with possession of goods obtained by crime.
48. Designated officers may arrest persons they believe have kidnapped/abducted another person in accordance with section 495 of the *Criminal Code*.
49. Designated and non-designated officers will follow specific policy and procedures relating to abducted children.
50. When a designated officer is the arresting officer, they may complete an Appearance Notice (Form 9) to compel the attendance in court of a person who has not yet been charged with an offence and release them when:
 - a) release is authorized under the *Criminal Code*;
 - b) public interest and court appearance are satisfied; and
 - c) the police agency of jurisdiction **will** lay or initiate *Criminal Code* charges but do not respond to the location for the offence.

Note: This will primarily be for cases involving persons who refuse to comply with a designated officer's demand to provide samples of breath into an ASD.

Note: Refer to Appendix B for a sample Appearance Notice (Form 9).

51. If the arresting officer is not available, an Appearance Notice will not be used to release a person. The person must either be:
 - a) held in custody pending the arrival of the police agency of jurisdiction and released by an officer in charge from that agency, in accordance with section 498 of the *Criminal Code*; or

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- b) if the police agency of jurisdiction cannot attend, released and informed that they will be served with a summons to compel their appearance in court issued by the police agency of jurisdiction.
- 52. Arresting designated officers will complete a Personal Search and Arrest Report (E350) in the Integrated Customs Enforcement System (ICES) and a *Criminal Code* Incident Report (E641) for all *Criminal Code* offence arrests. At locations that do not have access to ICES, a copy of the documents must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).
- 53. All officers involved in *Criminal Code* enforcement occurrences will accurately record the details in their notebook.
- 54. All officers involved in *Criminal Code* enforcement occurrences will be responsible for complying with court processing requirements as specified by Crown Counsel and/or the police agency of jurisdiction.
- 55. Designated officers who for medical reasons or any other reason approved by local management, are temporarily incapacitated, will retain their designated status as long as the period of incapacitation does not exceed the established time frame for skills maintenance training.
- 56. Situations involving the temporary reassignment of designated officers to areas not requiring designation will be reviewed on a case-by-case basis. Local managers will make decisions regarding designation status based on operational considerations, as long as the period of temporary reassignment does not exceed the established time frame for skills maintenance training.
- 57. Designated officers who are reassigned from implemented sites to non-implemented sites on a permanent basis or who accept permanent assignments within other areas of the CBSA where designation is not a job requirement are required to return their certificate of designation to local management.

ROLES AND RESPONSIBILITIES

Non-Designated Officers

58. Non-Designated officers are responsible for:

- a) adhering to this policy and procedures;
- b) seeking the immediate assistance of a designated officer when a *Criminal Code* offence is encountered or alerting the police agency of jurisdiction if a designated officer is not available, unless the arrest policy provides for the authority to act under the *Customs Act*;

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- c) providing assistance, commensurate with the officer's training and abilities, to designated officers as required; and
- d) abiding by the conditions and procedures set out in the local agreement or Memorandum of Understanding (MOU) negotiated with the police agency of jurisdiction.

Designated Officers

59. Designated officers are responsible for:

- a) enforcing provisions of the *Criminal Code* in accordance with the law;
- b) abiding by the conditions and procedures set out in the local agreement or Memorandums of Understanding (MOU) negotiated with the police agency of jurisdiction; and
- c) reporting *Criminal Code* occurrences using established Agency processes.

Regional Managers and Superintendents

60. Regional Managers and Superintendents are responsible for:

- a) ensuring compliance with this policy and procedures;
- b) ensuring officers receive the necessary training, including skills maintenance training, to allow for the retention of designated status;

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- c) maintaining accurate records for training and skills maintenance training purposes;
- d) ensuring adequate designated officer coverage per shift and location;
- e) ensuring an authorized and functioning Approved Screening Device (ASD) is readily available at all times so that tests can be conducted immediately, where applicable;
- f) monitoring, identifying, and addressing deficiencies in *Criminal Code* offence enforcement activities;
- g) ensuring adherence to statistical and occurrence reporting processes;
- h) abiding by the conditions set out in agreements or Memorandum of Understanding (MOU) negotiated with the police agency of jurisdiction on matters related to *Criminal Code* enforcement;
- i) performing the duties of the Court Liaison Officer where they are unavailable or the position does not exist;
- j) performing the duties of the Officer Powers Regional Coordinator when they are unavailable or the position does not exist; and
- k) taking appropriate corrective action on any breaches of this policy.

Court Liaison Officer

61. The Court Liaison Officer is responsible for:

- a) coordinating the transfer of documents relevant to offences and court appearances to the police agency of jurisdiction;
- b) scheduling officer's court time; and
- c) notifying the Enforcement Programs Directorate of any court disposition that may have an impact on their programs (i.e. Officer Powers).

Regional Officer Powers Coordinators

62. The Regional Officer Powers Coordinators are responsible for:

- a) supporting the Headquarters project team in the implementation process within the region;

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- b) ensuring that a consistent program is maintained in accordance with established policies and procedures;
- c) providing guidance and support to field offices within their region;
- d) liaising with other government departments and agencies at the regional level;
- e) ensuring Headquarters is provided with current, accurate, and up to date statistics and information respecting the functioning of the project within the region; and
- f) apprising Headquarters of any unusual or extraordinary Officer Powers occurrences, or any activities that may be contrary to Officer Powers' policy, standard operating procedures, or processes.

Enforcement Programs Directorate

63. The borders Enforcement Directorate is responsible for:

- a) monitoring program activities and *Criminal Code* occurrence reports;
- b) developing and modifying policies and procedures as required;
- c) developing, modifying, and delivering training as required;
- d) providing guidance and support to the field;
- e) ensuring that a consistent CBSA communications strategy is maintained; and
- f) negotiating and liaising with other government departments and agencies at the Headquarters level.

PROCEDURES

Note: These procedures are intended to reflect the national scope of the CBSA. Variances to these procedures may be necessary to meet requirements in local police agreements/Memorandum of Understanding (MOU).

Impaired Drivers

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Non-Designated Officers

64. When a non-designated officer has reasonable and probable grounds to believe a person is operating a motor vehicle or vessel, operating or assisting in the operation of an aircraft or railway equipment, or a person has care or control of a motor vehicle, vessel, aircraft, or railway equipment, whether it is in motion or not, is impaired by alcohol or a drug:
- a) Suspend primary questioning as soon as an offence is detected. Advise supervisor/office that a designated officer is required.
 - b) Once a designated officer has been requested, resume and complete customs primary questioning. Turn over control of the interview to the designated officer as soon as possible. Under no circumstances is the driver to be permitted to operate the conveyance beyond this point.
 - c) Make detailed notes about the occurrence.
 - d) If no designated officer is available, the non-designated officer will:
 - i) complete any required customs processing;
 - ii) release the person and, to prevent the continuation of the offence, request the driver voluntarily park their vehicle and seek alternate transportation; and
 - iii) if the driver fails to park the vehicle, immediately report the details of the incident to the responding police agency of jurisdiction.

Designated Officers

65. When a designated officer has reasonable and probable grounds to believe a person is operating a motor vehicle or vessel or operating or assisting in the operation of an aircraft or railway equipment, or has care and control of a motor vehicle, vessel, aircraft, or railway equipment, whether it is in motion or not, is committing or has committed within the preceding three hours an offence under section 253:
- a) If at primary, request a replacement PIL officer through the superintendent/office, where applicable.
 - b) Request identification from the driver.
 - c) To prevent the continuation of the offence, request that the driver get out of the vehicle. Ensure the vehicle is turned off. Under no

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circumstances is the driver to be permitted to operate the conveyance beyond this point. Should a driver refuse to exit their vehicle, handle them in accordance with use of force training, policy, and procedures.

Note: Refer to Part 6 Chapter 5, Use of Force Policy and Procedures.

- d) Request assistance from another officer to remove or have the vehicle removed from the primary lane.
- e) Separate the driver from any other vehicle passengers and retain the driver's ownership, registration, and car keys.

Note: There will be variances in procedures from region to region, and even from CBSA office to CBSA office as may be indicated in the local police agreement/MOU.

Note: A Secondary Referral (E67) or Report to Warehouse (Y28) should be completed indicating the person's customs declaration.

Note: The order of the following (f, g, and h) is dependent on the local police agreement/MOU. If it is necessary to arrest an individual for impaired driving the arrest will come first, followed by rights and cautions, then the ABAI demand. If no arrest is necessary the ABAI demand will be read followed by the rights and cautions.

Note: Officers must be able to articulate why they arrested an individual, subject to 495(2) of the *Criminal Code*.

- f) To prevent the continuation of the offence and/or secure evidence, arrest, handcuff, and frisk the person in accordance with CBSA policies and procedures.

Note: It is strongly recommended that frisks be conducted by officers of the same sex as the person to be frisked. It is recognized that in certain situations and at smaller ports this will not always be possible.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- g) Caution the person and read them their right to counsel.
- h) Read the ABAI demand as specified by the police agency of jurisdiction.

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- i) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody pending the arrival of the police agency of jurisdiction.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- j) Contact the police agency of jurisdiction to request attendance at the CBSA office.
- k) Record the time the police agency was contacted in your notebook.
- l) Complete a CPIC check on both the subject and vehicle.
- m) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated ports, a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- n) Record the police contact's name, badge number, and response information on the E350.
- o) Provide the attending police officer with a copy of the E350 and have them sign both copies.
- p) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

- q) Complete all applicable court processing documentation as stipulated in the local agreement/MOU.

Processing Drivers Suspected of Having Consumed Alcohol

Non-Designated Officers

66. When a non-designated officer reasonably suspects that a person has alcohol in their body and is operating a motor vehicle or vessel, operating or

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assisting in the operation of an aircraft or railway equipment, or has care and control over a motor vehicle, vessel, aircraft, or railway equipment, whether it is in motion or not, but reasonable and probable grounds do not exist to indicate that an offence under section 253 has been committed:

- a) Suspend primary questioning as soon as an offence is detected. Advise the supervisor/office that a designated officer is required.
- b) Once a designated officer has been requested, resume customs primary questions. Turn over control of the interview to the designated officer as soon as possible.
- c) Make detailed notes about the occurrence.
- d) If no designated officer is available, the non-designated officer will:
 - i) complete any required customs processing;
 - ii) release the person and, to prevent the continuation of the offence, request the driver voluntarily park the vehicle and seek alternate transportation; and
 - iii) if the driver fails to park the vehicle, immediately report the details of the incident to the responding police agency of jurisdiction.

Designated Officers

67. When a designated officer reasonably suspects that a person has alcohol in their body and is operating a motor vehicle or vessel, operating or assisting in the operation of an aircraft or railway equipment, or has care and control of a motor vehicle, vessel, aircraft, or railway equipment whether it is in motion or not, but reasonable and probable grounds do not exist to indicate that an offence under section 253 has been committed:

- a) If at primary request a replacement PIL officer through the superintendent/office, where applicable;
- b) Request identification from the driver;
- c) Request that the person get out of the vehicle to prevent the continuation of the offence. Ensure that the vehicle is turned off. Under no circumstances is the driver to be permitted to operate the conveyance beyond this point. Should a driver refuse to exit their vehicle, handle them in accordance with use of force training, policy, and procedures.

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Note: Refer to Part 6, Chapter 5, Use of Force Policy and Procedures.

Note: A Secondary Referral (E67) or Report to Warehouse (Y28) should be completed indicating the persons customs declaration.

- d) Read the ASD demand approved by the police agency of jurisdiction.
- e) Request assistance from another officer to remove or have the vehicle removed from the primary lane. Retain the drivers' ownership, registration, and car keys.
- f) Ensure that the demand is understood.

Note: There may be variances in procedures from region to region, and even from CBSA office to CBSA office as may be indicated in the police agreement/MOU.

- g) If the driver refuses or fails to comply with the demand to provide breath samples refer to 'Processing Drivers who Refuse or Fail to Comply with Breath Demands' which follows.
- h) If there is evidence to suggest that a person has traces of alcohol in their mouth as a result of the recent consumption of alcoholic beverages, mouth washes, or breath sprays, or the person is smoking, delay the test for the period of time approved by the police agency of jurisdiction.
 - i) Administer the ASD test.
 - j) If the ASD registers a "**PASS**", and all customs processes have been concluded allow the driver to proceed.
 - k) If the ASD registers a "**WARN**":
 - i) Request the driver voluntarily park the vehicle and seek alternate transportation.
 - ii) Allow the driver to proceed.
 - iii) Make detailed notes on the ASD reading of the person and complete an incident report on whether or not they elected to seek alternate transportation.
 - l) If the ASD registers a "**FAIL**".

Note: There will be variances in procedures from region to region, and even from CBSA office to CBSA office as may be indicated in the police agreement/MOU.

Note: The order of the following (i, ii, iii) is dependent on the local police agreement/MOU. If it is necessary to arrest an individual for failing the ASD, the arrest will come first, followed by rights and cautions, then the ABAI demand. If arrest is not necessary, the ABAI demand will be read followed by the rights and cautions.

Note: Officers must be able to articulate why they arrested the individual subject to 495(2) of the *Criminal Code*.

- i) To prevent the continuation of an offence and/or secure evidence, arrest (if public interest is not met), handcuff; and frisk the person in accordance with CBSA policy and procedures.

Note: It is strongly recommended that officers of the same sex as the person to be frisked conduct frisks. It is recognized that in certain situations and at smaller ports this will not always be possible.

Note: Refer to part 6, chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- ii) Caution the person and read them their right to counsel.
- iii) Read the ABAI demand approved by the police agency of jurisdiction.
- iv) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place the person in custody pending the arrival of the police agency of jurisdiction.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- v) Contact the local police agency of jurisdiction to request attendance at the CBSA office.

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- vi) Record in your notebook the time that the police were contacted.
- vii) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated CBSA offices a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- viii) Record the police contact's name, badge number, and response information on the E350.
- ix) Provide the attending police officer with a copy of the E350 and have them sign both copies.
- x) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

- xi) Complete all other court processing documentation specified in the local agreement/MOU.

Processing Drivers who Refuse or Fail to Comply with Breath Demand

Designated Officers

68. When a designated officer is faced with a driver who refuses or fails to comply with a demand to provide breath samples:

Note: There will be variances in procedures from region to region, and even from CBSA office to CBSA office as may be indicated in the local police agreement/MOU.

Note: In some regions the subject must refuse to a functioning ASD or ABAI instrument in order to gain any conviction in court. Other regions may not have this as a requirement for court purposes.

- a) Advise the driver that if they fail or refuse to provide a sample that they may be charged with a refusal under section 254(5) of the *Criminal Code*.
- b) Read the demand one more time and make note of the driver's words and actions if they continue to refuse or fail to comply.

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Note: Officers should indicate to the individual when their “last chance” to provide a sample will be.

- c) Determine if public interest and court appearance would be satisfied if the person were released.
- d) If so, upon consultation with the responding police agency, issue the person with an Appearance Notice and conclude all customs formalities prior to releasing the person.

Note: Refer to Appendix B for a sample Appearance Notice (Form 9).

- e) If public interest and court appearance would not be satisfied if the person were released, arrest the person for refusal or failure to provide a sample, and read them their right to counsel and caution.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- f) Once the person has been provided with the opportunity to exercise their right to counsel, or declined this right, place them in custody pending the arrival of the police agency of jurisdiction or until court appearance and public interest is satisfied.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- g) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated CBSA offices a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- h) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

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- i) Contact the police agency of jurisdiction to initiate criminal charges and the prosecution process.
- j) Record the police contact's name, badge number, and response information on the E350.
- k) Provide the attending police officer with a copy of the E350 and have them sign both copies.
- l) Conclude all customs formalities prior to transferring custody to the police authorities.

Processing Persons Subject to Outstanding Canadian Warrants

Non-Designated Officers

69. When a non-designated officer encounters a person that they suspect of being the subject of an outstanding Canadian warrant:
- a) Suspend customs processing as soon as there are reasonable grounds to suspect that the person is the subject of an outstanding warrant and take immediate measures to obtain the assistance of a designated officer.
 - b) Once a designated officer has been requested resume and complete customs processing. Turn over control of the warrant processing to the designated officer as soon as possible.
 - c) Make detailed notes on observations and indicators used to formulate reasonable grounds to justify suspicions that the person was the subject of an outstanding warrant.
 - d) If no designated officer is available, release the person immediately on completion of customs processes and report the details of the incident to the police agency of jurisdiction.

Designated Officers

70. When a designated officer encounters a person that they suspect of being the subject of an outstanding Canadian warrant:
- a) Verify your suspicions via CPIC in accordance with local guidelines. Ensure the warrant has been issued under Federal jurisdiction.

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- b) Detain the person, read them their right to counsel, and caution them regarding the making of any statements.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- c) Determine if the originating agency wants the person returned (via CPIC messaging system and the telephone).
- d) If the originating agency does not want the person returned to their jurisdiction and if all customs processing requirements are complete, the person is free to leave.
- e) If the originating agency wishes the person returned, place them under arrest; read them their right to counsel, and caution them regarding the making of any statements.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- f) Handcuff and frisk the person in accordance with CBSA policy and procedures.

Note: It is strongly recommended that frisks be conducted by officers of the same sex as the person to be frisked. It is recognized that in certain situations and at smaller ports this will not always be possible.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- g) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- h) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated CBSA office a copy of the E350 must be completed manually.

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Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- i) Record the police contact's name, badge number, and response information on the E350.
- j) Provide the attending police officer with one copy of the E350 and have them sign both copies.
- k) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

- l) Make detailed notes about the occurrence.
- m) Conclude all customs formalities prior to releasing the person, evidence, or conveyance to the police authorities.

Processing Persons Suspected of being in Possession of Property Obtained by Crime

Non-Designated Officers

71. When a non-designated officer encounters a person they suspect of being in possession of property obtained by crime:
- a) Suspend customs processing. Take immediate measures to obtain the assistance of a designated officer. Once a designated officer has been requested resume customs processing.
 - b) Turn over control of *Criminal Code* processing to the designated officer.
 - c) Make detailed notes of the occurrence.
 - d) If no designated officer is available, upon completion of all customs processing, release the person and immediately report the details of the incident to the police agency of jurisdiction.

Designated Officers

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Criminal Code Offences

72. When a designated officer encounters a person that they suspect of being in possession of property obtained by crime and it is subject to seizure under the Customs Act:

- a) Determine who is in possession of the goods (as defined in section 4(3) of the *Criminal Code*).
- b) If no limitations to arrest exist, (e.g. section 357 offence or the value of the suspected stolen property exceeds \$5000), arrest the person using the following terms:
 - i)

OR

- ii) " I am arresting you as I believe on reasonable grounds that you are in possession of property obtained by the commission of an offence."
- c) If limitations exist, determine if public interest and court presence are satisfied.
- d) If public interest and court are not satisfied (e.g. evidence), place the person under arrest.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- e) Handcuff and frisk the person in accordance with CBSA policy and procedures.
- f) Advise the person of their right to counsel and caution them regarding the making of statements.

Note: It is strongly recommended that officers of the same sex as the person to be frisked conduct frisks. It is recognized that in certain situations and at smaller ports this will not always be possible.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- g) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody pending the arrival of the police.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- h) Contact the police agency of jurisdiction and request attendance at the CBSA office.
- i) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated ports, a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- j) Record the police contact's name, badge number, and response information on the E350.
- k) List all personal belongings and additional goods not subject to seizure or detention as evidence on the E350.
- l) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

- m) Seize the goods under the *Customs Act* as well as any evidence required to substantiate the customs offence.

Note: Follow procedures as outlined in Part 5, Chapter 3, Criminal Code-Seizure of Evidence and Goods for the processing of goods/evidence and for samples of the Exhibit Control Form (K129) and Evidence Seizure Receipt (E352).

- n) Complete the Notice to Crown Counsel (K127) and a K128, and attach the pink K128 "tag" to the seized item(s) to indicate the goods are the property of the CBSA.
- o) In ICES, even though the system will generate "Terms of Release", choose "Held for Evidence" under the disposition field.
- p) Secure any evidence related to the *Criminal Code* offence.

- q) Complete an Evidence Control Form (K129) listing the seized property to be turned over to the police agency of jurisdiction. Complete an Evidence Seizure Receipt (E352) listing the seized property and indicate that the goods have been seized under the *Criminal Code*.
 - r) Turn over the person and the property to the police.
 - s) Provide the police with a copy of the K129 and maintain a copy for the CBSA office file.
 - t) Obtain the signature of the receiving police officer on the E350 when the transfer of the person and their belongings has occurred.
 - u) Give one copy of the signed E350 to the receiving police officer and keep one copy for the CBSA office file.
 - v) Conclude all customs formalities prior to releasing the person, goods, evidence, or conveyance to police.
73. When a designated officer encounters a person in possession of property suspected to have been obtained by crime that is not subject to seizure under the *Customs Act*:
- a) Determine who is in possession of the goods.
 - b) If no limitations to arrest exist (i.e., *Criminal Code* – section 357 offence or value of the suspected stolen property exceeds \$5000), arrest the person using the following terms:
 - i)
- OR
- ii) “ I am arresting you as I believe on reasonable grounds that you are in possession of property obtained by the commission of an offence.”
- Note: As section 357 (Bringing into Canada Property Obtained by Crime) is strictly an indictable offence, and there is no mechanism in place for a designated officer to release the subject, use discretion when dealing with items with a relatively low value. The offence may be better handled by utilizing section 354 (Possession of Stolen Property Obtained by Crime).

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Criminal Code Offences

- c) If limitations exist, determine if public interest and court appearance are satisfied.
- d) If public interest and court are not satisfied (e.g. evidence), place the person under arrest.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- e) Handcuff and frisk the person in accordance with CBSA policy and procedures.
- f) Advise the person of their right to counsel and caution them regarding the making of statements.

Note: It is strongly recommended that frisks be conducted by officers of the same sex as the person to be frisked. It is recognized that in certain situations and at smaller ports this will not always be possible.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- g) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody pending the arrival of the police.

Note: Although a person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- h) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated ports a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- i) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

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Criminal Code Offences

- j) Complete a Form K129 to transfer the goods to the police.
- k) Complete an Evidence Seizure Receipt (E352) listing the seized property and indicate that the goods have been seized under the *Criminal Code*.

Note: Follow procedures as outlined in Part 5, Chapter 3, Criminal Code – Seizure of Evidence and Goods for the processing of goods/evidence and for samples of the Exhibit Control Form (K129) and Evidence Seizure Receipt (E352).

- l) Contact the police agency of jurisdiction to request attendance at the CBSA office.
- m) Have the attending police officer sign the K129.
- n) Maintain copies of all forms for the CBSA office file.
- o) Record the police contact's name, badge number, and response information on the E350 (Personal Search and Arrest) window.
- p) Obtain the signature of the receiving officer on the E350 when the transfer of the person and their goods has occurred.
- q) Give one copy of the signed E350 to the receiving police officer and keep one copy for the CBSA office file.
- r) Conclude all customs formalities prior to releasing the person, goods, evidence, or conveyance to the police authorities.

Processing Persons Suspected of Abduction/Kidnapping.

Custody Orders

74. If a suspected abduction/kidnapping is in relation to a custody order, make every effort to ensure that the custody order is valid and that it reflects the true legal relationship between the parties.

Note: Foreign custody orders are not enforceable in Canada unless a Canadian Court has recognized it or, under the charging guidelines, a

EN Part 6 Chapter 7

Criminal Code Offences

Crown Attorney is using it as grounds to lay charges under Section 283 of the *Criminal Code*.

Non-Designated Officers

75. When a non-designated officer has reasonable grounds to believe that a non-resident has abducted/kidnapped another person:
 - a) Refer them to Citizenship and Immigration Canada (CIC).
 - b) If an Immigration officer is unavailable, request a designated officer and follow the next steps outlined for non-designated officers who encounter a person they suspect of kidnapping.
76. When a non-designated officer encounters a resident they suspect of kidnapping:
 - a) Suspend the interview and tell the person to wait where they are.
 - b) Take immediate measures to obtain the assistance of a designated officer.
 - c) Turn over control of the interview to the designated officer.
 - d) Make detailed notes outlining the indicators that led to the suspicion of the offence of kidnapping.
 - e) If no designated officer is available, release the person and immediately report the details of the incident to the police agency of jurisdiction and to the appropriate *Our Missing Children Program* Regional Coordinator.

Designated Officers

76. When a designated officer has reasonable grounds to believe that a non-resident has abducted/kidnapped another person:
 - a) The designated officer may place the suspect under arrest, read them their right to counsel, and caution them regarding the making of statements.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

Note: If the offence is not readily apparent, (i.e. the victim telling the designated officer that they have been abducted), the subjects will be

EN Part 6 Chapter 7

Criminal Code Offences

referred to Citizenship and Immigration Canada (CIC). If an immigration officer is not available, contact the on-call immigration officer.

Note: All instances involving foreign custody orders will be referred to CIC for processing.

- b) Handcuff and frisk the person in accordance with use of force policy and procedures.

Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.

- c) Notify Citizenship and Immigration Canada immediately.
- d) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody pending the arrival of the police.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: CBSA officers will allow foreign nationals to contact the embassy or consulate of their home country. This is in addition to being allowed to contact counsel.

Note: Foreign nationals include visitors holding citizenship in another country, including U.S. visitors and U.S. resident aliens, and persons temporarily residing in Canada (e.g. work or student visas, Minister's Permit, etc.)

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- e) When the victim of a suspected abduction/kidnapping is present, determine if medical assistance is required and arrange for transport to a medical facility if necessary.

Note: If the police will attend, make arrangements with CIC to furnish you with a completed IMM 421 form. Give this form to the police when they take custody of the person. Consultation between CIC, the responding police agency, and the CBSA will determine the best course of action regarding the abduction.

- f) Contact the police agency of jurisdiction.

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Criminal Code Offences

- g) Place the victim in an area away from the suspect and the public and arrange for an assisting officer, preferably of the same sex as the victim, to remain with them.
 - h) Provide the victim with blankets, pillows, water, etc. based on their requests and as seems appropriate to the circumstances.
 - i) Make detailed notes about the occurrence.
 - j) Conclude all customs formalities prior to releasing the person, evidence, or conveyance to the police agency of jurisdiction.
77. When a designated officer has reasonable grounds to believe that a Canadian resident or citizen has abducted/kidnapped another person:
- a) When the victim of a suspected abduction/kidnapping is present, determine if medical assistance is required and arrange for transport to a medical facility if necessary.
 - b) Contact the police agency of jurisdiction to request attendance at the CBSA office.
 - c) Place the victim in an area away from the suspect and the public and arrange for an assisting officer, preferably of the same sex as the victim, to remain with them.
 - d) Arrest the person by stating:

“I am arresting you as I believe on reasonable grounds that you have abducted/kidnapped this person.”
 - f) Read them their right to counsel and caution them regarding the making of statements.
- Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures.
- g) Handcuff and frisk the person in accordance with CBSA policy and procedures.
- Note: It is strongly recommended that frisks be conducted by officers of the same sex as the person to be frisked. It is recognized that in certain situations and at smaller ports this will not always be possible.

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Note: Refer to Part 6, Chapter 1, Arrest and Detention Policy and Procedures for guidelines on conducting frisks and applying handcuffs.

- h) Once the person has been provided with the opportunity to exercise their right to consult counsel, or declined this right, place them in custody pending the arrival of the police.

Note: Although the person may decline to consult counsel at this point in the process, they may exercise this right at any time.

Note: Refer to Part 6, Chapter 2, Care and Control of Persons in Custody Policy and Procedures.

- i) Provide the victim with blankets, pillows, water, etc. based on their requests and as seems appropriate to the circumstances.
- j) Complete the Personal Search and Arrest Report (E350) window in ICES. For non-automated ports a copy of the E350 must be completed manually.

Note: Refer to the ICES User Reference Manual, Chapter 20 for instructions on the completion of the Personal Search and Arrest Report (E350) window.

- k) Record the police contact's name, badge number, and response information on the E350.
- l) Obtain the signature of the receiving police officer on the E350 when the transfer of the person and their belongings has occurred.
- m) Give one copy of the signed E350 to the receiving police officer and keep one copy for the CBSA office file.
- n) Complete the *Criminal Code* Incident Report (E641).

Note: Refer to Appendix C for a sample of the *Criminal Code* Incident Report (E641).

- o) Make detailed notes about the occurrence.
- p) Conclude all customs formalities prior to releasing the person, evidence, or conveyance to the police authorities.

Completion of Appearance Notices (Form 9)

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Note: Refer to Appendix B for a sample Appearance Notice (Form 9).

Designated Officer

78. When a designated officer believes that court appearance and public interest are satisfied and the police will not be responding but have agreed to proceed with criminal charges:

Note: There may be variances in procedures from region to region, and even from CBSA office to CBSA office as may be indicated in the police agreement/MOU.

- a) Advise the CBSA superintendent and court liaison officer, where applicable, of action and obtain a court date for the first appearance.
- b) Complete the Form 9 Appearance Notice with the following information:
 - i) full name of the accused;
 - ii) substance of the offence;
 - iii) date, time, and place of required court attendance (as per arrangements with the court liaison officer or superintendent); and
 - iv) signature of the accused.

Note: A person's refusal to sign will not invalidate the form.

- c) Give the duplicate copy to the accused person and advise them that they are released and will have to attend court at the specified time and date.
- d) Complete detailed notes on the incident and prepare a comprehensive report for furtherance to the police agency that will be responsible for laying the information and processing the charge.
- e) Give all relevant documentation to the court liaison officer or, where this position does not exist, the superintendent for transfer to the responsible police agency and for scheduling of the officer's court time.

Note: Officers issuing Appearance Notices will be expected to "swear" the information before a Justice or Commissioner of Oaths, within a reasonable time after issuance, that the information contained in the Appearance Notice is true and accurate. Regions should seek

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assistance from their responding police agency of jurisdiction for direction.

79. Where a designated officer has issued an Appearance Notice to a young person, complete a Form 3.1 – Notice to a parent or adult with a legal duty to a young person.

REFERENCES

80. *Criminal Code*
Customs Act
Canadian Charter of Rights and Freedoms
Canada Customs and Revenue Agency Service Standards
Canada Customs and Revenue Agency Standards of Conduct
D and R Memorandum

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 7

CRIMINAL CODE OFFENCES POLICY AND PROCEDURES

Appendix A

CRIMINAL CODE SECTION 553 – LIST OF OFFENCES

APPENDIX A

List of Offences - Section 553 *Criminal Code*

Section 553 – The jurisdiction of a provincial court judge, or in Nunavut, or a judge of the Nunavut Court of Justice, to try an accused is absolute and does not depend on the consent of the accused where the accused is charged in information

(a) with

- i) theft, other than theft of cattle
- ii) obtaining money or property by false pretences
- iii) unlawfully having in his possession any property or thing or any proceeds of any property or thing knowing that all or part of the property or thing or of the proceeds obtained by or derived directly or indirectly from the commission in Canada of an offence punishable by indictment or an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment,
- iv) having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, or
- v) mischief under subsection 430(4), where the subject of the offence is not a testamentary instrument and the alleged value of the subject-matter of the offence does not exceed five thousand dollars;

(b) with counselling or with conspiracy or attempt to commit or with being an accessory after the fact to the commission of

- i) any offence referred to in paragraph (a) in respect to subject matter and value thereof referred to in that paragraph, or
- ii) any offence referred to in paragraph (c); or

(c) with an offence under

- i) section 201 (keeping gaming or betting house),
- ii) section 202 (betting, pool-selling, book-making, etc.),
- iii) section 203 (placing bets),
- iv) section 206 (lotteries and games of chance),
- v) section 209 (cheating at play),
- vi) section 210 (keeping common bawdy-house),
- vii) (repealed)
- viii) section 393 (fraud in relation to fares),
- viii.i) section 811 (breach of recognizance),
- ix) subsection 733.1(1) (failure to comply with probation order),

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Criminal Code Offences

APPENDIX C

- x) paragraph 4(4)(a) of the *Controlled Drugs and Substances Act*, or
- xi) subsection 5(4) of the *Controlled Drugs and Substances Act*. R.S., c. C-34, s. 483, 1972, c. 13, 2.40; 1974-75-76, c. 93, s. 62; RS.C. 1985, c. 27 (1ST Supp.), s. 104; 1992, c.1, s.58; 1994, c.44, s. 57; 1995, c. 22, s.2; 1996, c. 19, s.72; 1997, c.18, s.66; 1999, c. 3, s. 37; 2000, c. 25, s. 4.

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 7

CRIMINAL CODE OFFENCES POLICY AND PROCEDURES

Appendix B

**FORM 9 – APPEARANCE NOTICE ISSUED BY A PEACE OFFICER TO A
PERSON NOT YET CHARGED WITH AN OFFENCE**

EN Part 6 Chapter 7

Criminal Code Offences

APPENDIX B

FORM 9

(*Section 493*)

APPEARANCE NOTICE ISSUED BY A PEACE OFFICER TO A PERSON NOT YET CHARGED WITH AN OFFENCE

Canada, Province of (*territorial division*).

To A.B., of (*occupation*):

You are alleged to have committed (*set out substance of offence*).

1. You are required to attend court on day, the day of A.D., at o'clock in the noon, in courtroom No., at court, in the municipality of , and to attend thereafter as required by the court, in order to be dealt with according to law.
2. You are also required to appear on day, the day of A.D., at o'clock in the noon, at (*police station*), (*address*), for the purposes of the *Identification of Criminals Act*. (*Ignore if not filled in*.)

You are warned that failure to attend court in accordance with this appearance notice is an offence under subsection 145(5) of the *Criminal Code*.

Subsections 145(5) and (6) of the *Criminal Code* state as follows:

"(5) Every person who is named in an appearance notice or promise to appear, or in a recognizance entered into before an officer in charge or another peace officer, that has been confirmed by a justice under section 508 and who fails, without lawful excuse, the proof of which lies on the person, to appear at the time and place stated therein, if any, for the purposes of the *Identification of Criminals Act* or to attend court in accordance therewith, is guilty of

- (a) an indictable offence and liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

(6) For the purposes of subsection (5), it is not a lawful excuse that an appearance notice, promise to appear or recognizance states defectively the substance of the alleged offence."

Section 502 of the *Criminal Code* states as follows:

"502. Where an accused who is required by an appearance notice or promise to appear or by a recognizance entered into before an officer in charge or another peace officer to appear at a time and place stated therein for the purposes of the *Identification of Criminals Act* does not appear at that time and place, a justice may, where the appearance notice, promise to appear or recognizance has been confirmed by a justice under section 508, issue a warrant for the arrest of the accused for the offence with which the accused is charged."

Issued at a.m./p.m. this day of A.D., at

.....
(*Signature of peace officer*)

.....
(*Signature of accused*)

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 7

CRIMINAL CODE OFFENCES POLICY AND PROCEDURES

Appendix C

CRIMINAL CODE INCIDENT REPORT (E641) SAMPLE

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*Criminal Code Offences***APPENDIX C**Canada Border
Services AgencyAgence des services
frontaliers du Canada**CRIMINAL CODE INCIDENT REPORT
RAPPORT D'INCIDENTS - INFRACTIONS AU CODE CRIMINEL**

Port file no. - N° de dossier du bureau d'entrée

► Please forward report upon completion to your Officer Powers Regional Coordinator. ► Veuillez transmettre votre rapport complète à votre coordonnateur régional des pouvoirs accusés des agents.														
Port - Bureau d'entrée	Region - Région	Date and time of incident (yyyy/mm/dd hh:mm) - Date et heure de l'incident (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____												
Use of force applied Usage de la force appliquée	No - Non Yes - Oui	If yes, use of force report no. - Si oui, n° du rapport de l'utilisation de la force												
<p>Indicate the type of incident encountered (see definitions on next page) Indiquer le type d'incident (voir définitions page suivante)</p> <table> <tr> <td><input type="checkbox"/> Impaired/suspected drinking and driving - Alcool au volant ou conduite avec capacité de conduite affaiblies soupçonnées</td> <td><input type="checkbox"/> Stolen goods/vehicles - Marchandises ou véhicules volés</td> </tr> <tr> <td><input type="checkbox"/> Refusal to comply with a breath demand - Refus d'obtempérer à l'ordre de fournir un échantillon d'haleine</td> <td><input type="checkbox"/> Assault - Voies de fait</td> </tr> <tr> <td><input type="checkbox"/> ASD warns - Avertissement ADA</td> <td><input type="checkbox"/> Obstruction - Entrave</td> </tr> <tr> <td><input type="checkbox"/> Novice drivers with BAC - Conducteurs débutants avec CAS</td> <td><input type="checkbox"/> Other, specify - Autre, spécifiez</td> </tr> <tr> <td><input type="checkbox"/> Outstanding warrants - Mandats non exécutés</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Missing/abducted children - Enfants disparus ou enlevés</td> <td></td> </tr> </table>			<input type="checkbox"/> Impaired/suspected drinking and driving - Alcool au volant ou conduite avec capacité de conduite affaiblies soupçonnées	<input type="checkbox"/> Stolen goods/vehicles - Marchandises ou véhicules volés	<input type="checkbox"/> Refusal to comply with a breath demand - Refus d'obtempérer à l'ordre de fournir un échantillon d'haleine	<input type="checkbox"/> Assault - Voies de fait	<input type="checkbox"/> ASD warns - Avertissement ADA	<input type="checkbox"/> Obstruction - Entrave	<input type="checkbox"/> Novice drivers with BAC - Conducteurs débutants avec CAS	<input type="checkbox"/> Other, specify - Autre, spécifiez	<input type="checkbox"/> Outstanding warrants - Mandats non exécutés		<input type="checkbox"/> Missing/abducted children - Enfants disparus ou enlevés	
<input type="checkbox"/> Impaired/suspected drinking and driving - Alcool au volant ou conduite avec capacité de conduite affaiblies soupçonnées	<input type="checkbox"/> Stolen goods/vehicles - Marchandises ou véhicules volés													
<input type="checkbox"/> Refusal to comply with a breath demand - Refus d'obtempérer à l'ordre de fournir un échantillon d'haleine	<input type="checkbox"/> Assault - Voies de fait													
<input type="checkbox"/> ASD warns - Avertissement ADA	<input type="checkbox"/> Obstruction - Entrave													
<input type="checkbox"/> Novice drivers with BAC - Conducteurs débutants avec CAS	<input type="checkbox"/> Other, specify - Autre, spécifiez													
<input type="checkbox"/> Outstanding warrants - Mandats non exécutés														
<input type="checkbox"/> Missing/abducted children - Enfants disparus ou enlevés														
<p>Responding police agency Service de police d'intervention</p> <table> <tr> <td>Date and time contacted (yyyy/mm/dd hh:mm) - Date et heure de la communication (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____</td> <td>Date and time of arrival (yyyy/mm/dd hh:mm) - Date et heure de l'arrivée (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____</td> </tr> </table> <p>Police unable to respond (reason) - Incapacité d'intervention de la police (raison)</p>			Date and time contacted (yyyy/mm/dd hh:mm) - Date et heure de la communication (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____	Date and time of arrival (yyyy/mm/dd hh:mm) - Date et heure de l'arrivée (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____										
Date and time contacted (yyyy/mm/dd hh:mm) - Date et heure de la communication (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____	Date and time of arrival (yyyy/mm/dd hh:mm) - Date et heure de l'arrivée (aaaa/mm/jj hh:mm) Date _____ Time - Heure _____													
Related documentation (K19/E350/Form 9/Warrant file, etc.) - Documents connexes (K19/E350/Formulaire 9/Dossier de mandat, etc.)														
Last name - Nom de famille	First name - Prénom													
Date of birth (yyyy/mm/dd) - Date de naissance (aaaa/mm/jj)	Sex - Sexe	<input type="checkbox"/> Male Masculin <input type="checkbox"/> Female Féminin												
Address - Adresse														
Identification type - Type d'identification	Identification no. - Identification n°													
Licence plate no. - N° de plaque d'immatriculation	Licence plate origin - Origine de plaque d'immatriculation													
Flight no. (if applicable) - N° de vol (s'il y a lieu)	Country of origin - Pays d'origine													
Narrative - Exposé des faits														
<p>Please provide details of suspected encounter, such as where it was encountered (primary/secondary), number of subjects involved, number of customs officer(s) involved, was/were subject(s) cooperative, etc. Veuillez fournir les détails entourant la rencontre du suspect, c.-à-d. l'endroit (primaire ou secondaire), le nombre de suspects impliqués, le nombre d'agents des douanes qui ont participé, le suspect a-t-il collaboré, etc.</p>														

EN Part 6 Chapter 7

Criminal Code Offences**APPENDIX C**

Inspector - Inspecteur	Badge no. - N° d'insigne
------------------------	--------------------------

Definitions

Impaired/Suspected Drinking and Driving

Encounters with drivers who are suspected of being impaired and where some action has been taken such as :

- Situations where a police service is contacted for follow-up actions, whether or not police were able to attend.
- Drivers who register a **FAIL** on the ASD.
- Asking him/her to park vehicle and find alternate means of transportation.
- Asking that a sober passenger take over driving.

Refusal to provide a breath sample

- Drivers who refuse to comply with the demand for the ABAI breath sample.
- Drivers who refuse to comply with the demand for the ASD breath sample.

ASD Warns

- Drivers register a **WARN** on the approved screening device (ASD).

Novice drivers with BAC:

Novice drivers who demonstrate that they have blood alcohol concentration (BAC). This box should only be checked off if this is a provincial *Highway Traffic Act* violation.

Outstanding warrants

System queries (CPIC) which are positive for outstanding Canadian warrants of all kinds issued for the arrest of an individual, whether or not police services are able to respond to the call.

Missing/Abducted Children

All interceptions of abducted/missing children which yield positive results.

Stolen Goods/Vehicles

All goods or vehicles where there are reasonable grounds to believe that they have been stolen.

Assault

Incidents of assault between travellers or assaults against customs officers.

Obstruction

Incidents of willfully obstructing or resisting a customs officer in the execution of his/her duties.

Other

Any incidents encountered whereby a criminal offence has been committed and/or is suspected of having been committed or is in the process of being committed. Please specify the offence (e.g., public disturbance, unlawful assembly).

Définitions

Alcool au volant ou conduite avec capacité de conduite affaiblies soupçonnés

Rencontre avec des conducteurs qui sont soupçonnés de conduite avec capacité de conduite affaiblies et où des mesures ont été prises, telles que :

- Cas où on communique avec un service de police pour des mesures de suivi, que la police ait été en mesure de se rendre sur les lieux ou non.
- Conducteurs qui obtiennent un **ÉCHEC à l'ADA**.
- Demander à la personne de stationner le véhicule et de trouver un autre moyen de transport.
- Demander à un passager à jeun de conduire.

Refus d'obtempérer à l'ordre de fournir un échantillon d'haleine

- Conducteurs qui refusent d'obtempérer à l'ordre de fournir un échantillon d'haleine pour l'AA;
- Conducteurs qui refusent d'obtempérer à l'ordre de fournir un échantillon d'haleine pour l'ADA.

Avertissement ADA

- Les conducteurs qui obtiennent un **AVERTISSEMENT** de l'appareil de détection approuvé (ADA).

Conducteurs débutants avec CAS :

Les conducteurs débutants qui ont une concentration d'alcool dans le sang (CAS). Cette case doit uniquement être cochée s'il s'agit d'une infraction au *Code de la sécurité routière* d'une province.

Mandats non exécutés

Recherche dans le système (CIPC) qui donne un résultat positif relatif à des mandats non exécutés de toutes sortes délivrés au Canada pour l'arrestation d'une personne, que les services de police soient en mesure ou non d'intervenir.

Enfants disparus ou enlevés

Toutes interceptions d'enfants disparus ou enlevés qui donnent des résultats positifs.

Marchandises ou véhicules volés

Tous les cas où il y a des motifs raisonnables de croire que les marchandises ou les véhicules ont été volés.

Voies de fait

Incidents de voies de fait entre voyageurs ou voies de fait sur un agent des douanes.

Entrave

Entrave ou résistance délibérées à l'accomplissement des fonctions d'un agent des douanes.

Autre

Tout incident où une infraction au *Code criminel* a été commise, ou est soupçonnée d'avoir été commise ou bien qui est en train d'être commise. Veuillez préciser l'infraction (c.-à-d. désordre public, attroupement illégal).

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Vehicular Transport of Persons
Part I - Guiding Principles

ENFORCEMENT MANUAL

Part 6

SEARCHES AND ENFORCEMENT ACTIONS – PERSONS

Chapter 8

VEHICULAR TRANSPORT OF PERSONS UNDER ARREST OR DETENTION

PART I - GUIDING PRINCIPLES

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Vehicular Transport of Persons
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Please note that Part II will be available once completed

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to transport persons under arrest or detention when required in support of the enforcement and/or administration of CBSA legislation.

The following policy section is presented in two parts:

Part I, Guiding Principles, gives general policy guidelines for qualified officers who transport arrested/detained persons by vehicle. For general guidelines, please contact the Horizontal Policy and Planning Division, Enforcement Manual Section within Headquarters.

Part II, Annexes, provides more specified procedural instruction to the specified officers, whether it be Border Services Officers, Regional Intelligence Officers, Criminal Investigators or Inland Enforcement Officers. For further clarification regarding the procedures for vehicular transportation, please consult your respective Headquarters program representatives.

DEFINITIONS

2. Refer to Part 11 - Glossary.
3. Designated contact – Communications centre, home office, superintendent or contact at the destination/CBSA office or detention facility.
4. Qualified officer – a CBSA officer who is deemed to have met the requirements of transporting persons under arrest or detention as set forth in this policy. Throughout the remainder of the policy, where the term “officer” is used, it will refer only to those officers that are deemed qualified to transport.
5. Secured vehicle – a CBSA vehicle that has a protective barrier installed.
6. Non-secured vehicle – a CBSA vehicle that does not have a protective barrier installed.

PURPOSE AND SCOPE

7. The purpose of this policy is to establish the requirements for transporting persons within Canada under arrest or detention in CBSA vehicles. They

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apply to criminal investigators, intelligence officers, inland enforcement officers and border services officers involved in such activities.

8. Some offices use the assistance of the RCMP, other qualified CBSA personnel or local police to transport arrested/detained persons. In some cases, pursuant to negotiated contracts, commissioners or security guards transport arrested/detained persons within Canada acting on behalf of certain CBSA programs.
9. In the event that CBSA officers have to perform transport duties they must be qualified to transport arrested or detained persons. All qualified border services officers, criminal investigators, intelligence officers and inland enforcement officers performing transportation functions must maintain certification in Control and Defensive Tactics, CPR and first aid certification.
10. These guidelines should be read in conjunction with other chapters of the following manuals:

Enforcement Manual:

- a) Part 6 Chapter 1 Arrest and Detention;
- b) Part 6 Chapter 2 Care and Control of Persons in Custody;
- c) Part 6 Chapter 3 Arrest and Detention of Young Persons;
- d) Part 6 Chapter 4 Foreign Representatives;
- e) Part 6 Chapter 5 Use of Force Policy and Procedures;
- f) Part 6 Chapter 7 Criminal Code Offences Policy and Procedures; and
- g) Part 9 Chapters 1 and 2, Customs Prosecution Policy and Procedures.

Program and Policy Manuals for CIC/CBSA:

- a) ENF7 Investigations and Arrests;
- b) ENF 10 Removals;
- c) ENF 12 Search, Seizure, Fingerprinting and Photographing; and
- d) ENF20 Detentions.

Regional transport and detention policies

Training guidelines:

- a) Control and Defensive Tactics procedures;
- b) Transportation Control Tactics procedures; and
- c) Enforcement Training Program I, II, III (Investigations, Removals, and Escorts).

POLICY GUIDELINES

General

11. Officers must exercise reasonable care for the protection and well-being of themselves and all persons in their custody and are to take precautions that will help ensure that these persons are protected from harm to themselves or from others.
12. Officers will not knowingly transport persons requiring urgent medical attention. As is the case with all medical emergencies, medical staff and/or an ambulance must be summoned.
13. The physical well being of persons under arrest/detention must be monitored during transit. Officers must call for medical attention (911) if persons report or display symptoms of serious illness (e.g. shortness of breath, loss of consciousness, and/or severe bleeding).

Arrest and detention considerations

14. A risk assessment is required before any transportation of the arrested/detained person and shall be ongoing for the duration of the transport.
15. Arrested or detained persons must be frisked/searched before being placed in the vehicle for transport. The arrested/detained person must be frisked/searched upon all changes in custody within the CBSA.

Restraints

16. The arrested/detained person being transported in CBSA vehicles must be restrained should a risk assessment deem appropriate, and frisked/searched

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in accordance with the Arrest and Detention procedures described in the enforcement manuals.

Notebooks

17. It is mandatory that the officer prepares and retains notes regarding all details of the transport of the arrested or detained person as well as all of their personal effects in accordance with the procedures outlined in the enforcement manuals.

Communication

18. A transportation plan, including contact numbers, planned route, scheduled stops and estimated time of arrival at the destination/CBSA office/detention facility should be completed and given to the designated contact prior to departure. The amount and type of information collected, as it is procedural in nature, will be determined by the program administered.
19. Prior to, during and after transport, officers should remain in regular communication with the designated contact.
20. The ability to maintain contact with the designated contact is essential to the safety of the officer and the person under arrest/detention. Two-way radios and cellular telephones must be charged and functioning properly to ensure the officers ability to stay in communication with the designated contact.

Transport procedures

21. The vehicles used for transporting arrested/detained persons must be in good working order and, when possible, have sufficient fuel for the trip.
22. The vehicle used for transport must be thoroughly searched immediately before and immediately after transporting the person to any location to ensure that there are no objects present that may be used as a weapon against the officer or may present a risk to the person being transported. If applicable, remove or secure and document all objects.
23. It is strongly recommended that all transports be conducted in teams of two. However, where a risk assessment deems appropriate, a single officer of the same gender as the arrested/detained person may transport. When a single officer is conducting the transport, it must be done in a secured vehicle.
24. All transports of arrested/detained persons should be done in secured vehicles wherever possible.

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25. Secure all personal belongings during transport.
26. Reasonable care must be exercised to ensure the person does not harm himself/herself, any other person, and attempt to escape or cause damage to the vehicle or outside facilities.
27. Vehicles must be equipped with first-aid kits and fire extinguishers.
28. It is recommended that two or more arrested/detained persons should not be transported in a vehicle without a protective screen. Multiple vehicles should be used when transporting two or more arrested/detained persons when possible.
29. Officers should not allow arrested/detained persons to communicate with anyone, including counsel, during transport.

Hospital

30. If a person in CBSA custody requires medical care during transport, prior to transporting the arrested/detained person to the hospital, it is recommended that advanced notice be given to the hospital when possible. Hospitals may refuse to take arrested/detained persons due to lack of facilities to accommodate these situations.

Meals

31. If the detention or the transport is lengthy and the person under arrest or detention must be fed and it is safe to do so, ensure that all meals are taken to a secure area, such as a:
 - a) transport vehicle;
 - b) CBSA office;
 - c) detention centre; or
 - d) police detachment.

Restrooms

32. Persons under arrest or detention must be given an opportunity and reasonable access to restroom facilities. It is recommended that officers offer the arrested/detained person the use of the restroom facility at the location of

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arrest/detention prior to transport. When a restroom facility is required en route, request the use of the facilities at the nearest police detachment.

33. In the event that a police detachment is not available, locate a rest area or service station and only proceed when a risk assessment deems it safe.

Escape

34. In the event of escape, qualified officers must:

- a) notify the local police (dial 911);
- b) relay to the police all pertinent information regarding the arrested/detained person;
- c) notify the designated contact and the intended destination/CBSA office/detention facility and designated contact; and
- d) supply the police with copies of identification.

35. Officers must not engage in vehicle pursuits (to follow in their vehicle in order to overtake or chase).

Arrival at destination/CBSA office/detention facility

36. Upon arrival at the destination/CBSA office/detention facility, the officer should inform the designated contact.

37. After removing the arrested/detained person from the vehicle, the vehicle must be searched.

38. Once inside the detention facility, arrested/detained persons and their personal belongings must be turned over to the appropriate authority and signed for in accordance with the procedures of the detention facility.

39. Where practicable, documentation must be signed by both the officer and the contact at the destination/CBSA office/detention facility to validate the transfer and a copy retained for the CBSA.

40. CBSA restraints should be retrieved once the transfer of the arrested/detained person is complete.

41. Details regarding the arrested/detained person, any personal searches conducted, medical conditions, the officers' names and badge numbers, and all applicable documents must be provided to the appropriate authority at the

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detention facility. Each region should determine the standard local procedures.

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Part II - Appendix _____

CUSTOMS ENFORCEMENT MANUAL

Part 7

CUSTOMS ENFORCEMENT SYSTEMS, INFORMATION AND INTELLIGENCE

Chapter 1

INTEGRATED CUSTOMS ENFORCEMENT SYSTEM (ICES) POLICY

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POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to capture and monitor enforcement information on the Integrated Customs Enforcement System (ICES).

DEFINITIONS

2. Refer to Part 11 - Glossary.

AUTHORITIES

Privacy Act

3. Section 4 – Limits the collection of personal information to that directly related to an operating program or activity of an institution.
4. Section 6 – Requires a retention period for personal information collected.

Note: Regulations for customs purposes require at least a two-year retention period.

5. Section 7 – Limits the use of information to the purposes for which it was collected.
6. Section 8 – Limits the disclosure of information but provides for disclosure to an investigative body.

Customs Act

7. Section 107 – Allows for the provision to others, access to others, and use of customs information that is gathered in the administration or enforcement of the *Customs Act* or the *Customs Tariff* or is prepared from such information.
8. Section 160 – States that unauthorized disclosure of customs information is a punishable offence.

BACKGROUND

9. The CBSA is committed to enhancing border protection and providing improved services through automated support. This is accomplished in part through the electronic management of enforcement information and through effective tools to conduct risk analysis, selective targeting, and other enforcement activities. The primary customs tool for the capture and management of enforcement information is ICES.
10. ICES is a comprehensive windows-based software application designed to provide a single interface for the capture, reporting, analysis, and query of enforcement data. Using CBSA's data communication network, ICES has the capability to record, store, and distribute enforcement data on a 24-hour basis throughout the country.
11. The ICES database contains all customs seizures, lookouts, export control activities, search and arrest activities, and selected Citizenship and Immigration Canada (CIC), Field Operational Support System (FOSS) records available for query and retrieval. The system is made up of four main components: Enforcement Action Data Capture, Lookouts, Enforcement Analysis, and Enforcement Program Monitoring.

PURPOSE AND SCOPE

12. The purpose of this policy is to provide guidelines for the utilization and maintenance of ICES.
13. This policy applies to all CBSA employees whose position requires them to use ICES or information from the ICES database.

POLICY GUIDELINES

User Access

14. Access to the functions of ICES will be controlled by a user profile.

Note: User profiles that restrict access to specific functions are based on users' work positions, and the principle of "need to know." The standard profiles are outlined on the ICES User Information and Access Authorization form (See Appendix A). A listing of the restrictions for each profile is available through the ICES Maintenance Unit at Headquarters.

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15. Exceptions to standard profiles may be obtained on an as-required basis where a strong business case exists.
16. Customs Contraband, Intelligence and Investigations (CCII) must approve requests for specialized or non-standard profiles.
17. All potential users must fully complete an ICES User Information and Access Authorization form and forward it to the ICES Maintenance Unit at Headquarters.

Note: The ICES Maintenance Unit will assign the user an appropriate user profile and activate the user.

Note: See Appendix A for a copy of the ICES User Information and Access Authorization form.

18. All users must have a CBSA issued LAN account (user ID) before they are activated in ICES.

Note: The account is obtained by completing the Computer Information Access Authority form (TF469) (See Appendix B), and submitting it to the users' local security services official or local access administrator identified in the users' area.

19. Users may not, under any circumstances, share their password or user ID with other users or persons.

20. ICES users are responsible for all transactions completed using their user ID and password.

Note: ICES has the ability to audit all transactions and show the relationship between the user, terminal, and data. The owner of the user ID is liable for any misuse or compromise of the system and data contained in its databases.

21. The minimum-security level for access to ICES is enhanced reliability.
22. In order to capture all customs seizures, it is a system requirement that all customs officers in Canada will have a user ID and profile in the ICES system, whether their work location has an ICES terminal or not.
23. Manually completed enforcement documents from non-ICES sites will be forwarded to CCII for input into ICES under the completing officers' user ID.

User Profile Maintenance

24. The ICES Maintenance Unit is responsible for all user maintenance for ICES and this responsibility may not be delegated.
25. The ICES Maintenance Unit is to be notified as soon as possible of any changes due to transfer, promotion, change in duties, or termination of employment of recognized system users.

Note: The responsibility for this notification will rest with the local or regional information technology services, which must be informed by the supervisor of the person affected.

System Security

26. The ICES system and the data contained therein are designated "Protected".
27. ICES workstations located at the ports of entry will normally be accessed in secondary referral areas and not at the PIL. In exigent circumstances, where operational requirements deem it necessary, ICES access at PIL can be authorized by the Headquarters OPI (Information Management, Enforcement Branch) for access to commercial conveyance information only.
28. ICES terminals and printers will be positioned to prevent viewing of data by unauthorized individuals.
29. All ICES users will log off the system at the end of their session and clear any printed matter from any associated printer.
30. All printed matter will be stored and used in a manner preventing access by unauthorized personnel.
31. All printed matter will be destroyed in accordance with government policy.

Note: Refer to the Financial and Administration Security Volume, Chapter 8, Disposal of Sensitive Information and Assets for further information on how to destroy printed matter.

32. Users may access data only in the manner authorized for the performance of their duties.

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33. Any use of the system or system data for unethical, illegal, or inappropriate purposes is strictly prohibited and may be cause for disciplinary action up to termination of employment and criminal prosecution. Examples of inappropriate use include, but are not limited to:
 - a) unauthorized use of a user ID and password;
 - b) accessing the system for personal gain;
 - c) accessing the system data for the benefit of the user or another person;
 - d) disclosing information contained on the system to unauthorized persons; and
 - e) intentionally interfering with the normal operation of the system.
34. Breaches of established ICES procedures and policy violations must be reported to the Head, CCII. All policy violations will be investigated and the necessary corrective and/or disciplinary action taken.
35. Under no circumstances will ICES information be divulged to travellers. Travellers requesting ICES information will be advised to make an inquiry in accordance with the *Access to Information Act* and the *Privacy Act*.
36. ICES enforcement records will remain in the ICES system for six years. Intelligence information may remain in the ICES system up to ten years.
37. Standards for system security of ICES including physical security, data security, and site maintenance will be those required under the Treasury Board Information and Administrative Security Manual, the Government of Canada's Technical Security Standard for Information Technology and Security Bulletins, CBSA security standards, and related administrative management policies.
38. The regions will conduct security reviews on an ad hoc basis but no less than twice annually. Each review will be documented and copies of the findings will be forwarded to the Head, CCII, the Regional Security Officer, and divisional management.
39. All instances of a lost or stolen laptop containing remote access to ICES must be reported to the Security Directorate and the Head, CCII immediately.

Enforcement Action Process

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40. All enforcement actions at automated locations will be completed using ICES, except when technical reasons prevent the use of the system.

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41. All enforcement actions that for technical reasons are not entered into ICES at the time of action will be completed on form K19S, Seizure Receipt (Travellers), K19C (Currency) or on form K19, Seizure Receipt (Commercial). A hardcopy of the manual enforcement action will be forwarded to the Database Section, CCII for input into ICES.

Note: Refer to Part Eight, Chapter Two, Enforcement Forms Policy and Procedures for a sample of forms K19S and K19.

42. To the extent possible, all data fields will be fully completed at the time of enforcement action.

Note: It is the responsibility of each user to ensure the accuracy of the data being input. Once the enforcement action is completed and the client has been given a receipt, the enforcement action is final and an amended receipt will not be issued.

43. All data fields that cannot be completed at the time of an enforcement action will be completed no later than the fourth shift after the occurrence.

44. All seizure actions are to be reviewed by a superintendent within five working days after seizure reports are completed to ensure that no errors have been made, that narrative reports accurately reflect the occurrences, and that all documentation is included in the seizure package. All review results will be documented in the "Seizure Review" facility in ICES.

Note: There is an exception for all Strategic Export related seizure actions. It is the responsibility of the Counter Proliferation Section to close all strategic export related seizures. Once an officer has input the seizure it will remain in the Pending File until the Counter Proliferation Section at HQ has reviewed and closed the enforcement action.

45. ICES will allow minor changes to some data that does not affect the allegations or terms of release after a seizure is completed, but will not allow the addition or deletion of data.

46. It is the responsibility of the seizing port to advise the appropriate office (includes regional Intelligence and Contraband) immediately of changes to drug seizures (i.e., drug type, quantity, unit of measure, origin) to allow for the amendment of the information through the "Drug Update" facility in ICES.

47. Any problems or errors that may come to light after issuance of a K19 seizure receipt must be dealt with in accordance to the policy set out for corrections in Part 5, Chapter 1, Commercial Seizures, Ascertained

Forfeitures and Administrative Monetary Penalties and Chapter 2, Traveller Seizure and Ascertained Forfeitures.

Lookout Process

48. ICES is the official lookout database for customs. All Agency lookouts will be entered into ICES and can be queried by all users.

Note: See Appendix C for details on the Classification of Lookouts and the Use of Cautions in ICES.
49. National Security and Intelligence type lookouts will be entered into ICES for a specific period, not exceeding 90 days. Users with the appropriate profile may further extend a lookout or cancel it depending on operational requirements.
50. Watch for/target type lookouts issued by customs officers expire after seven days unless authorized by a Regional Intelligence Officer (RIO) or officer having authorizing authority to remain in the system for a specified time period.
51. Once a lookout is authorized, only those with authorizing authority can modify, extend, cancel, or archive a lookout.
52. ICES forwards all details of lookouts issued by a customs officer immediately to the appropriate Regional Intelligence Officer for authorization, follow-up, or further action.
53. In the event that ICES is not available at a location due to technical reasons, all intelligence and watch for/target type lookout will be input into the local PIL automated system.
54. In accordance with the national lookout policy, whenever the subject of a lookout is encountered, all details of the examination or activity will be communicated to the authorizer of the lookout. This may be done by entering the observations into the ICES Examination Results/Notepad Window facility or by completing a manual form K28 in cases where a non-automated port is involved.

System Management

55. In consultation with CCII, the ICES Operational Maintenance and Support unit, Distributed Systems, Customs Program Strategy and Major Projects will monitor ICES use and effectiveness on a national basis, maintain the systems operations, and develop and implement upgrades to the system.

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56. The addition of uncertified software and use of an ICES workstation for other applications must be approved by the Head, CCII. Requests to add software, or upgrade or acquire additional ICES workstations must be made in writing to the Head, CCII.
57. Prior to ICES being loaded remotely, a request must be made to the local information technology section who will provide the forms that must be completed to obtain remote access.

ROLES AND RESPONSIBILITIES

Customs Contraband, Intelligence and Investigations

58. Customs Contraband, Intelligence and Investigations (CCII) is responsible for:
 - a) developing, modifying, and approving all policies related to the use of ICES, user access, its data banks, files and records, and outside system interfaces;
 - b) approving additional system functionality and expansion, including expansion of the system outside of customs;
 - c) ensuring that processes and policies of other directorates, divisions, agencies, and departments are adhered to in the development, implementation, and operation of ICES;
 - d) in consultation with the Operations Branch, creating and modifying the previous offender categories by establishing probability rates on a national basis, and setting the duration an offender remains in a given category; and
 - e) inputting all manual seizures into ICES and making authorized changes to completed seizure data.

Regional Director Generals

59. Regional Director Generals are responsible for:
 - a) ensuring that the policies and procedures relative to the site operation and use of ICES in their region are adhered to;
 - b) conducting periodic security reviews of ICES in the region;

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- c) investigating and reporting all instances of ICES policy and security breaches to CCII; and
- d) taking appropriate corrective action on policy and security breaches.

Security Directorate

60. Security Directorate is responsible for:

- a) advising the Head, CCII of operational and policy matters related to the security of ICES and its data; and
- b) investigating security breaches pertaining to ICES and reporting the results to the Regional Director General and the Head, CCII.

Customs Program Strategy and Major Projects

61. Customs Program Strategy and Major Projects is responsible for:

- a) ongoing maintenance and support of the ICES system operations;
- b) reporting system anomalies to CCII periodically;
- c) developing and implementing upgrades to the system; and
- d) monitoring system use and effectiveness on a national basis.

Adjudications Division

62. Adjudications Division is responsible for recording seizure appeal decisions on ICES.

PROCEDURES

63. Refer to the ICES User Reference Manual for detailed procedures.

REFERENCES

64. *Customs Act*
Access to Information Act
Privacy Act
Criminal Code
Government of Canada Technical Security Standards for Information Technology
Revenue Canada Information Technology Security Policy and Security Bulletins
Treasury Board Information and Administrative Management Security Manual
ICES User Reference Manual
ICES Reporting Sub-System Reference Manual
Memoranda of Understanding with U.S. Customs, Citizenship and Immigration Canada, Agriculture and Agri-Food Canada, and PIRS
CPIC Reference Manual
PIRS Reference Manual
D-Memoranda

Part 7

**CUSTOMS ENFORCEMENT SYSTEMS,
INFORMATION, AND INTELLIGENCE**

Chapter 1

INTEGRATED CUSTOMS ENFORCEMENT SYSTEM (ICES) POLICY

Appendix A

ICES USER INFORMATION AND ACCESS AUTHORITY FORM

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Integrated Customs Enforcement System

APPENDIX A

ICES / SIED

Integrated Customs Enforcement System - Système intégré d'exécution des douanes

User Information and Access Authorization

This form is designed for use in the initial set-up of ICES users and will be replaced by form TF 469, Computer Information Access Authority, for ongoing maintenance.

Autorisation d'accès et renseignements sur les utilisateurs

Ce formulaire est conçu pour établir la liste initiale des utilisateurs du SIED et sera remplacé par le formulaire TF 469, Autorisation d'accès aux renseignements informatiques, pour l'entretien permanent.

Employee Information/Information sur l'employé

New User/Nouvel utilisateur	Modification/Modification	Deletion/Suppression
Surname/Nom	Given Name(s)/Prénom(s)	PRI/CIDP
Logon ID/Code d'identification	Language/Langue	Badge No./No d'insigne
		Stamp No./No d'estampille

Location/Endroit

Region/Région	Region/Région	Work Location/Lieu de travail
---------------	---------------	-------------------------------

Profile/Profil

Position/Poste	Start Date/Date d'entrée en fonction	End Date/Date de cessation d'emploi
----------------	--------------------------------------	-------------------------------------

Choose position from list / Choisissez le poste qui vous intéresse

- Customs Inspector / Inspecteur des douanes
- Senior Customs Inspector / Inspecteur principal des douanes
- Customs Inspector-Part Time / Inspecteur des douanes - temps partiel
- Customs Inspector-Summer /Student Inspecteur des douanes - Étudiant (été)
- Superintendent / Surintendant
- Manager-Local / Gestionnaire - bureau local
- Manager-District / Gestionnaire - bureau de district
- Export Control Officer-HQ/Agent de contrôle des exportations-AC
- Manager - Export Control Command Centre-HQ/Gestionnaire – Centre de contrôle des exportations-AC
- Program Services/Agent des services aux programmes
- Superintendent I&I/Surintendent DRRC
- Regional Intelligence Officer / Agent régional du renseignement
- Investigator-Regional / Enquêteur régional
- Regional Intelligence Analyst / Analyste régional du renseignement - AC
- Senior Intelligence Officer-HQ / Agent principal du renseignement - AC
- Senior Investigator-HQ / Enquêteur principal - AC
- Senior Intelligence Analyst-HQ / Analyste principal du renseignement - AC
- Adjudicator-HQ / Arbitre - AC
- Clerical Support-I&C / Commis de soutien - Renseignement et répression de la contrebande
- Trade Administration Services/Services d'administration des politiques commerciales
- Manager I&C / Gestionnaire de la Division du renseignement et de la répression de la contrebande
- Manager Investigations / Gestionnaire des enquêtes
- Manager Adjudications / Gestionnaire de l'arbitrage
- Manager Contraband & Intelligence Services Directorate-HQ/Gestionnaire de la direction de la contrebande et des services de renseignement
- Clerical Support-Adjudications / Commis de soutien - Arbitrage
- Clerical Support-Investigations / Commis de soutien – Enquêtes
- Targeter/Cibleur
- Tax Investigator/Enquêteur de l'impôt

This is to acknowledge that I will be granted access to the Integrated Customs Enforcement System, ICES. I will access the system as soon as possible and change my password and will restrict my use of the system to job related purposes only. I have read the above information.

La présente vise à reconnaître que j'aurai l'autorisation d'accéder au Système intégré d'exécution des douanes (SIED). J'y accéderai dès que possible, changerai mon mot de passe et utiliserai le système uniquement dans le cadre de mon travail. J'ai pris connaissance de ce qui précéde.

Employee's Signature/Signature de l'employé

Supervisor's Signature/Signature du superviseur	Position/Poste
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Part 7

**CUSTOMS ENFORCEMENT SYSTEMS,
INFORMATION, AND INTELLIGENCE**

Chapter 1

INTEGRATED CUSTOMS ENFORCEMENT SYSTEM (ICES) POLICY

Appendix B

COMPUTER INFORMATION ACCESS AUTHORITY (TF469)

EN Part 7 Chapter 1

Integrated Customs Enforcement System

APPENDIX B

 Canada Customs and Revenue Agency Agence des douanes et du revenu du Canada		TF 469 Rev. 54				
COMPUTER INFORMATION ACCESS AUTHORITY						
<ul style="list-style-type: none"> • This form is to be completed for requesting initial user system access to Revenue Canada computer systems or when a Logon-ID is to be deleted. 		<ul style="list-style-type: none"> • Cette forme doit être remplie pour une première demande d'accès aux systèmes informatiques de Revenu Canada ou lorsqu'un code d'identification doit être supprimé. 				
EMPLOYEE - EMPLOYÉ(E) <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Surname (in full) - Nom (au complet)</td> <td style="width: 50%;">Given Name (in full) - Prénom (au complet)</td> </tr> <tr> <td></td> <td></td> </tr> </table>		Surname (in full) - Nom (au complet)	Given Name (in full) - Prénom (au complet)			AUTORISATION D'ACCÈS AUX RENSEIGNEMENTS INFORMATIQUES
Surname (in full) - Nom (au complet)	Given Name (in full) - Prénom (au complet)					
<p>Work Location/Section (3 digit number for Taxation + 4 digit number for Customs and Excise) Lieu ou section de travail (nig 3 : numéro en 3 chiffres - Douane et Accès : numéro de 4 chiffres)</p>		<p>Current Office Location - Endroit actuel du bureau</p>				
ACCESS AUTHORIZATION <p>The completion of your normal work duties requires that you have access to "Protected" information, files and restricted on-line facilities. In order for you to access these password-protected facilities you will be issued a Logon-ID and password. They are assigned to you and are to be used by you for official use only. You should memorize your password, and you are cautioned not to disclose your password to anyone.</p> <p>Should you forget your password, or you suspect it has been disclosed, inform your supervisor immediately so that appropriate action can be taken. Please note that all transactions are recorded.</p> <p>Your access authorization is issued on the basis of the present job you are doing. When you change jobs, your access to the system may also require change. If access to the system entitles you to create any programs, utilities, and/or Job Control Language, you are reminded that whatever you create is the property of the Crown.</p> <p>Keep all information confidential and secure according to the classification or designation of that data on the system.</p> <p>Immediately report any known or suspected security incidents to your local Security Administrator.</p>		<p>AUTORISATION D'ACCÈS</p> <p>Vos fonctions habituelles de travail exigent que vous ayez accès à des dossiers contenant des renseignements cotés « Protégé » et à des installations en direct à accès réservé. Afin d'avoir accès à ces installations protégées par un mot de passe, vous recevrez un code d'identification et un mot de passe que vous devrez utiliser uniquement dans le cadre de vos fonctions. Vous devrez mémoriser votre mot de passe et ne pas le divulguer à qui que ce soit.</p> <p>Si vous oubliez votre mot de passe ou si vous croyez qu'il est connu, il faut en informer immédiatement votre superviseur afin que les mesures requises puissent être prises. Veuillez noter que toutes les transactions sont enregistrées.</p> <p>L'autorisation d'accès vous est accordée en raison du poste que vous occupez présentement. Si vous changez de poste, il faudra peut-être aussi modifier votre accès au système. Si votre accès au système vous autorise à élaborer des programmes, des programmes utilitaires ou des instructions de langage de contrôle, il ne faut pas oublier que tout ce que vous créez devient la propriété de la Couronne.</p> <p>Conservez tous les renseignements confidentiellement et en sécurité selon la classification ou la désignation des données du système.</p> <p>Signalez immédiatement tout incident de sécurité connu ou pressenti à l'administrateur de la sécurité de votre bureau local.</p>				
<p>This is to acknowledge receipt of my Logon-ID and password for access to the system and data resources. I will change my password immediately and restrict my use of the system for job related purposes only. I have read the above information.</p>		<p>Par la présente, je reconnais avoir reçu mon code d'identification et mon mot de passe à des fins d'accès au système et aux données informatiques. Je changerai mon mot de passe immédiatement et l'utilisera uniquement dans le cadre de mes fonctions. J'ai lu les renseignements ci-dessus.</p>				
Employee (Signature) Employé(e)						
MANAGER/SUPERVISOR - GESTIONNAIRE/SUPERVISEUR						
<p>Active Date (Date the employee's system access becomes effective through the use of the Logon-ID and password) Date d'entrée en vigueur (Date à partir de laquelle l'employé ou l'employée peut accéder au système au moyen du code d'identification et du mot de passe)</p>						
<p>Termination Date (Date the employee no longer requires system access to perform assigned work, or when terminating employment with the department or office) Date de cessation d'emploi (Date à partir de laquelle l'employé ou l'employée n'a plus besoin d'accéder au système dans le cadre de ses fonctions ou date à partir de laquelle il ou elle cesse de travailler au ministère ou au bureau)</p>						
<p>Identify the specific system accesses this employee will require to perform his/her work. For access to the Taxation Top Secret Security (TSS) mainframe computer system, a profile is required through which, during initial creation, on-line access is permitted. For access to the Customs and Excise ACP2 mainframe computer system, along with the TF469 form, an E522 Logon Request form is to be completed identifying the employee's specific system accesses.</p>						
<p>Déterminez les accès au système dont l'employé ou l'employée aura besoin dans le cadre de ses fonctions. L'accès au système de l'ordinateur central Top Secret Security (TSS) de l'impôt se fait au moyen d'un profil qui, au cours de la création initiale, permet l'accès en direct. L'accès au système de l'ordinateur central ACP2 de Douane et Accès se fait en précisant les accès au système accordés à l'employé ou à l'employée sur le formulaire E522 - Demande d'accès, en plus du formulaire TF469.</p>						
<p>System Access - Accès au système</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Customs and Excise ACP2 mainframe computer system; form E522 completed and attached</td> <td style="width: 50%;">Yes <input type="checkbox"/> Non <input type="checkbox"/></td> </tr> <tr> <td colspan="2" style="text-align: center;">Système de l'ordinateur central ACP2 de Douane et Accès; formulaire E522 complété et joint</td> </tr> </table>			Customs and Excise ACP2 mainframe computer system; form E522 completed and attached	Yes <input type="checkbox"/> Non <input type="checkbox"/>	Système de l'ordinateur central ACP2 de Douane et Accès; formulaire E522 complété et joint	
Customs and Excise ACP2 mainframe computer system; form E522 completed and attached	Yes <input type="checkbox"/> Non <input type="checkbox"/>					
Système de l'ordinateur central ACP2 de Douane et Accès; formulaire E522 complété et joint						
Manager/Supervisor (Signature) Gestionnaire/Superviseur						
SECURITY ADMINISTRATOR - ADMINISTRATEUR DE LA SÉCURITÉ						
Logon-ID - Code d'identification		Initial Password - Mot de passe initial				
		Date the Logon-ID is deleted: Date de suppression du code d'identification				
Printed in Canada - Imprimé au Canada		Copy Copie 1 Security Administrator Administrateur de la sécurité				

Part 7

**CUSTOMS ENFORCEMENT SYSTEMS,
INFORMATION, AND INTELLIGENCE**

Chapter 1

INTEGRATED CUSTOMS ENFORCEMENT SYSTEM (ICES) POLICY

Appendix C

CLASSIFICATION OF LOOKOUTS AND THE USE OF CAUTIONS IN ICES

APPENDIX C

CLASSIFICATION OF LOOKOUTS AND THE USE OF CAUTIONS IN ICES

The following are guidelines for the classification of lookouts input into ICES and for the use of “cautions” attached to these lookouts.

Generally speaking, a lookout may be categorized as either a “commodity” lookout or a “person” lookout.

A “commodity” lookout is a lookout for specific goods or commodities that may be imported or exported either by a person or as part of a shipment. The purpose of the lookout may be to ensure that permits are presented (verification) or when there is a suspicion the goods may be unlawfully imported or exported (enforcement).

A “person” lookout is a lookout assigned because the individual is the actual subject of the lookout. The purpose of this category of lookout may also vary and can range from the need to notify the person of an illness or death in the family, to a request by another agency to apprehend the person because they are wanted for the commission of a crime. Most however, are to ensure the individual is referred to secondary for more intensive examination.

Lookout Types

Note: This list may be expanded as required and with the approval of Customs Contraband Intelligence and Investigations (CCII).

Lookouts are classified according to the following “types”:

CITES (WAPPRITA) – this is a commodity lookout referring to the likelihood that an item listed within the three appendices of the Convention on International Trade in Endangered Species may be encountered.

Commercial Fraud – this is a person lookout used when an individual (or company) has a history of non-compliance with customs, usually involving the activity of under-valuation or misdescription.

Compassionate – this is a person lookout used to locate a person for compassionate reasons, e.g., there has been a death of a family member, an illness in that person’s family or a major incident involving that person’s family or property.

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Integrated Customs Enforcement System

APPENDIX C

Currency or Monetary Instruments/Suspected Proceeds of Crime: this is a commodity lookout referring to the likelihood that currency or monetary instruments in excess of \$10,000 Canadian are encountered that may be associated or linked to proceeds of crime within the meaning of 462.3 (1) of the Criminal Code or funds for use in financing terrorist activities.

Drugs – This is a commodity lookout alerting that drugs may be encountered.

Explosives – this is a commodity lookout alerting that explosives may be encountered

Export Control – this is a commodity lookout alerting that goods subject to export controls or the export of which is prohibited, controlled or regulated may be encountered.

Hate Propaganda – this is a commodity lookout suggesting that prohibited goods defined as “hate propaganda” under the *Tariff* may be encountered.

Immigration – this is a person lookout used for referring a specific individual to CIC.

Jewellery – this is a commodity lookout referring to the likelihood that jewellery may be encountered.

Kidnapping/Abduction: this is a person lookout used to identify a person who is suspected of kidnapping or abducting another person.

Liquor – this is a commodity lookout referring to the likelihood that illicit alcohol products may be encountered.

Lost/Stolen/Fraudulent Passports: this is a commodity lookout referring to the likelihood that lost, stolen, or fraudulent passports are encountered.

Lost/Stolen Licence Plate – this is a commodity lookout against a licence plate that has been reported as being lost, missing or stolen or belonging to a vehicle that has been reported as stolen. (Where an individual is wanted for being in possession of a stolen vehicle or licence plate, the lookout will be issued as a “wants and warrants” lookout.)

Missing Children – this is a person lookout used to identify children that have been abducted or are runaways.

APPENDIX C

Other Agency Requirement – this is a lookout that can relate to either a person or a commodity. It is used when there is a need to notify another law enforcement agency that particular goods have been imported or exported (e.g., to notify the RCMP when copyright infringing goods have been imported), or when there is a need to track the movement of a person and/or monitor the goods they are importing.

Other Government Department Requirement – this is a commodity lookout when import requirements of an OGD must be met. This type of lookout would be used, for example, when all travelers arriving from a country with an outbreak of foot and mouth disease must be more thoroughly examined.

Pornography – this is a commodity lookout referring to the likelihood that goods defined as “obscene” or as “child pornography” under the *Tariff* may be encountered.

Proceeds of Crime – this is a commodity lookout referring to the likelihood that money or property that is obtained as the result of criminal activity may be encountered.

Rental Vehicle – this is a commodity lookout used to advise that a vehicle is registered to a rental agency.

Running the Port – this is a person lookout used when the individual has a history or is suspected on a previous occasion of having “run the port”.

Smuggling – General – this is a person lookout used when a specific individual is suspected of engaging in smuggling activity but the actual commodity is unknown.

Stolen Property: this is a commodity lookout referring to the likelihood that stolen property may be encountered.

Target – this is a person lookout entered by the targeting team following the review of passenger manifests to determine target passengers and when the nature of the lookout (e.g., drugs, terrorism, etc.) is not necessarily known at the time.

Terrorism – this is a person lookout used when the individual is suspected of being a member, associate or sympathizer of a known terrorist organization, but there is no outstanding warrant for apprehension of the individual. Where the person is wanted for questioning, or there is a warrant for arrest, it will be listed as a “wants and warrants” lookout.

APPENDIX C

Tobacco – this is a commodity lookout referring to the likelihood that illicit tobacco products may be encountered.

United States Customs: this is a person lookout used to identify a person who may be of interest based on reliable information from the U.S. Department of Homeland Security, Customs and Border Protection (US DHS/CBP).

Wants and Warrants – this is a person lookout used when a request has been made by the police or other law enforcement agency for the apprehension of a specific individual for purposes of questioning or there is an outstanding warrant for that person's arrest. A “wants and warrants” may also be used when the person is wanted as a material witness in a criminal proceeding.

Weapons – this is a commodity lookout referring to the likelihood that firearms or prohibited weapons may be encountered. This classification is not used when a person is wanted for questioning or apprehension (“wants and warrants”) and is suspected to be armed with a firearm or weapon.

Cautions

Cautions are not a mandatory field and should only be used when there is a need to communicate potential dangers and/or known risks so that preventative measures can be taken to avoid the danger or mitigate the risk.

Note: Examples given for the use of cautions are not all encompassing.

Types of “cautions” and their intended uses are listed as follows:

Armed and Dangerous – this caution is used to alert customs inspectors to potential real dangers involving a particular individual. It normally is issued in conjunction with a “wants and warrants” lookout when, for example:

- a person fleeing the scene of a crime where weapons are known to have been used or displayed; or,
- the law enforcement agency providing the information indicates the person is or is reasonably believed to be armed and is liable to be dangerous.

This caution may also be issued in conjunction with any other lookout where the Regional Intelligence Officer (RIO) has determined, given the individual's past criminal history or based on collateral intelligence, that he/she is more than likely to be armed with a weapon and is liable to use it.

APPENDIX C

Known Drug User – this caution is used when the individual is a known or suspected drug abuser and there is the possibility that contaminated needles may be encountered in the person's baggage, vehicle or on their person.

Known to Flee Authority – this caution is used when the individual has a recorded history or criminal record involving:

- escaping from lawful custody;
- flight from a police officer; or
- running the port.

Known to Resist Arrest – this caution is used when the individual has a recorded history or criminal record involving resisting arrest or obstructing a peace officer.

May Pose a Health Risk – this caution is used when the individual is known or suspected to have a communicable or contagious disease that may pose a health risk to those who encounter the person. These cautions will normally be issued upon advise of Health Canada.

Mentally Unstable – this caution is used when the person is known to have a history of mental illness; has walked away or escaped from a mental institution; or requires medication for mental health reasons.

Violent – this caution is used when the individual has demonstrated a propensity toward aggressive behaviour, without a weapon, including:

- convictions or outstanding charges for assault or assaulting a peace officer;
- a history of confronting law enforcement officials;
- one or more restraining orders issued against him/her in respect of a person or an institution.

CUSTOMS ENFORCEMENT MANUAL

Part 7

CUSTOMS ENFORCEMENT SYSTEMS, INFORMATION, AND INTELLIGENCE

Chapter 2

CUSTOMS ENFORCEMENT LIBRARY POLICY AND PROCEDURES

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to capture, store, and monitor customs enforcement and intelligence information on the Customs Enforcement Library database and disseminate this information in an approved and secure manner.

DEFINITIONS

2. Refer to Part 11 - Glossary.

AUTHORITIES

Privacy Act

3. Section 4 – Limits the collection of personal information to that directly related to an operating program or activity of an institution.
4. Section 6 – Requires a retention period for personal information collected.

Note: Regulations for customs purposes require at least a two-year retention period.

5. Section 7 – Limits the use of information to the purposes for which it was collected.
6. Section 8 – Limits the disclosure of information but provides for disclosure to an investigative body.

Customs Act

7. Section 107 – Allows for the provision to others, access to others, and use of customs information that is gathered in the administration or enforcement of the *Customs Act* or the *Customs Tariff* or is prepared from such information.
8. Section 160 – States that unauthorized disclosure of customs information is a punishable offence.

BACKGROUND

9. The CBSA is committed to enhancing border protection and providing improved services through automated support. This is accomplished in part through the electronic management of enforcement and intelligence information. One important customs tool for the capture and management of enforcement and intelligence information is the Customs Enforcement Library.
10. The Customs Enforcement Library system is utilized for the storage and dissemination of all documents relevant to the enforcement role of the CBSA.
11. The library provides on-line access to enforcement and intelligence related information for all users. The types of documents available range from intelligence reports to complete publications and manuals on concealment methods and drug identification. Users have the ability to search the library for information based on words or phrases, and have applicable documents returned for viewing with the search terms identified. The library also supports the transmission of images.

PURPOSE AND SCOPE

12. The purpose of this policy is to provide guidelines for the utilization and maintenance of the Customs Enforcement Library.
13. This policy applies to all CBSA employees with access to or whose positions require them to use information from the Customs Enforcement Library database.

POLICY GUIDELINES

User Access

14. Access to the Customs Enforcement Library will be controlled by a user profile.

Note: User profiles will be based on users' work positions and the principle of "need to know."
15. All potential users must submit a request for access through their supervisor to the Enforcement Branch, Intelligence Directorate.

EN Part 7 Chapter 2

Customs Enforcement Library

Note: The Analysis and Assessment Division will review all requests. Approved requests will be forwarded to the ICES Operational and Maintenance Support Unit, Distributed Systems, Innovation, Science and Technology who will assign the user an appropriate user profile and activate the user in the Customs Enforcement Library.

16. All users must have a CBSA issued LAN account (user ID) before they are activated in the Customs Enforcement Library.

Note: The account is obtained by completing form TF469, Computer Information Access Authority, and submitting it to the users' local security services official or local access administrator identified in the users' area.

Note: See Part Seven, Chapter One, Integrated Customs Enforcement System (ICES) Policy, Appendix B for a sample of form TF469.

17. Users may not under any circumstances share their password or user ID with other users or persons.
18. Library users are responsible for all transactions completed using their user ID and password. The owner of the user ID is liable for any misuse or compromise of the system and data contained in its databases.
19. The minimum-security level for access to the Library is enhanced reliability.

User Profile Maintenance

20. The ICES Operational Maintenance and Support Unit is responsible for all user maintenance for the library and this responsibility will not be delegated.
21. The ICES Operational Maintenance and Support Unit must be notified as soon as possible of any changes due to transfer, promotion, change in duties, or termination of employment of library users.

Note: The responsibility for this notification will rest with the local or regional information technology services, which must be informed by the supervisor of the person affected.

Information Management

22. Regional and headquarters administrators are responsible for updating and maintaining all information that they put in the Customs Enforcement Library.

EN Part 7 Chapter 2

Customs Enforcement Library

23. The Intelligence Directorate is the national administrator of the Customs Enforcement Library and is responsible for establishing the subject categories, levels of access, and system retention default periods for each document type, as well as the maximum number of documents to be returned as the result of a search query. The Directorate also acts as a national coordinator and provides guidance to regional administrators.
24. Intelligence bulletins, alerts, and reports produced within the CBSA with a security classification of "Protected" or lower will be included in the Customs Enforcement Library.
25. Documents with a security classification higher than "Protected" will not be included in the Customs Enforcement Library.
26. Access levels to documents will be assigned according to the need to know and right to know principles. Documents will not be assigned access levels more restrictive than that warranted by the information they contain.
27. The Intelligence Directorate and each regional Intelligence and Contraband (I&C) Division will designate Intelligence Analysts as Library Administrators to catalogue and input all documents that are deemed to be appropriate for inclusion.

Dissemination of Library Information

28. In instances where information must be disseminated to personnel who do not have the required security clearance level, the material must be sanitized to ensure protection of the information and the source.
29. All documents stored in the Customs Enforcement Library will be considered the property of the original publisher.
30. When providing document information from the Customs Enforcement Library to another agency or other government department, each page of the document(s) must clearly state:

"This document is the property of the CANADA BORDER SERVICES AGENCY. It is provided on the understanding it will be used solely for official purposes by your agency and that it will not be further disseminated without the written permission of the CANADA BORDER SERVICES AGENCY office of origin or Headquarters."
31. Recipients must adhere to the third party rule and obtain written permission from the originator to further disseminate information, in whole or in part, from the Customs Enforcement Library.

System Security

32. The Library system and the data contained therein are designated "Protected."
33. Customs Enforcement Library workstations located at the ports of entry will be located in secondary referral areas only and not at Primary Inspection Lines (PIL).
34. To prevent viewing of data, system terminals and printers must be positioned away from areas commonly used by unauthorized individuals.
35. All Library users will log off the system at the end of their session and clear any printed matter pertaining to the Library from any associated printer.
36. All printed matter will be stored and used in a manner preventing access by unauthorized personnel. In addition, all printed matter will be destroyed in accordance with government policy.
37. Users may access data only in the manner authorized for the performance of their duties.
38. Any use of the system or system data for unethical, illegal, or inappropriate purposes is strictly prohibited and may be cause for disciplinary action up to and including termination of employment and criminal prosecution.

Note: Examples of inappropriate use include, but are not limited to:

- a) unauthorized use of a user ID and password;
 - b) accessing the system for personal gain;
 - c) accessing system information for the benefit of the user or another person;
 - d) disclosing information contained on the system to unauthorized persons; and
 - e) intentionally interfering with the normal operation of the system.
39. Breaches of established Library procedures and policy violations must be reported to the Intelligence Directorate. All policy violations will be investigated and the necessary corrective and/or disciplinary action taken.

EN Part 7 Chapter 2

Customs Enforcement Library

40. Under no circumstances will Library information be divulged to travellers.
41. Standards for system security of the Library including physical security, data security, and site maintenance will be those required under the Treasury Board Information and Administrative Security Manual, the Government of Canada's Technical Security Standard for Information Technology and Security Bulletins, CBSA security standards, and related Agency administrative management policies.

System Maintenance and Management

42. In consultation with the Intelligence Analysis Section of the Intelligence Directorate, the Distributed Systems Section, Innovation, Science and Technology Branch will monitor Library use and effectiveness on a national basis, maintain the system operations, and develop and implement upgrades to the system.
43. The addition of uncertified software and use of a Library workstation for other applications must be approved by the Director General of the Intelligence Directorate.

ROLES AND RESPONSIBILITIES

Intelligence Directorate

44. The Intelligence Directorate is responsible for:
 - a) developing, modifying, and approving all policies related to the use of the Customs Enforcement Library, user access, its data banks, files and records, and outside system interfaces;
 - b) reviewing and approving or rejecting requests for user access to the Library;
 - c) updating and maintaining the content of the Customs Enforcement Library;
 - d) approving additional system functionality and expansion, including expansion of the system outside of customs; and
 - e) ensuring that processes and policies of other directorates, divisions, agencies, and other government departments are adhered to in the development, implementation, and operation of the Library.

Library Administrators

45. Library Administrators are responsible for:

- a) adhering to these policies and procedures; and
- b) cataloguing and inputting all documents that are deemed to be appropriate into the Customs Enforcement Library.

Regional Director Generals

46. Regional Director Generals are responsible for:

- a) ensuring that the policies and procedures relative to the site operation and use of the Library in their region are adhered to;
- b) investigating and reporting all instances of Library policy and security breaches to the Security Directorate and the Intelligence Directorate; and
- c) taking appropriate corrective action on policy and security breaches.

Security Directorate

47. The Security Directorate is responsible for:

- a) advising the Intelligence Directorate on operational and policy matters related to the security of the Library and its data; and
- b) investigating security breaches pertaining to the Library and reporting the results to the Regional Director General and the Intelligence Directorate.

Innovation, Science and Technology

48. The Innovation, Science and Technology Branch is responsible for:

- a) assigning user profiles and activating users in the system;
- b) ongoing system maintenance and support of the Customs Enforcement Library operations;
- c) monitoring system use and effectiveness on a national basis;
- d) reporting system anomalies to the Intelligence Directorate; and

- e) developing and implementing upgrades to the system.

PROCEDURES

Note: For procedures on the use of the Customs Enforcement Library, refer to the internal system help function.

Library Administrators

49. Review CBSA and external source documents to determine suitability for inclusion in the Library.
50. Ensure documents do not already exist within the Library.
51. Contact sources of externally produced documents for copyright permission prior to storage in the Library.
52. Document copyright permission in the Library document properties window.
53. Catalogue and input documents into the Library in a timely manner, preferably within one week of receipt.

Note: Library Administrators must expedite entry of documents that are identified as having an immediate tactical or operational impact.

54. Determine subject category.
55. Catalogue documents.
56. Assign access level.
57. Establish document retention periods.
58. Determine whether documents reaching the end of their designated retention period should be retained on the system for a further period, archived, or deleted from the system.
59. Conduct on-line reviews of Library activities to ensure ongoing compliance with CBSA policy, enforcement priorities, and strategies.

REFERENCES

60. *Customs Act*
Access to Information Act
Privacy Act
Criminal Code
Government of Canada Technical Security Standards for Information Technology
Revenue Canada Information Technology Security Policy and Security Bulletins
Treasury Board Information and Administrative Management Security Manual

CBSA ENFORCEMENT MANUAL

Part 7

ENFORCEMENT SYSTEMS INFORMATION AND INTELLIGENCE

Chapter 3

INFORMATION SHARING POLICY FOR THE ENFORCEMENT PROGRAM

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to safeguard the CBSA's program information and share this information only within established guidelines.

DEFINITIONS

Note: The following definitions are provided for the purpose of this policy:

2. "Caveat" refers to the condition(s) attached to information by the originator, usually limiting additional or subsequent use and disclosure of the information by the recipient without the express consent of the originator.
3. "CBSA information" is information collected by CBSA personnel in the course of administering and/or enforcing legislation in the following three program areas: Customs; Food, Plant & Animal Inspection; and Immigration, excluding third-party information.
4. "CIC Information" is information collected by CIC in the course of administering and enforcing its program responsibilities. While CBSA is authorized to use CIC information for the administration and enforcement of the *Immigration and Refugee Protection Act* (IRPA), CIC information must be treated as third-party information by CBSA in the context of disclosure.
5. "Classified Information", as outlined in the Government Security Policy, is a category of sensitive information which relates specifically to national interest. Classified information may be categorized specifically as "Confidential", "Secret" or "Top Secret", depending on the risk of injury to national interest.
6. "Collection" is the gathering of information, directly or indirectly, from individuals, organizations or other sources, in accordance with program legislative authorities, and includes information from photocopying, scanning, photographing, fingerprinting, note-taking, human sources, surveillance, third-party information, electronic and open sources, etc.
7. "Consistent Use", referred to in paragraph 8(2)(a) of the *Privacy Act*, generally means that personal information may be disclosed if the purpose for which the personal information was first collected or compiled is consistent with the purpose for which it is being disclosed. This is also subject to the minimum disclosure rule and jurisprudence related to "reasonable expectation of privacy".

EN Part 7 Chapter 3

**Information Sharing Policy
for the Enforcement Program**

8. “Customs Information” is any information collected by or on behalf of the Minister of Public Safety for the purpose of administering the *Customs Act* or other customs legislation, or any information collected on behalf of other government departments by the customs program, or any information prepared from information described above.
9. “Customs mutual assistance agreement” (CMAA) is a treaty level information sharing instrument between governments. These international agreements are legally binding and governed by international law”.
10. “Enforcement program information” refers to information of any kind and in any form that is collected by CBSA and CIC personnel in the course of administering and/or enforcing legislation in the enforcement program.
11. “Food, Plant and Animal (FPA) Information” refers to information of any kind and in any form that is collected by, or on behalf of, the Ministers responsible for the various pieces of legislation related to FPA or any product prepared from such information.
12. “Immigration Information” refers to information of any kind and in any form that is collected by, or on behalf of, the Ministers responsible for *IRPA* or any product prepared from such information. Since not all immigration information is CBSA information, CIC information is subject to the third-party rule.
13. “Information” refers to unprocessed data, unconfirmed reports, or statements not yet corroborated.
14. “Information Sharing” refers to both the disclosing of information collected by the CBSA and the receiving of information from other governments or agencies, with or without consent of the person concerned.
15. “Intelligence program information” is information that has been collected and/or received by intelligence program personnel; compiled or produced by intelligence program personnel; or stored in intelligence program databases. It may be information from any program area (Customs; Food, Plant & Animal Inspection; or Immigration), or a compilation of the various program areas.
16. “Intelligence” is information that has been analysed and if possible validated or corroborated and is the product of intelligence officials, or similar third-party information.
17. An “Investigative Body” refers to two separate groups of designated government entities listed under the *Privacy Act* and *Access to Information*

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Act. The first group, listed under Schedule II of the *Privacy Regulations*, are authorized to request personal information from other federal institutions without relying on the “consistent use” principle. The second group, listed in both Schedule III of the *Privacy Regulations* and Schedule I of the *Access to Information Regulations*, is permitted to exempt all information related to a lawful investigation from disclosure under an ATIP request.

18. A “lookout” is a specific intelligence product designed to identify a person or good, including a corporation, a conveyance or shipment that, according to various risk indicators or other available intelligence, may pose a threat to the health, safety or security of Canada, Canadians or the environment, or that contravenes any legislation enforced or administered by CBSA.
19. “Minimum Disclosure Rule” means that the disclosure of information must be strictly limited to the minimum information required to perform the purpose for which it is being released.
20. “Need to know” means that the intended recipient needs to access and use the information in order to perform his or her official or assigned duties and that end-use is consistent with jurisprudence related to the “reasonable expectation of privacy” and the minimum disclosure rule.
21. “Open Source Information” is unclassified information that has been made public. It includes non-proprietary material which might not be formally published as well as Information published electronically (on the Internet, for example)
22. “Personal Information”, as defined in section 3 of the *Privacy Act*, means information about an individual that is recorded in any form. Some examples include: name, date of birth, religion, client number, criminal record number, personal views, fingerprints, photograph, recorded statements, private correspondence, blood type, etc.
23. “Protected Information”, as per the Government Security Policy, is a category of sensitive information which is not related to national interest. Protected information may be designated specifically as Protected A, Protected B or Protected C, depending on the injury it may reasonably be expected to cause to a person as a result of unintentional or unauthorized release.
24. “Sensitive Information” includes both protected information and classified information as per the Government Security Policy.
25. “Third-party information” is information collected from another organization or solely on behalf of another organization and continues to belong to an

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- organization other than CBSA. CBSA information that is being held by another organization becomes third-party information to that organization.
26. “Unclassified information” is information that can not be designated protected or classified as per the Government Security Policy such as information normally available from open sources.
 27. “Use” refers to authorized internal access to information for the purpose of administering or enforcing any program legislation for which CBSA is responsible.
 28. “Written collaborative arrangement” (WCA) is an approved undertaking to release information such as Exchange of Letters, Letter of Intent and Memorandum of Understanding. These documents are non-legally binding and are sometimes called WCA or simply “written arrangements”.

AUTHORITIES

29. *Privacy Act*
30. *Customs Act* (section 107)
31. *Canadian Charter of Rights and Freedoms*
32. *Immigration and Refugee Protection Act*

BACKGROUND

33. In carrying out its broad mandate, the Canada Border Services Agency (CBSA) is engaged in a number of complex activities related to the collection, use, and disclosure of information. This complexity is compounded by a number of factors, such as: responsibility for the administration and enforcement of numerous statutes, each with distinct authorities; jurisprudence related to unreasonable search and seizure; the need for effective internal and external partnerships; and the need for organizational accountability, to name a few. In the current environment of high-speed communication technologies, time-sensitive requests, numerous domestic and international written arrangements and agreements and multi-program/multi-agency integrated working teams, it is critical that policies, procedures, references and resources are readily available to those personnel who are responsible for making information-sharing decisions. In addition to decision-making, personnel are often required to communicate

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- with requestors in a manner that supports effective partnership, which may be challenging in certain circumstances, such as negotiating a better response timeline for the Agency or when information cannot be disclosed, communicating the reason for a nil response.
34. Given the wide spectrum of responsibilities associated with information sharing, a comprehensive Agency-wide policy may eventually be developed. However, this policy will only outline information-sharing requirements related to enforcement program information. Since some enforcement program information is stored in shared systems for the purpose of effective program administration and since the CBSA is the enforcement arm of Citizenship and Immigration Canada (CIC), it is important to stress that all personnel within the CBSA, CIC and the Canadian Food Inspection Agency (CFIA) with access to CBSA enforcement program information are lawfully obligated to protect it. The following policies and procedures are intended to assist all personnel in safeguarding the Agency's program information on the one hand, while assisting enforcement personnel in skilfully and confidently making information-sharing decisions on the other.
35. This policy will be superseded by any agency-wide corporate policy direction on information management, sharing and handling. Where any conflict exists between this policy and any CBSA corporate policy, the corporate policy will take precedence.
36. Upon coming into existence, the CBSA inherited three distinct program areas, each with differing legislative authorities and departmental policies governing information sharing. The customs program is governed by legislative authorities set out in the *Customs Act* and by the departmental policies Memorandum D1-16-1; D1-16-2, and D1-16-3. The immigration program, having undefined information-sharing provisions within the *Immigration and Refugee Protection Regulations*, is governed primarily by the *Privacy Act*, as well as by departmental policies IN1 and IN2. The food, plant and animal inspection program, with no specific departmental policy in place for information sharing, is also governed by the *Privacy Act*. All of the above-mentioned policies will continue to be relevant. This policy is not intended to replace them, but rather, it is designed to complement them.
37. This policy also falls under the umbrella of several other CBSA-wide policies for the protection and management of information, including the *CBSA Information Management Volume*; the *CBSA Security Volume*; and the *Policy and Guide for the Management and Development of Written Collaborative Arrangements with Provinces, Territories, and other Federal Government Departments and Agencies*.

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38. Most information sharing activities within federal government departments are subject to the *Privacy Act*, except in cases when another Act of Parliament or regulation authorizes, prohibits, or regulates the sharing of information, such as section 107 of the *Customs Act*, in which case that Act's information-sharing provisions take precedence over the *Privacy Act*. Since the CBSA administers and enforces numerous statutes, it is important to have a comprehensive overview of the various legislation and policies relating not only to information sharing but also to the delegated authorities to collect and use information. Generally, information collected for the administration or enforcement of one Act cannot be used for the administration and enforcement of another Act unless there are provisions that allow for the movement of that information. As a result, the Agency continues to have three distinct program areas. However, with adequate disclosure provisions and written arrangements in place, the movement of information between them can support effective program delivery.
39. The development of this policy is a measure to ensure that information is collected and shared appropriately. It was also undertaken in the larger context of an Agency-wide effort to develop training tools as well as assess needs for legislative and regulatory amendments related to information sharing. Technological tools, such as standard forms to support information sharing needs, will continue to be developed.

PURPOSE AND SCOPE

40. The purpose of this policy is to promote consistency, transparency and accountability when CBSA enforcement personnel share program information. In addition, this document is intended to provide a comprehensive overview, an integrated policy, clear procedures and reference tools that relate to all information sharing legislation administered by the Agency.
41. This policy clarifies responsibilities, makes functional guidance more readily available and introduces a number of internal controls, including mandatory training for enforcement personnel, as well as mandatory recording and auditing of information sharing activities within the enforcement program.
42. The policy applies to all forms of information sharing activities, including verbal, written and electronic.
43. This policy will not address the following:
 - a) sharing of information through CBSA lookout issuance and exchange, which is addressed in the CBSA Lookout policy;

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- b) sharing of information that is governed by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* that requires reporting of certain cross-border financial transactions to Canada's financial intelligence agency, FINTRAC, and/or to the RCMP;
- c) requests for information from the general public or non-governmental organizations, which are made in accordance with the *Access to Information Act.*; or
- d) enforcement program information that has subsequently become public information.

POLICY GUIDELINES

Securing Information

- 44. The confidentiality of CBSA information and third-party information must be protected. Information must be stored, transmitted, archived and destroyed in accordance with the requirements of the Government Security Policy, the CBSA Security Volume as well as this policy.

Collecting & Evaluating Information

- 45. Information collected in confidence from foreign governments, institutions or agencies must be evaluated for completeness and credibility of the source, appropriately classified and be preceded by caveats before dissemination. In so doing, efforts will be made to ensure that the information was not obtained through the commitment of human rights abuses or other criminal/illegal acts. If so, the information will not be used nor will it be shared. The information will be kept in a special file that will identify it as having been obtained as a result of human rights abuses. As the CBSA is accountable for the information contained in its systems and products, including third-party information, a brief evaluation to indicate the level of relevance, completeness, reliability and accuracy should be attached while the caveats should clearly indicate permissions, limitations or specific instructions related to further use or disclosure of the information.
- 46. Use and disclosure of program legislation information between different program areas within the CBSA must be in accordance with legislative authorities. Within the CBSA, information collected under the authority of one legislation must be used solely for the purpose of that legislation, unless authorized by legislation, in which case the legislation for which the information was originally collected will govern its use and disclosure.

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Authority to disclose Immigration or Food, Plant and Animal program legislation information within the CBSA is outlined in paragraph 8(2) of the *Privacy Act*, while authority to disclose Customs program legislation information within the CBSA is outlined in paragraph 107(4) of the *Customs Act*.

47. Disclosure of CIC information by CBSA personnel must be authorized by CIC personnel or enabled by a written collaborative arrangement (WCA). In accordance with a current arrangement, CBSA and CIC personnel access and use immigration information collected by each agency/department with the understanding that the disclosure would be authorized as per paragraph 8(2)(a) of the *Privacy Act*. While CIC information may be accessed and used by CBSA for the purpose of administering and enforcing *IRPA*, it must be regarded as third-party information for the purpose of further disclosure. However, if a CBSA enforcement product has been developed based on CIC data, that product remains the property of the CBSA and authority to disclose rests with the CBSA.
48. Access to, or authority to use, program information for the administration or enforcement of program legislation, does not necessarily provide CBSA personnel with the authority to disclose the information to other governments or agencies. Any CBSA personnel who have access to, or are in possession of, enforcement information must contact enforcement personnel before disclosing it in order to screen the information, to assess risks involved in disclosing it and to ensure that the appropriate caveats are attached. CBSA personnel are also encouraged to contact enforcement program personnel to ensure that there is not an ongoing investigation or special operation which might be jeopardized by a disclosure.

Required Authority and Training for Information Sharing

49. The CBSA enforcement program operates within a law enforcement environment and the rules governing the disclosure of CBSA information are consistent with those found in the *Canadian Charter of Rights and Freedoms* (the *Charter*). The Legal Rights guaranteed in the *Charter* have the most impact on the CBSA's ability to disclose information. Delegated authority to engage in information sharing activity for the customs program has been outlined in Memorandum D1-16-2, while similar delegations have not been outlined for the immigration or food, plant and animal inspection programs. It is the responsibility of all personnel to know their authority relating to information sharing and to act responsibly within those limits.
50. All new enforcement program personnel with the appropriate delegated authority who engage in the sharing of program information will be required to successfully complete a CBSA-certified training course on information

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sharing and obtain proof of successful completion. All new personnel will be expected to complete the training course within the first year following their appointment.

Screening Requestor or Intended Recipient

51. Before disclosing information, the requestor or intended recipient should be screened to ensure that legislative authority to disclose the information exists. Disclosures to government institutions, agencies and departments must be described in section 107 of the *Customs Act* to receive CBSA customs program information or must be described in subsection 8(2) of the *Privacy Act* to receive CBSA immigration or food, plant and animal inspection program information.
52. If a WCA is cited in the request for information, the WCA should be reviewed to ensure that it is appropriate to the request. If a different WCA is more appropriate, the requester should be contacted and a new request sent.
53. Before disclosing information, the requestor or intended recipient should be screened regarding the end use of the information to ensure that the information is needed to perform official or assigned duties.
54. Depending on the end-use, some requests for information may require the requestor to obtain a warrant, a subpoena or a court order.
55. All requests for information must be submitted in writing, unless the circumstances are exigent or the requirement has been exempted under the authority of an existing WCA, which already includes a section specifying the intended use of the information. For CMAAs, all requests for information shall be made in writing or electronically. However, the electronic request may require written confirmation.
56. In exigent circumstances a verbal request may be accepted; however, a corresponding written request for information should be submitted as soon as possible. This applies to CMAAs as well.

Seeking Functional Guidance

57. Enforcement program personnel should seek functional guidance from the appropriate area in headquarters when needed or when required by this policy. To identify the appropriate area of headquarters, program personnel

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- should refer to the roles and responsibilities which are outlined in sections 87 to 102 of this policy.
58. The appropriate area in headquarters must be informed immediately of all requests from foreign governments or agencies pertaining to subpoenas, warrants, court orders or criminal proceedings or where no WCA or agreement exists.
 59. Where no WCA or agreement exists and a request is received under paragraph 8(2)(e) of the *Privacy Act*, functional guidance must be sought from the appropriate area in headquarters.

Screening Information

60. To protect the integrity of the CBSA, information must be screened for completeness and credibility of the source, lawful collection, rightful ownership, accuracy, appropriate security classification and security requirements before disclosure.
61. All third-party information which the CBSA is not authorized to disclose must be removed. Third-party information must not be used, re-classified or disclosed without the written approval of the originator or unless allowed by law. Subsequent disclosures will be subject to any new classification and/or caveats received from the originator. Third-party information may be shared if it is open source information or has become open source information since it was collected by the CBSA.
62. If authority does not exist to disclose personal information, consent from the person concerned may be sought.

Sharing Information

63. Enforcement program personnel must not release any information, unless authorized by legislation, regulation, policy or an information sharing written collaborative arrangement or agreement is in effect. Original versions of the information should not be released unless required by legislation, regulation, policy or written collaborative arrangement or agreement, such as when required as evidence.
64. Sharing of information should always be done in writing, unless where imminent and exigent circumstances warrant verbal dissemination.
65. The intended recipient must agree in writing to follow the attached caveats regarding information receipt, maintenance, security and dissemination,

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before the information is disclosed. In exigent circumstances, the caveats and the arrangement may be communicated verbally.

66. A record of verbal and/or written communications must be kept. In cases when the information exchange was verbal, the caveat should be communicated verbally and followed up with a written caveat.
67. Any CBSA personnel who have received CBSA enforcement program information must treat that information in accordance with the attached caveats and this policy.

Recording Customs Information-Sharing Activity

68. Personnel from all program areas are required to complete the E675 for all customs information-sharing activity except for those activities involving:
 - a) internal CBSA use, such as processing customs appeals, investigations, account security, etc;
 - b) internal CBSA use between program areas (eg. customs, food, plant and animal, immigration), where there is a WCA;
 - c) service arrangements where fields of information to be shared are clearly outlined, for example, security screening service arrangements with CIC, RCMP and CSIS; and
 - d) A Joint Forces Operation (JFO) or an integrated operation, where a WCA outlines the information that is to be disclosed, for what purposes and in what circumstances. In such cases, only one E675 form is required at the end of the operation or case.
69. Personnel from all program areas are required to complete the E675 for all requests from a foreign government or agency for customs information, even when the response to a request is negative or nil.
70. Regional Enforcement Division will maintain a physical inventory of the completed E675 forms and will submit a monthly report to Headquarters of all information sharing activities and issues.

Investigative Bodies

71. Certain units within the Enforcement Branch at headquarters and in the regions are designated as Investigative Bodies under Schedule II and III of the *Privacy Regulations* and Schedule I of the *Access to Information Regulations*.

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72. Upon request, paragraph 8(2)e of the *Privacy Act* permits the release of any information held by another Government department to an Investigative Body listed in Schedule II of the *Privacy Regulations*.
73. Requesting information under Paragraph 8(2)e may only be done where there is an active investigation on the subject of the request and must be in writing.
74. All information obtained by Enforcement Branch under paragraph 8(2)e must be clearly identified and stored separately from other related information in order to prevent improper disclosure.
75. As the release of Customs Information is governed by section 107 of the *Customs Act*, paragraph 8(2)e of the *Privacy Act* cannot be used to request it. Paragraph 107(5)a of the *Customs Act* is the appropriate mechanism for requesting and disclosing Customs Information where there is an active investigation by a peace officer into an offence under any Act of Parliament.
76. Paragraph 22(1)a of the *Privacy Act* and 16(1)a of the *Access to Information Act* prevent information prepared by investigative bodies listed under Schedule III of the *Privacy Regulations* and Schedule I of the *Access to Information Regulations* from disclosure under access to information requests.
77. Information obtained from an investigative body listed under Schedule III of the *Privacy Regulations* and Schedule I of the *Access to Information Regulations* may not be disclosed to a third party without first consulting the originating agency.

Program monitoring

78. Once every five years, or more frequently as required, a designated program area within the Enforcement Branch in Headquarters is responsible for monitoring CBSA's information sharing practices and reports submitted by the region.

Offences and Sanctions

79. Any access, use or disclosure of program information that is unauthorized or in violation of legislation, Government Security Policy, the CBSA Security Policies, corporate policy direction and this policy may result in disciplinary action, including sanctions under legislative provisions.

Developing new written collaborative arrangements (WCA)

80. All requests for new written collaborative arrangements with federal or foreign governments or agencies must be submitted to the designated program areas in headquarters.
81. For guidance on international arrangements, please contact the International Partnerships and Cooperation Division of the Strategy and Coordination Branch.
82. When entering into new WCA's with foreign agencies or governments, due consideration should be given to human rights concerns.
83. All on-going sharing of information requires a WCA. For example, an ad-hoc JFO requires a written collaborative arrangement. Any exchange of information within the JFO that is outside of the authorities identified in the written collaborative arrangement for that JFO must be in accordance with this policy.
84. When entering into new WCA's with foreign agencies or governments, due consideration should be given to human rights concerns.
85. WCA's (including information-sharing references in JFO's) negotiated by the enforcement program should include the following conditions:
 - a) a clause specifying that the information provided remains the property of CBSA;
 - b) a clause clearly identifying participants involved, the purpose of the arrangement and the authorities under which the information will be shared;
 - c) a clause specifying that the information should be returned or destroyed by the receiving participant, which action must be followed by a formal notification to each participant confirming the destruction of the information, unless the information is required for legal proceedings;
 - d) a clause identifying the source of information and stating that the information provided will be stored in accordance with its security classification;
 - e) a clause stating the purpose(s) for which the information is being disclosed under this arrangement and clearly stating that the use of this information for any other purpose without CBSA approval is prohibited;

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- f) a clause stating the mechanism for the sharing of personal information, accountability for information and consequences of improper use or disclosure; and
 - g) a clause outlining appropriate storage, use and disposal of information.
86. More information on the development of WCAs between the Canada Border Services Agency (CBSA) and provinces, territories and other government departments (OGDs) or agencies in Canada can be found in CBSA's WCA Development and Policy Guide.

ROLES AND RESPONSIBILITIES

CBSA officers

87. All CBSA officers are responsible for:
- a) Respecting all caveats attached to enforcement program information;
 - b) Adhering to government and CBSA policies on information collection, use and sharing; and
 - c) Seeking functional guidance, when required, from enforcement program personnel on the sharing of CBSA enforcement program information.

Enforcement program personnel

88. Enforcement program personnel are responsible for:
- a) Adhering to this policy and the accompanying procedures;
 - b) Contributing to the continued development of information sharing work by seeking functional guidance and by identifying the need for, or issues with, information-sharing arrangements or agreements; and
 - c) If any employee becomes aware of incidents involving misuse of CBSA program information, he or she must immediately report this to the designated program area in Headquarters with a c.c. to his/her regional manager and director.

Enforcement program directors, chiefs and managers

89. Enforcement program directors, chiefs and managers are responsible for:

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- a) Ensuring enforcement program personnel adhere to the policy and procedures;
- b) Approving and signing off on information sharing activity when required;
- c) Ensuring that enforcement program personnel who have delegated authority to share information receive the required training before engaging in information sharing activity;
- d) Maintaining orderly records of information sharing activities; and
- e) Submitting a monthly summary report of information sharing activities to Headquarters.

Operations Branch - The National Risk Assessment Centre

90. The National Risk Assessment Centre is responsible for:

- a) Using the E675 form, enforcement program personnel will record any disclosure activity that is not part of the Electronic Lookouts Exchange Initiative or the US High Risk Traveller Identification Initiative;
- b) When appropriate, transferring information collected from various sources to the appropriate Regional Intelligence Division or Headquarters Program Area; and
- c) Reviewing all written collaborative arrangements that involve sharing CBSA and/or personal information that have been negotiated by enforcement program personnel on the use and sharing of information.

Enforcement Branch - Intelligence Directorate - Program Coordination Division

91. The Program Coordination Division is responsible for:

- a) Maintaining the information sharing policy and procedures for the Intelligence Directorate;
- b) Monitoring compliance with the policy and conducting periodic audits of information sharing activities;
- c) Representing the Intelligence Directorate on initiatives related to legislative, regulatory & policy changes related to information sharing;

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- d) Liaising with CIC, Legal Services, Strategy & Coordination, CBSA Training & Learning Division, and other program areas in CBSA on issues/initiatives related to information sharing;
- e) Maintaining an up-to-date inventory of written collaborative arrangements and agreements, which could readily be made available as reference to the Intelligence Directorate for planning and auditing purposes; and
- f) Communicating with Corporate Security should the need arise for an internal investigation.

Enforcement Branch - Intelligence Directorate - Intelligence Development and Field Support Division

92. The Intelligence Development and Field Support Division is responsible for:

- a) Acting as the Office of Primary Interest for customs information sharing issues within the intelligence program;
- b) Providing functional guidance and feedback to CBSA personnel on a 24/7 basis on the sharing of intelligence information related to customs as well as food, plant & animal Inspection ;
- c) Maintaining an inventory of information sharing arrangements and agreements relevant to customs and food, plant & animal Inspection to be used for providing functional guidance; and
- d) Advising the Intelligence Directorate on the need for changes to written information sharing arrangements or agreements, legislation or policies related to the management, use and sharing of information.

Enforcement Branch - Intelligence Directorate - National Security Division

93. The National Security Division is responsible for:

- a) Acting as the Office of Primary Interest for immigration-related information sharing issues within the intelligence program;
- b) Providing functional guidance and feedback to CBSA and CIC personnel on a 24/7 basis on the use and sharing of immigration-related intelligence information;

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- c) Maintaining an inventory of information sharing arrangements and agreements relevant to immigration to be used for providing functional guidance; and
- d) Advising the Intelligence Directorate on the need for changes to written information sharing arrangements or agreements, legislation or policies related to the management, use and sharing of information.

Enforcement Branch - Intelligence Directorate - Intelligence Risk Assessment and Analysis Division

94. The Intelligence Risk Assessment and Analysis Division is responsible for:

- a) Acting as the Office of Primary Interest for information sharing with CFIA within the intelligence program;
- b) Disseminating information originating from the Mandrake system within the CBSA, providing functional guidance with respect to the use of that information and receiving, where required, authorities from third parties to use their information above and beyond their caveats or for seeking their concurrence on the use of that information;
- c) Providing functional guidance on the use of signals intelligence and military-related information between the CBSA and the Communications Security Establishment; and
- d) Managing the COMINT Control Officer (COMCO) function, who is responsible for COMINT handling procedures, as well as relations with the Communications Security Establishment and DND Director General of Intelligence and granting access to their information.

Enforcement Branch – Enforcement Program Directorate – Criminal Investigations Division

95. The Criminal Investigations Division is responsible for:

- a) Acting as the Office of Primary Interest for customs, CFIA and immigrations information sharing issues within the Criminal Investigations Program;
- b) Providing functional guidance and feedback to CBSA personnel on sharing of “customs and food, plant and animal inspection-related” Criminal Investigations information;

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- c) Maintaining an inventory of information sharing arrangements and agreements relevant to customs and food, plant and animal inspection to be used for providing functional guidance;
- d) Advising the Criminal Investigations Division on the need for changes to written information sharing arrangements and agreements, legislation or policies related to the management, use and sharing of information;
- e) Providing functional guidance and feedback to Enforcement Branch personnel on the *Customs Act* and its policies applicable to enforcement personnel, on the *IRPA* and its relevant policies applicable to enforcement personnel and on the *FPAA* and its policies applicable to enforcement personnel; Monitoring the compliance with the policy and conducting periodic audits of information sharing activities;
- f) Participating on initiatives related to legislative, regulatory & policy changes related to information sharing;
- g) Liaising with Legal Services, Strategy & Coordination, CBSA Training Division and other program areas in CBSA as well as CIC and CFIA Legal Services on issues/initiatives related to information sharing; and
- h) Maintaining an up-to-date inventory of written collaborative arrangements and agreements, which could readily be made available as reference to the Criminal Investigations Division for planning and auditing purposes.

Enforcement Branch – Enforcement Program Directorate – Inland Enforcement Division

96. The Inland Enforcement Division is responsible for:

- a) Acting as the Office of Primary Interest for immigrations information sharing issues within the Inland Enforcement Program as they pertain to investigations, removals, hearings and detention programs;
- b) Providing functional guidance and feedback to CBSA personnel on information sharing issues within the Inland Enforcement Program as they pertain to investigations, removals, hearings and detention programs;
- c) Providing ongoing assessment and development of tools for the field including operational procedures, up-to-date information and any additional support as required;

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- d) Maintaining the information sharing policy and procedures for the Inland Enforcement Division;
- e) Participating on initiatives related to legislative, regulatory & policy changes related to information sharing; and
- f) Maintaining an inventory of information sharing arrangements and agreements relevant to the investigations, removals, hearings and detention programs.

Enforcement Branch – Enforcement Program Directorate – Borders Enforcement Division

97. The Borders Enforcement Division is responsible for:

- a) Providing functional guidance and authority and policy revision on information sharing directly related to Port of Entry enforcement priorities and initiatives, including the cross-border movement of people, goods and monetary instruments.
- b) Providing ongoing assessment and development of tools for the field including operational procedures, up-to-date information and any additional support as required;
- c) Annual review of the information sharing policy and procedures directly related to the Borders Enforcement Division;
- d) Participating on initiatives related to legislative, regulatory & policy changes related to information sharing; and
- e) Liaising with other program areas in the CBSA on issues/initiatives related to information sharing.

Enforcement Branch – Policy and Program Development Directorate – Horizontal Policy and Planning Division

98. The Horizontal Policy and Planning Division is responsible for:

- a) Acting as the Office of Primary Interest and for all strategic (i.e. non-operational) matters concerning information sharing;
- b) Maintaining the information sharing policy for the enforcement program;

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- c) Coordinating analysis and consultations for any legislative or regulatory change related to information sharing, including Cabinet documents and Treasury Board submissions;
- d) Coordinating responses to internal and external audits relating to information sharing;
- e) Participating in national and international committees and conferences relating to strategic information sharing; and
- f) Chairing the Enforcement Branch Information Sharing Working Group and coordinating its activities.

**Enforcement Branch – Policy and Program Development Directorate –
Program Development Division**

99. Partners in Protection (PIP) and Container Security Initiative (CSI) are responsible for the following:
- a) Acting as the Office of Primary Interest for all PIP and CSI information sharing issues;
 - b) PIP Headquarters provides functional guidance and feedback to Regional Intelligence Officers (RIO's) on information sharing procedures with US CT-PAT Supply Chain Specialists. CSI HQ provides the same to CSI Border Integrity Officers (BIO's) both in Canada and abroad;
 - c) PIP & CSI HQ Program Advisors are responsible, with the assistance of Strategy and Coordination and Legal Services, for the drafting/negotiating of information sharing agreements with Canadian and foreign stakeholders;
 - d) PIP HQ Program Advisors are responsible for the drafting the Security Profile document. This document details how some of this information may be shared with other government departments and other foreign Authorized Economic Operator (AEO) with whom PIP has signed a Mutual Recognition Agreement (MRA);
 - e) PIP RIO's and CSI BIO's are responsible for sharing declassified enforcement and intelligence trend information with its stakeholders;
 - f) HQ CSI acts as a liaison between the National Risk Assessment Centre (NRAC) and the host country as specified in CSI arrangements; and

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- g) Both HQ PIP & HQ CSI Program Advisors inform the Program and Policy Development Directorate of the need for strengthened information sharing arrangements, legislation or policies related to the management, use and sharing of information as applicable.

Enforcement Branch – Policy and Program Development Directorate – Interoperability Division

100. The CBSA Interoperability Division is responsible for the following:

- a) Development and coordination of an overarching vision for interoperability;
- b) Maximize opportunities for partnership, consistency, development, exchange and re-use of information and development of action plans to achieve that vision; and
- c) Ensure effective and efficient coordination within the Enforcement Branch of information management and system requirements, both current and emerging, with internal and external partners.

Strategy and Coordination Branch

101. The Strategy and Coordination Branch is responsible for:

- a) Providing advice and support to the Enforcement Branch on the Access to Information Act and Privacy Act, section 107 of the Customs Act, WCA's and agreements that involve sharing of CBSA and/or personal information;
- b) Reviewing all written collaborative arrangements that involve sharing CBSA and/or personal information that have been negotiated by the enforcement program on the use and sharing of information; and
- c) Drafting/negotiating of international customs information sharing agreements and arrangements with foreign administrations.

Legal Services

102. Legal Services is responsible for:

- a) Providing legal advice on general information sharing issues or specific cases; and

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- b) Reviewing all policies, procedures and new WCA's being negotiated or developed by enforcement program personnel for information sharing issues.

PROCEDURES

Securing Information

103. Information must be classified in accordance with the Government Security Policy and the CBSA Security Policies and handled accordingly.

Specifically, information may be Protected A, Protected B, Protected C, Confidential, Secret or Top Secret, Unclassified or Declassified; however, it cannot be only just "protected" or just "classified". If information has been downgraded, sanitized or declassified, some indication should be made, and contact information for the originating enforcement office should be included in the caveat.

Collecting and Evaluating Information

104. When collecting and evaluating information from other program areas within the CBSA, if the authority to collect the information is not clearly indicated or appears inconsistent with the *Canadian Charter of Rights and Freedom*, the provisions of the *CBSA Act*, the objectives and authorities of the various CBSA program legislation or various policies, particularly those outlining delegations and/or designations, enforcement program personnel should notify their manager, who is responsible for taking steps to clarify whether the information was lawfully collected and whether its subsequent use is authorized for the enforcement program.

105. Information collected during an administrative examination which subsequently became a criminal examination must be clearly identified. It should also be made clear that *Charter* obligations were met. Information collected during a criminal examination must be accorded appropriate protection.

106. When collecting information from governments or agencies outside of the CBSA, particularly when communication is verbal, enforcement personnel should confirm at the outset whether there are any caveats to be attached to the information and ensure that the caveats remain attached to the information.

107. When requesting information on a client from an external agency, only the minimal amount of information necessary to identify the client should be provided. Should an officer feel that the external agency is requesting more

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information than is required, a supervisor or Headquarters should be contacted for advice.

108. Although disclosure of information to foreign governments or agencies requires a WCA, receiving information does not. When collecting information from foreign governments or agencies, a brief evaluation of the information should be attached, particularly if it was subsequently corroborated. If the information is deemed to be tainted, dubious etc, officers have the obligation not to disseminate if it is found unreliable. However, in certain circumstances, the information could be released with the appropriate caveat indicating clearly that the information is tainted or of dubious reliability and need to be reassessed by the receiver. Information should not be disseminated further until more information is available.

Required Authority and Training for Information Sharing

109. Authority to share customs program information is outlined in Memoranda D1-16-1, D1-16-2 and s.107 of the *Customs Act*.
110. Enforcement program personnel hired after the implementation of this policy who do not have the required delegation or training in information sharing will be required to refer the activity to someone who has the appropriate delegated authority, as well as the required training.
111. Management is responsible for providing training opportunities to all enforcement program personnel with delegated authority to share information, as soon after their appointment as possible.

Screening Requestor or Recipient

112. Requests from the general public or non-governmental organizations must be forwarded to the appropriate ATIP coordinator.
113. A request for information must be received in writing, unless there are exigent circumstances. A written request should contain the information required in the E675 form relating to the requestor and the request, including the intended use of the information.
114. A verbal request should also contain the information required in the E675 form relating to the requestor and the request, including the intended use, as well as the details of the exigent circumstances.
115. Where there is no requestor, and intelligence personnel proactively disclose the information, the enforcement personnel should ensure that there is a valid written collaborative arrangement or agreement which allows

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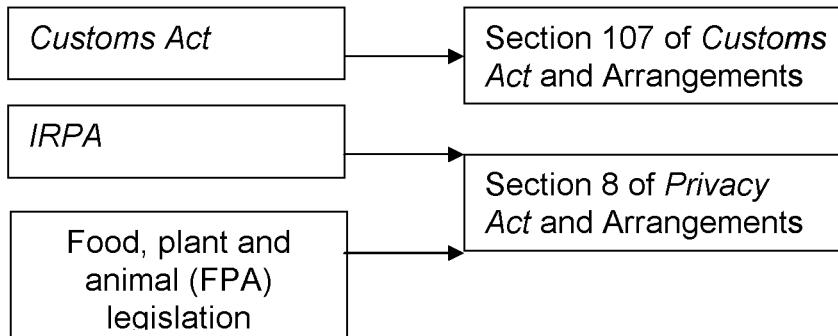
for the disclosure or that there is other legal authority to disclose the information.

Seeking Functional Guidance

116. Personnel needing functional guidance relating to the sharing of enforcement program information should contact the designated program area in Headquarters. In some circumstances, even when authority appears to exist to release information, there may be emerging issues or circumstances that would make disclosure imprudent.
117. Headquarters will provide functional guidance, on a case-by-case basis, in relation to releasing information to, or accepting information from, a foreign government or agency where there are human rights considerations.
118. Where personnel are uncertain whether a warrant or court order is required to disclose enforcement information, the designated program area in Headquarters should be consulted for guidance.

Screening Information

119. The program legislation under which CBSA originally collected information will govern its subsequent disclosures. The information should be screened to determine under which program legislation it was collected, and that the CBSA is in lawful possession of the information, before using or disclosing it.



120. The information should be screened for accuracy to ensure its quality. Any doubt concerning the accuracy of information must be clearly communicated to the recipient. Depending on the extent to which the information has been corroborated, the reliability of the source may become pertinent.
121. Personnel must consider the classification level of the information, as per the Government Security Policy, when making arrangements to send or

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receive information, whether the exchange is written or verbal. For example, enforcement personnel may be required to deliver the information to a different person with the appropriate security clearance, use a secure phone, secure fax, or an encrypting tool for e-mail exchanges.

122. If there are no authorities to disclose under section 107 of the *Customs Act* or subsection 8(2) of the *Privacy Act* to disclose information, personnel may seek to obtain a written consent directly from the concerned person(s). Consent may be collected at the time of collection, or at a later date, if the need arises.
123. Consent must be in writing, and must specify the pertinent details relating to the additional use or disclosure, including a description of the relevant information, reason for the disclosure, the intended use of the information, the name of third party that will be receiving the information as well as a statement that refusal to consent to such use or disclosure will not prejudice the individual in any way or result in any adverse consequences for the individual in connection with the primary administrative purpose being served by the information collected.
124. Where no indication of consent is given, personnel must interpret this to mean refusal of consent.
125. The information should be screened in terms of the minimum disclosure rule.

Disclosing Information

126. A caveat must be attached to all disclosed information. (See appendix B for samples of standard caveats.)
127. When necessary, steps may need to be taken to reclassify the information based on the content of the information.
128. All written requests and responses should be attached to the record of information sharing and stored in a centralized manner to allow for audit and accountability.

Recording Information Sharing Activity

129. All disclosures should be recorded on the E675 form, except in the case of internal use, or where there is a WCA, JFO or integrated work unit and the instances of sharing are numerous and constant. In such cases, one form may be completed with reference to a case file.

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130. Upon completing the E675 form, it should be classified according to the Government Security Policy. Any record of information use or sharing containing sensitive (that is protected or classified information) will be stored and afforded protection equivalent to the highest classified or protected information contained in the record.
131. If the response to a request, verbal or written, is nil or negative, the information sharing forms should still be completed and submitted.
132. Records of information exchanges must be kept for ten years plus the current year. This is an integral part of performance measurement.

Program Monitoring

133. A designated program area in Headquarters within the Enforcement Branch will be created to provide clarification, advice, update on relevant jurisprudence and support to all personnel related to the sharing of enforcement information. All enquiries for clarification on information sharing within the enforcement program should be directed to the designated program area in Headquarters.
134. The designated program area in Headquarters within the Enforcement Branch will liaise with other program areas in the CBSA, CIC or CFIA; Legal Services, the Training & Learning Division, and if required with other organizations.
135. If information is identified as having been improperly collected, then the designated program area in Headquarters should be informed, and appropriate steps taken to consult with the program area involved.
136. The designated program area in Headquarters within the Enforcement Branch will be informed of all requests made to enforcement program personnel to negotiate or update any portions of the information sharing arrangements or agreements. The designated program area in Headquarters shall ensure that such arrangements or agreements meet all basic legal requirements and follow a consistent format in consultation with Strategy & Coordination Branch.
137. The designated program area in Headquarters within the Enforcement Branch will be responsible for maintaining copies of all the written information sharing arrangements and agreements between the enforcement program and the other organizations in a centralized repository.

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138. The designated program area in Headquarters will provide regular and periodic monitoring of the following within the enforcement program:
- a) Information sharing practices, compliance with this policy and recording practices within the enforcement program to ensure compliance with legislation and this policy;
 - b) training logs of employees and information sharing occurrences to ensure that only trained enforcement program personnel are sharing the information.
139. The designated program area in Headquarters should also provide regular and periodic monitoring of the following outside of the enforcement program
- a) compliance with enforcement information caveats; and
 - b) compliance with CBSA caveats or arrangements/agreements on the use and disclosure of CBSA information, including intelligence information, shared by enforcement program personnel.
140. The designated program area in Headquarters within the Enforcement Branch will keep a centralized record of all monitoring conducted and regularly report on information sharing practices and compliance with this policy.
141. If CBSA/CIC personnel become aware of any instances of misuse of CBSA information provided to other CBSA or CIC programs or to other organizations, they must immediately report this to the designated program area in Headquarters.
142. All misuse of CBSA information within and outside of the enforcement program should be recorded and communicated to enforcement program personnel. Any subsequent release of CBSA information to that person or his/her organization should be carefully considered.
143. The designated program area in Headquarters will be responsible for communicating with the appropriate division within the CBSA regarding the initiation and conduct of investigations when suspected or actual mishandling of CBSA information is discovered or reported.

REFERENCES

144. CBSA Security Volume:

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145. WCA Development and Policy Guide:

146. List of WCA .

147. Delegated Authorities in /RPA:

148. Delegated Authorities for Information Sharing of customs program information as per Memorandum D1-16-2

149. E675 Form - Provision/Access and Use of Customs Information Report:

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ENFORCEMENT SYSTEMS INFORMATION AND INTELLIGENCE

Chapter 3

INFORMATION SHARING POLICY FOR THE ENFORCEMENT PROGRAM

APPENDIX A

DATA VALIDITY INDEX

DATA VALIDITY INDEX (The Admiralty System)

Data Validity	
Value	Definition
1 Confirmed	This refers to information which is substantiated or <u>confirmed</u> by one or more sources. The information is logical within itself and agrees with other information on the same subject.
2 Probably true	This refers to information which gives <u>every indication of being accurate</u> , but which <u>has not been confirmed</u> . The information is logical within itself and agrees with other information on the same subject.
3 Possibly true	This refers to information which has been <u>neither confirmed nor contradicted</u> . The indications are that the information agrees somewhat with the general body of information and is reasonably logical but not yet capable of confirmation.
4 Doubtfully true	This refers to information which is <u>believed unlikely at the time</u> , although the element of possibility is not excluded. The information has not been definitely contradicted nor is it totally illogical within itself or in disagreement with the general body of information on the same subject.
5 Improbable	This refers to information which is <u>contradicted by other data</u> and is illogical within itself and in disagreement with the general body of information on the same subject.

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Chapter 3

INFORMATION SHARING POLICY FOR THE ENFORCEMENT PROGRAM

APPENDIX B

CAVEATS

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**Information Sharing Policy
for the Enforcement Program
Appendix B**

CAVEATS

The dissemination of intelligence information should be accompanied by caveats that are clear, concise and appropriate. The caveat should, at a minimum, indicate who the information belongs to, who it is intended for, the security classification level, limitations to additional use and contact information for the originator.

Below are some examples:

Within the CBSA

The information contained in this [specify: document, product, lookout, NCB...] belongs to the Canada Border Services Agency, is classified as [specify: Protected A, Confidential, Top Secret, etc...] and should not be reclassified or disseminated without prior consent of the originator.

The information must be stored, transmitted and safeguarded in accordance with its classification level, as outlined in the Government Security Policy and the CBSA Security Policies.

If access is requested under the *Access to Information Act* or the *Privacy Act*, no decision should be taken without prior consultation with the originator, as the information may be subject to exemptions.

[attach additional caveats as required]
[include originating office contact info...]

With Other Canadian Government Departments or Agencies

The information contained in this [specify: document, product, lookout, NCB...] is classified as [specify: Protected A, Confidential, Top Secret...] and should not be reclassified or disseminated without prior consent of the originator.

The information must be stored, transmitted and safeguarded in accordance with its classification level, as outlined in the Government Security Policy.

The information may also be protected by the provisions of the *Canada Evidence Act*. The information must not be disclosed or used as evidence without prior consultation with the originating office within the Canada Border Services Agency or its Headquarters.

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The originator authorizes the information to be shared with [other government department(s)...], if the requirements of [paragraph 8(2)(a) of the *Privacy Act*] are met. Or: This information is intended for access and use by [other government department(s)...] personnel only.

Requests for additional use should be forwarded to:[include originating office contact info...]

With Foreign Governments or Agencies

This document is the property of the Government of Canada. It is loaned to your agency or government on the understanding that it is not to be further disseminated without the consent of the originator. Distribution within your agency is to be done on a need-to-know basis. The document is to be protected in accordance with normal safeguards for law enforcement information.

The information or intelligence may also be protected by the provisions of the *Canada Evidence Act*. The information or intelligence must not be disclosed or used as evidence without prior consultation with the Canada Border Services Agency. The information contained in this [specify: document, product, lookout...] is not to be used in affidavits, court proceedings or subpoenas, or for any other legal or judicial purposes.

CUSTOMS ENFORCEMENT MANUAL

Part 7

CUSTOMS ENFORCEMENT SYSTEMS, INFORMATION AND INTELLIGENCE

Chapter 7

INTEGRATED PRIMARY INSPECTION LINE, SECONDARY PROCESSING AND PASSAGE HISTORY

POLICY STATEMENT

1. It is the policy of the Customs Border Services Agency (CBSA) to use the Integration Primary Inspection Line (IPIL) and the Secondary Processing (SP) and Integrated Customs Systems (ICS) Passage History (PH) systems to help identify high-risk travellers.

DEFINITIONS

2. Refer to Part 11, Glossary.

AUTHORITIES

Privacy Act

3. Section 4 – Limits the collection of personal information to that directly related to an operating program or activity of an institution.
4. Section 6 – Requires a retention period for personal information collected.

Note: Regulations for customs purposes require at least a two-year retention period.

5. Section 7 – Limits the use of information to the purposes for which it was collected.
6. Section 8 – Limits the disclosure of information but provides for disclosure to an investigative body.

Customs Act

7. Section 107 – Allows for the provision to others, access to others, and use of customs information that is gathered in the administration or enforcement of the *Customs Act* or the *Customs Tariff* or is prepared from such information.
8. Section 160 – States that unauthorized disclosure of customs information is a punishable offence.

PURPOSE AND SCOPE

9. The purpose of this policy is to provide guidelines for the use and maintenance of IPIL, the Secondary Processing and ICS Passage History. The policy applies to all CBSA employees whose position requires them to use IPIL, Secondary Processing, ICS Passage History or information from both the Integrated Customs Enforcement System (ICES) and the Field Operations Support System (FOSS) databases.

BACKGROUND

10. The Integrated Primary Inspection Line (IPIL) system is an automated support tool used to process the passage of travellers into Canada. IPIL aids officers who are working at the Primary Inspection Line (PIL) in reaching the decision to either release or refer a person seeking entry to Canada. Passage processing includes the ability to query travellers against both customs and immigration lookout databases by either using a document reader or by manually keying tombstone information of the traveller. IPIL provides officers with an immediate system response.
11. IPIL was implemented in August 2000 at both Vancouver and Toronto International Airports. It has since been expanded to all major airports and bus lanes, as well as select commercial highway, rail, ferry and cruise ship locations. Officers within the CBSA use the IPIL system as part of the screening process for international travellers and their goods. IPIL is the primary agency tool for the processing of international travellers arriving into Canada at 48 locations as of August 2005. It searches the criteria against ICES and FOSS databases for potential matches.
12. Secondary Processing and ICS Passage History initiatives fall under the *Customs Action Plan*, and involve automating the collection of customs and immigration results for travellers referred from primary for secondary processing, and to provide designated users a single consolidated view of all previous traveller passages.
13. Secondary Processing allows for the capture of secondary examination results and “closes the loop” by linking referrals and lookouts with interceptions and enforcement actions. The secondary processing functionality is deployed at all major airports and bus locations, as well as select ferry, cruise ship, rail and commercial highway locations across Canada where IPIL and/or CANPASS-Air have been implemented. In the past, when there was a referral from primary to secondary we knew this occurred but we did not capture secondary examination details. With the

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Integrated Primary Inspection Line

- implementation of secondary processing, all the referrals are stored in the ICS Passage History database.
14. Where there is a referral to any secondary area at an IPIL enabled site, the referral information from PIL populates the secondary officer's screen to expedite the process. Any disposition results are recorded and stored in ICS Passage History (PH) database. These results are then available for viewing within the Passage History component, and provides designated CBSA personnel with a single consolidated view of previous traveller passages through various modes of travel as captured in CBSA automated systems.
15. Also, with the click of one button, the secondary officer is able to access a traveller's passage history, from secondary (6yrs.+current). This allows the officer a view of:
- previous passages;
 - referrals and results, if any; and
 - aliases attached to any of these referrals
16. Both IPIL and Secondary Processing and ICS Passage History reside within the Integrated Customs Systems (ICS). ICS ensures that all new Customs systems are developed within a single, component based architecture framework. It provides the framework for future customs information technology initiatives and allows for a planned and incremental approach to building and integrating the majority of customs traveller and trade automated applications. The following link contains more information regarding ICS:

POLICY GUIDELINES

17. IPIL is a comprehensive windows-based software application designed to provide a single interface for the querying of the travellers information, and search for previous enforcement actions, lookouts and immigration offences. Using the CBSA's data communication network (RC7.5), IPIL has the capability to record passage history, store and distribute reports on all of the queried information.
18. The Secondary Processing (SP) and ICS Passage History (PH) component provides the ability to process and acquit all referrals from PIL and the CANPASS kiosk. This information will be captured within ICS Passage History.

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19. The IPIL System is an automated query application that searches the following databases displaying name, date of birth, enforcement action type, commodity and / or caution:
 - a) Integrated Customs Enforcement System (ICES); and
 - b) Field Operations Support System (FOSS) – enforcement.
20. The ICES database includes individuals who have committed infractions against the *Customs Act*, *Excise Act*, the *Export/Import Permits Act* and Agriculture Canada. It also includes lookouts developed by intelligence sources, which may include potential violators of the *Customs Act*, the *Controlled Drugs and Substances Act*, the *Food and Drugs Act* and other legislation, enforced by the CBSA.
21. The FOSS enforcement database includes previous and pending deportations, overextended stays by visitors, individuals who fail to present themselves for Immigration hearings or voluntary departures, warrants issued by Immigration, Interpol information on suspected and known terrorists, intelligence lookouts and individuals refused entry at ports of entry. If IPIL does not receive a response from the real-time connection to the FOSS database within 1.8 seconds, the immigration query will revert to a backup copy, which is up to or less than 72 hours old, on the ICES database.
22. The Previous Offender Sub-System, within ICES, is linked to IPIL and helps select high-risk travellers for possible examination. Random selection for referral is generated by the system.
23. There are 4 main components that support IPIL functionality: IPIL - PIL Query, IPIL Usage and Audit Reports, ICS Port Parameters and Air Passage History:
 - a) IPIL - PIL Query is used by the primary officer to process travellers. IPIL provides the ability at the primary line to query traveller names and documentation against the ICES and FOSS databases. The interface provides real time information and is seamless to the user. The officer enters the traveller tombstone information by scanning the passport or other travel document using the passport reader, or manually entering and sending the information to search the ICES and FOSS – enforcement databases. The user receives the top three matches in the ICES database, the top five matches in the FOSS database and a lost/stolen/fraudulent document indicator if applicable. For all returned

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Integrated Primary Inspection Line

system hits, the officer evaluates the potential matches to determine if the traveller they are processing has a previous infraction or outstanding lookout.

- b) IPIL Usage and Audit Reports is a reports facility. It provides the ability to generate a series of management reports essential to the IPIL operation. Only certain profiles have access to this function. The reports may be assembled according to a series of user-selectable criteria. They may then be viewed on-screen and printed. This information will be used in monitoring operational enforcement program requirements.
- c) ICS Port Parameters is a common component to IPIL, Secondary Processing and ICS Passage History, CANPASS Air and Nexus Highway. Using this component, users with the appropriate profile can create Hot Messages that are viewed on the IPIL screen, as well as modify the IPIL Random Referral Rate.
- d) Air Passage History is a component within the ICES reporting facility that allows the user to produce a Traveller History Report for many different types of criteria. All queries performed in IPIL are written to the Air Passage History database that resides in ICES. This information is very useful for targeting units to determine trends and patterns on targeted individuals such as drug runners and terrorists and for investigations that require knowledge of an individual's prior entries into Canada.

SECONDARY PROCESSING AND ICS PASSAGE HISTORY

24. Internet explorer must be available on all terminals running ICS.

- a) Using this component, users with the appropriate profile can set 1st and 2nd thresholds within Secondary Processing.
- b) The 1st and 2nd thresholds are used to process un-acquitted referrals from the Secondary Referral List (SRL).
- c) The 1st threshold, set at the port by the Superintendent, is indicated on the SRL by bolding any unassigned referral(s) with the hour set when it reaches the 1st level. This means that the referral has not been processed in the secondary area by the time set at the port.
- d) When the 2nd threshold has been reached (the time set at the port has been reached), the system automatically closes the referral as un-

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acquitted, with the exception of exact matches and referrals that are un-
assigned.

ROLES AND RESPONSIBILITIES

CBSA Officers

25. CBSA officers are responsible for using the IPIL system in accordance with these guidelines.

CBSA superintendents

26. Superintendents are responsible for ensuring that the policies and procedures relative to the site operation and use of IPIL in their region are adhered to;

Enforcement Branch

27. The Enforcement Branch is responsible for:
 - a) developing, modifying, and approving all policies related to the use of IPIL, user access, its data banks, files and records, and outside system interfaces;
 - b) approving additional system functionality and expansion, including expansion of the system outside of CBSA;
 - c) ensuring that processes and policies of other directorates, divisions, agencies, and departments are adhered to in the development, implementation, and operation of IPIL.

PROCEDURES – IPIL and Secondary Processing and ICS Passage History

28. All users must have an active ICS User ID to have access to IPIL. If any modifications are needed to a user's work location or profile, this request should be directed to the Regional Security Officer and/or Superintendant for action. Password resets should be directed to the local IT Helpdesk or Regional Security Officer during regular business hours, and after hours requests should be directed to the National Helpdesk.

Note: Access to the functions of IPIL, Secondary Processing and ICS Passage History are controlled by the ICS user profile. User profiles restrict access to specific functions and are based on users' work positions.

29. Under no circumstances will users share their password or User ID with other individuals.

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30. IPIL, Secondary Processing and ICS Passage History users are responsible for all transactions completed using their User ID and password. IPIL has the ability to audit all transactions and show the relationship between the user, the terminal and data. The owner of the User ID is liable for any misuse or compromise of the system and data contained in the databases. Audit records are monitored regularly.
31. Users must query each and every traveller who presents a machine-readable document.
32. 100% of travellers must be queried. Travellers whose travel documents are not machine readable must be queried through manual data entry.
33. All queries that are keyed by manual entry must include surname, first name, middle name (if applicable) and a date of birth.
34. IPIL queries are to be made only at the Primary Inspection Line and only for the purpose of clearing travellers who are physically present.
35. PIL Query should only be accessed from Secondary when a passage does not exist for a traveller.
36. All PIL queries initiated from the Secondary area must be keyed by manual entry. These queries MUST include surname, first name, middle name (if applicable) and a date of birth. Before doing so, CBSA officers must ensure that there is no previous passage for the referral.
37. In situations where IPIL becomes unavailable (i.e. during a system outage) the user will make a reasonable attempt to obtain any information deemed necessary to conduct a proper risk assessment on a traveller at the time of passage. This may be done through verbal questioning, or by requesting additional documentation from the traveller to ensure that CBSA concerns are met.
38. Test-passports used to ensure proper functioning of document readers are not to be used with the application.
39. These procedures are permanent and are not limited only to periods of high alert.

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Integrated Primary Inspection Line

40. All Secondary Processing users must process the referral from the Secondary Referral List (SRL).
41. Referrals that remain outstanding on the SRL past the 1st threshold (set at port) should be further investigated and then closed as un-acquitted.
42. Un-acquitted referrals that reach the 2nd threshold will be system auto-closed. This is not the recommended way to acquit referrals and hence subject to an audit report.
43. It is expected that if a customs secondary examination yields results, the action should be recorded through the Secondary Processing Application on the Record Examination Results Screen.
44. **Important! Notes should never be added to any enforcement action. The reason is that if the enforcement action is overturned the note cannot be removed. Anytime you add a note, keep in mind that it cannot be deleted or removed.**
45. For IPIL user support please e-mail contact an officer at (613) 941-4153 or (613) 948-7136. or
46. To report technical problems with the IPIL system, please contact the local IT Services unit first, or if unavailable the National Help Desk at (613) 954-4086.

REFERENCES

47. *Customs Act*
Privacy Act

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Part 8

DOCUMENTATION AND REPORTS

Chapter 1

NOTEBOOKS

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Notebooks

1. It is the policy of the Canada Border Services Agency (CBSA) that officers are to document the activities they perform while on duty, including all occurrences, incidents and enforcement actions, in the Officer Notebook.

DEFINITIONS

2. Refer to Part 11 Glossary

AUTHORITIES

Customs Act

3. Section 11 – Obliges every person seeking entry into Canada to present themselves to an officer and to answer truthfully questions asked by an officer in the performance of his or her duties under the *Customs Act* or any other Act of Parliament for which the officer has administrative responsibility.
4. Section 12 – Requires persons and importers to make a report of all goods they are importing.
5. Section 13 – Obliges persons and importers to make a truthful declaration, answer questions truthfully, and present their goods for examination.

PURPOSE AND SCOPE

6. The purpose of this policy is to provide guidelines to CBSA officers on the use of the Officer Notebook, form BSF556.

POLICY GUIDELINES

7. CBSA officers are often involved in legal proceedings, which may require appearances in court. The success of such appearances may depend heavily upon the officer's ability to recount the circumstances immediately before, during and after an occurrence, incident or enforcement action. The notebook is an important enforcement tool used for recording and recollecting such information.
8. In criminally prosecuted matters, the Crown Counsel must be provided with a copy of the handwritten notes of any officer involved in this matter, whether that officer is to be called as a witness or not. The officers involved may be asked to provide the investigating officer with a signed copy of the notes taken in regards to the issue.
9. When an officer refers to a notebook in court, the notebook may be introduced as an exhibit and may be examined by the defence attorney.

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The defence attorney will examine the officer's notes to identify material that could be used to weaken or discredit the testimony or credibility.

10. In addition to scrutiny by Officers of the Court, access to an officer's notebook or portions of the notebook may be granted through provisions of the *Privacy Act*.
11. Under the provisions of the *Privacy Act*, an individual is able to make a request to the *Privacy Act* Coordinator to gain access to that portion of an officer's notebook that relates directly to him or her. Depending on the information contained in the officer's notes, the CBSA *Privacy Act* Coordinator may grant the request, refuse the request or grant the request with sensitive information deleted.
12. The notebook has been developed by the CBSA. It is produced in a form acceptable to the courts by being individually numbered, stitch bound and having the pages numbered sequentially from 1 to 100.
13. The first page contains spaces for the CBSA officer's name, badge number, location, date of the first entry and date of last entry. The second and third pages contain the phonetic alphabet and 10 codes for use when communicating by radio. Pages for commonly used telephone numbers and tariff items have also been included. Each numbered page is lined and has a margin on the left side for the notation of the date and time the entries are made.
14. The notebook contains sensitive information and must be accorded the same security as other protected materials. Wherever possible, completed notebooks should be secured on CBSA premises.
15. The notebook is considered to be property of the Crown and must be returned prior to leaving the CBSA.
16. The notebook is an official CBSA document and may be entered as evidence during court proceedings. Because of this, the information entered into the notebook must relate solely to the officer's duties.
17. The notebook is to contain the details of the officer's personal knowledge of the events occurring immediately before, during, and after the enforcement action, that could be presented during court processes. Generally, there are no objections raised to an officer refreshing his or her memory from their notes, which were made at the time of the occurrence. However, the use of the notebook in court is a privilege that must be granted by the judge or justice.

ROLES AND RESPONSIBILITES

CBSA Officers

18. CBSA officers are responsible for:

- a) documenting the activities they perform on duty, including occurrences, incidents and enforcement actions, in their notebook;
- b) storing their notebooks in a secure location; and
- c) turning in their notebooks when they leave the CBSA.

CBSA Supervisors

19. CBSA supervisors and superintendents are responsible for:

- a) documenting the activities they perform on duty including, occurrences, incidents and enforcement actions, in their notebook;
- b) storing their notebooks in a secure location;
- c) turning in their notebooks when they leave the CBSA; and
- d) conducting periodic reviews of officers' notebooks.

CBSA Managers/Chiefs

20. CBSA Managers/Chiefs are responsible for:

- a) providing a secure location for the storage of CBSA notebooks and related records;
- b) retrieving all notebooks from a CBSA member when that member leaves the CBSA.
- c) retaining CBSA notebooks and related records as per CBSA policy; and
- d) ensuring compliance with this policy and procedure.

PROCEDURES

21. Complete the first page of the notebook (i.e. name, badge number, location, date of the first entry and date of last entry). All spaces except date of last entry must be filled out upon issue.
22. Document only the information that relates to the CBSA duties.
23. All entries in the notebook must be made in ink.

Note: If a pen runs out of ink during note taking, record the reason for changing pens to explain why different inks were used in the notebook.

24. At the beginning of every shift, record the date and time in the left hand margin of a new page. The officer's work location and the weather conditions or temperature of the building may also be recorded at the beginning of every shift and when they change.
25. The date may be recorded in full (e.g. January 15, 2005) or with numbers (e.g. 05/01/15). When using numbers use the year/month/day format. .
26. Use the 24-hour clock to record the time (e.g. 1425) and state whether the time is exact or approximate.
27. Notes should be made on the front of the page. Draw an "X" or "Z" through the back of each page and initial it. Use the same symbol ("X" or "Z") consistently through the whole book.
28. Do not leave any lines blank. Draw a line through any unused portion of a page.
29. Do not erase or obliterate any entries.
30. Do not remove pages from the notebook. If an incorrect notation is made, draw a line through the error and initial the correction.
31. Make the note/entry at the time the information is gathered or as soon as operationally possible after the occurrence.
32. If there is a delay in making notes, the reasons for the delay should be included in the entry. Delays can seriously affect the accuracy of the information in the notebook and its admissibility in court.
33. If unforeseen circumstances require that notes be recorded on separate pieces of paper, rather than in a notebook, these notes are to be copied into the officer's notebook as soon as possible, ensuring that:

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- a) a notation is made identifying that these notes originate from another document; and
 - b) the original notes are retained for full disclosure.
34. If information is recalled after the fact, additional entries may be added to the notebook. They are not to be included with the original entry, but a new entry is to be made. The new entry should include recalled facts, and start with a reference to the incident being referred to such as "In reference to an occurrence that took place at...(insert the work location, time, date and page numbers of the original entry)... I recalled the following additional information".
35. All entries must be legible and clearly written. If an officer's handwriting is difficult to read, they are to print their notes.
36. Do not use shorthand or abbreviations known only to yourself. If you wish to use abbreviations, maintain a list of them and keep it in your notebook. You will need to make it available to court representative or other persons who may be required to read and understand the notes.
37. To establish continuity and the timeliness of actions taken, indicate in your notes:
- a) time/date action (i.e., arrest, seizure, detention) commenced and was completed;
 - b) time/date reason, cautions and rights under the *Canadian Charter of Rights and Freedoms* were given and the person's response to them;
 - c) time counsel was called/contacted;
 - d) time the assisting officer arrived; and
 - e) time the police, investigator, etc, was notified, and/or arrived, and/or took control of the exhibits and person.
38. Clearly identify the persons interviewed, examined, detained or arrested. Always note the complete name, not initials. Names must be printed clearly and it is preferable to show the family name in capital letters.
39. When documents are taken as proof of identity/ownership, record the type of identification and the document number in your notes. (i.e. Canadian passport, passport number, Ontario drivers licence, drivers licence number)

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40. Include all pertinent information relating to the actions undertaken, such as:
 - a) persons interviewed;
 - b) persons associated with the individual;
 - c) officers assisting in the interview or examination and what activities they undertook;
 - d) officers indirectly involved in the action, (e.g. primary officer or the point officer);
 - e) the owner of the conveyance, company, shipment, etc; and
 - f) the name, rank and agency of the person to whom the evidence, exhibits and persons were turned over;
41. Fully describe the individual with information that includes:
 - a) date of birth and place of birth;
 - b) address of the person;
 - c) physical appearance, (i.e. height, weight, build, tattoos or other distinguishing marks or characteristics); and
 - d) how the individual was dressed;

Note: when making an entry with respect to the individual's dress, officers may include observations of inconsistency or conflict with statements made on employment, resident, destination, and purpose of travel, etc.

 - e) whether the individual was cooperative;
 - f) statements made by a person, an associate or a witness, whether inculpatory or exculpatory; and
 - g) observed mannerisms, behaviour, attitude and actions of the individuals.
42. Document goods discovered during an examination or personal search, including physical description of the goods, where they were found or concealed, how they were packaged, quantity, weight, size, etc.

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- Note: If possible officers should take photographs of goods discovered during an examination or personal search. The taking of photographs is to be included in the officer's notes (e.g. 2345 picture No 1 of body pack located on left thigh taken, etc. – picture dated, timed and initialled, etc.).
43. Ensure that notes include the indicators that provided reasonable grounds to support the referral, examination or search. Record the names of the officers who handled the evidence, the tools or equipment used to complete the examination, any tests conducted and the results of any tests (i.e. suspected – heroin). Record the name of the officer who took control of the evidence, the documentation used to transfer exhibits/evidence and where and how the goods were stored for exhibit purposes.
 44. Officers may draw sketches in their notebooks if it will make their notes more complete or understandable.
 45. When a supervisor reviews an officer's notebook, the supervisor is to date and initial the notebook.
 46. Secure completed notebooks on CBSA premises (e.g. employee's locker or a central file room).
 47. Turn over all completed or partially completed notebooks to the Manager or Chief at the end of your employment with the CBSA. This applies to all officers (i.e. indeterminate, summer casual and part-time officers).
 48. Prior to attending court, isolate relevant notes in the notebook by using elastic bands or paper clips. This will ensure that the defence attorney does not examine the full contents of the notebook and gain access to information that is not relevant to the case.
 49. Officer wishing to refer to their notes in court must seek permission from the court. Request permission by asking the judge the following question:

"Your honour, may I refresh my memory from notes which were made by me at the time of the seizure/investigation/occurrence?"
 50. Before giving evidence that may be considered by some persons to be obscene or inappropriate (i.e. statements made by the accused or a witness) ask for the judge's permission. If the judge directs you to present it, do so, without hesitation. The judge may however, direct you to write out the evidence for the court instead of repeating it aloud.
 51. If requests are received from an individual for access to notebook information, advise the person to complete an application to the Access to Information Program.

REFERENCES

Customs Act
Canadian Charter of Rights and Freedoms

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POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to use nationally accepted forms in established processes and procedures.

DEFINITIONS

2. Refer to Part 11, Glossary.

PURPOSE AND SCOPE

3. The purpose of this policy is to inform CBSA officers of existing forms and their uses.

POLICY GUIDELINES

4. Officers will use the designated CBSA forms described herein in the performance of their enforcement duties.
5. Enforcement forms will be available on the intranet in pdf fillable format whenever possible.
Enforcement Forms
6. Hard copies of forms will be available at the following warehouses unless otherwise specified:
 - a) (Prairie and Pacific regions)
Western Distribution Centre
Winnipeg Warehouse
201 Weston Road.
Winnipeg, Manitoba
R3H 3H4
 - b) (Northern Ontario, Southern Ontario, Quebec and Atlantic regions)
Eastern Distribution Centre
Mississauga Warehouse
5700 Keaton Crescent
Mississauga, Ontario
L5R 3H5

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APPENDIX A

AUTHORITY CARDS

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APPENDIX A Authority Cards

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to issue authority cards to officers that have been delegated the authority of the President to enforce parts of the *Customs Act* and the *Immigration and Refugee Protection Act (IRPA)*.

PURPOSE

2. The purpose of this policy is to provide guidelines for the issuance of the authority cards. These cards identify officers who have been granted authorities of the President for the purposes of administering (or enforcing) parts of the *Customs Act* and the *Immigration and Refugee Protection Act (IRPA)*.

BACKGROUND

3. Certain CBSA officers hold cards, which identify them as employees responsible for specialized functions.
4. The authority card is an operational requirement. The card is used when entering premises to inspect records for the purposes of enforcing the *Customs Act* and the *Immigration and Refugee Protection Act (IRPA)*. It is also used when appearing in support of a court case related to that activity. It is used to gain public trust and to facilitate their jobs in gaining access to facilities to conduct searches.

POLICY GUIDELINES

5. Intelligence, investigations, compliance verification, hearings and the inland enforcement officers, have authority cards which identify them as CBSA employees who have been delegated special authorities by the President of the CBSA (for example, the right to enter a premises to examine books and records).
6. The sections of the *Customs Act* and the *Immigration and Refugee Protection Act*, as well as the job titles of officers with the delegated authority to administer (or enforce) those sections are on the intranet at: [Delegations and Designations](#)
7. Student officers will not be entitled to authority cards.

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8. No officer may retain authorization cards from their former organization (e.g. Citizenship and Immigration Canada or Canada Customs and Revenue Agency). The cards must be handed in to the regional security office for destruction upon receipt of the CBSA authority card.

Please refer to the following link for a list of regional security contacts:
[Security Contacts](#)
9. Officers will retain their authorization card when they:
 - a) transfer between offices or regions;
 - b) accept a secondment or temporary assignment to an area not requiring authorization; or,
 - c) are temporarily incapacitated for medical reasons or any other reason approved by regional management.
10. Officers will surrender their card when they accept a permanent assignment to an area within the CBSA that is not a qualifying position or leave the employment of the CBSA.
11. It is not an obligation to have an authority card. The functional program areas will identify the qualifying positions. Consideration is given to the operational requirements for the issuance of a card based on the duties being performed.
12. It is not necessary to have a badge to obtain an authority card nor is it necessary to have an authority card if you have a badge. The badge numbers will not be included on the cards themselves.
13. Officers occupying qualifying positions are responsible for the completion of the Controlled Asset form (BSF208).
14. The Regional Director General is responsible for signing the Controlled Asset form (BSF208) thereby attesting to the fact that the officer occupies a qualifying position.
15. The regional security officer is responsible for issuing the card upon receipt of the Controlled Asset form (BSF208) and the return of the officer's prior authority card.

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16. The front of the card includes a colour photograph or digitized image and the name and surname of the individual, job title, and expiry date (year, month, day) covering a maximum period of five years from the date of issue.
17. The back of the card reads as follows:

The bearer is an employee of the Canada Border Services Agency and is a peace officer pursuant to the *Criminal Code of Canada* in the performance of his/her duties as an officer under the *Customs Act* and/or the *Immigration and Refugee Protection Act*.

The bearer is authorized by law to administer and enforce certain provisions of the *Customs Act*, the *Immigration and Refugee Protection Act* and/or other program legislation as defined in the *Canada Border Services Agency Act*.

If you find this card, please drop it in any mailbox
Ottawa, Ontario, K1A 0L8

18. The back of the card will also bear a JPG image of the President's signature.
19. The card is printed horizontally, to differentiate them from the current identification cards.

ROLES AND RESPONSIBILITIES

Qualifying Officer

20. A qualifying officer is responsible for:
 - a) signing the "Acknowledgement of Receipt of the Authority Card" section of the Controlled Asset form (BSF208) when they receive their authority card and,
 - b) reporting immediately the loss, theft, mutilation or destruction of their card to their immediate supervisor and to HQ/regional security and Rigaud Officials. All appropriate documentation shall be completed, including Form BSF152 *Security Incident Report* according to the security policies established in Chapter 15 of the CBSA Security Manual. Further information on security incident reporting procedures may be found at:
[How to Report Incidents](#)

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- c) following local practices when surrendering their authority card, the officer signs the Acknowledgement of Return portion of the Controlled Asset form (BSF208) indicating that the card has been returned when they:
 - i. accept a permanent assignment to an area within the CBSA not requiring an authority card;
 - ii. are on extended leave for a period of greater than four (4) months; or,
 - iii. leave the employment of the CBSA.
- d) notifying the local security official of a name change

Director, Program Services

21. The Director, Program Services is responsible for:

- a) monitoring compliance with these policies and procedures;
- b) ensuring that the authorized officers continue to meet the CBSA approved criteria of the job position relating to the authority card;
- c) ensuring that the applicant occupies a qualifying position;
- d) notifying the applicable regional security official to ensure that the control of an officers authority card is transferred when the officer is transferred out of or into their area of responsibility;
- e) ensuring that a former authorized officer who returns to duty, returns to a qualifying position, if the officer has retained an authority card;
- f) notifying the regional security office of regional management decisions to revoke the authorization of an authorized officer in order that a Controlled Asset form (BSF208) may be completed. (e.g. authorized officer leaves the employment of the CBSA);
- g) notifying the regional security office when a former authorized officer returns to the duties of a qualifying position, and, not having retained the card, requires the authority card to meet the operational requirements of the position, at which time the Controlled Asset form (BSF208) may be prepared;

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- h) ensuring that documentation required to grant or to revoke the authorization Controlled Asset form (BSF208) is completed and provided to the Regional Director General for signature; and,
 - i) notifying the local security official of a name change.

Regional Director General or Director of Operations

- 22. The Regional Director General or Director of Operations is responsible for:
 - a) ensuring compliance with these policies and procedures;
 - b) signing the Controlled Asset form (BSF208) to authorize officers to have an authority card
 - c) signing the Controlled Asset form (BSF208) to revoke authorization when an officer is no longer in a job position where an authority card is a requirement; and,
 - d) forwarding the signed document for processing by the regional security official.

Regional Security Official

- 23. A regional security official is responsible for:
 - a) issuing and controlling the authority card; including having the authorized officer sign the completed acknowledgement section of the Controlled Asset form (BSF208), when they receive their authority card;
 - b) forwarding the original signed copy of the Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate and retaining a copy for inclusion in each officer's security file;
 - c) when advised of an authorized officer's transfer between regions and/or offices; Regional Security must transfer control of the authority card by forwarding a copy of the BSF208 to the new Regional Security office and sending the original completed BSF208 to the Corporate Security and Internal Affairs Directorate; and
 - d) maintaining a regional repository of names in a database of who has been issued an authority card.

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Corporate Security and Internal Affairs Directorate

24. The Corporate Security and Internal Affairs Directorate is responsible for:

- a) liaising with the Enforcement Branch on the matters concerning the control and issuance of the authority card;
- b) creating issuance procedures to regional security officials on the issuance and control of the authority card; and,
- c) maintaining a national repository of names in a database of who has been issued the controlled assets.

Headquarters – Enforcement Branch

25. The Headquarters Enforcement Branch is responsible for:

- a) developing and modifying the policy and procedures as required;
- b) providing guidance and support to the field; and,
- c) liaising with Corporate Security and Internal Affairs Directorate on matters concerning the control and issuance of the authority card.

PROCEDURES

26. These procedures are intended to reflect national consistency for the process of providing authority cards to qualifying officers. The purpose of the cards is to meet the operational requirements to enforce various sections of the *Customs Act*, *Customs Tariff*, *Special Import Measures Act*, *Excise Act*, *Excise Act, 2001* and/or the *Immigration and Refugee Protection Act*, acts and regulations.

Authorization Process Procedures and Checklist

<u>Qualifying Officer</u>	
Applying for New Card	Revoking an Existing Card

✓ request an authority card by completing Form BSF208;

✓ surrender the card when they accept a position not requiring an authority card and complete Form BSF208

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<ul style="list-style-type: none"> ✓ sign the Acknowledgement of Receipt portion of BSF208 when they receive card ✓ report any loss, theft or mutilation as a security incident 	<ul style="list-style-type: none"> ✓ surrender the card when they leave employment of CBSA and complete Form BSF208 ✓
<u>Director, Program Services</u>	
<p>Applying for New Authority Card</p> <ul style="list-style-type: none"> ✓ verify that documentation required to grant the authorization (Controlled Asset form BSF208) is completed; ✓ ensure that the officer occupies a qualifying position; ✓ forward the signed and completed original Controlled Asset form (BSF208) to the Regional Director General for signature. 	<p>Revoking an Existing Authority Card</p> <ul style="list-style-type: none"> ✓ notify the regional security office when a former authorized officer returns to the duties but does not meet the criteria to possess an authority card; ✓ notify the applicable regional security official to ensure that the control of an officers authority card is transferred when the officer is transferred out of or into their area of responsibility; ✓ notify the regional security office of regional management decisions to revoke the authorization of an officer in order that a Controlled Asset form (BSF208) may be completed. (e.g. authorized officer leaves the employment of the CBSA); ✓ ensure that documentation required to revoke the authorization (Controlled Asset form BSF208) is completed; ✓ provide the Controlled Asset form (BSF208) to the Regional Director General or delegated authority for signature;

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<u>Regional Director General or Director of Operations</u>	
Applying for a New Authority Card	Revoking an Existing Authority Card
<ul style="list-style-type: none"> ✓ sign the Controlled Asset form (BSF208) to authorize officers to have an authority card; and, ✓ forward the original to the applicable regional security official, in order for the authority card to be issued to the officer; 	
<ul style="list-style-type: none"> ✓ 	
<u>Regional Security Official</u>	
Application for a New Authority Card	Revoking an Existing Authority Card
<ul style="list-style-type: none"> ✓ issue and control the authority card; including having the authorized officer sign the completed acknowledgement section of the Controlled Asset form (BSF208), when they receive their authority card; ✓ forward the signed original Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate for inclusion in the officer's security file; and, ✓ retain a certified true copy for inclusion in the officer's security file ✓ when advised of an authorized officer's transfer between regions and/or offices; Regional Security transfer control of the authority card by forwarding a copy of the BSF208 to the new Regional Security office and sending the original completed BSF208 to the Corporate Security 	
<ul style="list-style-type: none"> ✓ take control of the authority card including having the officer sign the Acknowledgement of Return portion of the Controlled Asset form (BSF208) indicating that the card has been returned; ✓ forward the signed original Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate for inclusion in the officer's security file; ✓ retain a certified true copy for inclusion in the officer's file 	

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and Internal Affairs Directorate	
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REFERENCES

Customs Act

Immigration and Refugee Protection Act

Customs Tariff

Special Import Measures Act

Excise Act

Excise Act, 2001

Criminal Code

Management Services Manual

Corporate Security and Internal Affairs Directorate Manual

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DESIGNATION CARDS

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APPENDIX B Designation Cards

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to designate officers for the purposes of administering Part VI.1 of the *Customs Act*: “Enforcement of Criminal Code Offences Other Than Offences Under This Act.”
2. An officer must successfully complete Officer Powers (OP) training in order to be designated. It is also the policy of the CBSA that an officer will not be designated unless he/she also successfully completes the Control and Defensive Tactics (CDT) Training. Once the officer has completed both OP training and CDT, should he/she be designated, he/she will receive the Certificate of Designation card.
3. Student officers will not be designated.

DEFINITIONS

4. “Designated Officer” - an officer who is designated by the President pursuant to subsection 163.4 of the *Customs Act*. Subsection 163.5 provides a designated officer with the powers and obligations afforded to peace officers for the purposes of enforcing sections 253, 254, and 495 to 497 of the *Criminal Code*.
5. “Security Official” – individual who has been assigned security responsibilities for the implementation of agency security policies, standards and procedures.
6. Refer to Part 11, Glossary for more definitions.

AUTHORITIES

Customs Act

7. Subsection 163.4(1) - The President may designate any officer for the purposes of this Part and shall furnish the officer with a certificate of designation.
8. Subsection 163.4(2) - A certificate of designation is admissible in evidence as proof of the officer’s designation without proof of the signature or official character of the person appearing to have signed it.

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9. Subsection 163.5(1) – In addition to the powers conferred on an officer for the enforcement of this Act, a designated officer, who is at a CBSA office and is performing the normal duties of an officer or is acting in accordance with section 99.1 has, in relation to a criminal offence under any other Act of Parliament, the powers and obligations of a peace officer under section 495 to 497 of the *Criminal Code*, and subsections 495(3) and 497(3) of that Act apply to the designated officer as if he or she were a peace officer.
10. Subsection 163.5(2) – A designated officer who is at a CBSA office and is performing the normal duties of an officer or is acting in accordance with section 99.1 has the powers and obligations of a peace officer under sections 254 and 256 of the *Criminal Code* and may, on demanding samples of a person's blood or breath under subsection 254(3) of that Act, require that the person accompany the officer, or a peace officer referred to in paragraph (c) of the definition "peace officer" in section 2 of that Act, for the purpose of taking samples.

PURPOSE

11. The purpose of this policy is to provide guidelines when administering the authority provided under Section 163.4 of the *Customs Act*.
12. This policy and procedures supersedes the Memorandum to Regional Directors, Customs, dated July 6, 2000, regarding the Designation Process/Officer Powers.
13. This policy applies to all border services officers who are designated in accordance with Section 163.4(1) of the *Customs Act*, and all personnel who are involved in the administration process required to designate and/or revoke designation as provided for in this policy.

BACKGROUND

14. In May 1998, Bill C-18, an Act to amend the *Customs Act* and the *Criminal Code* received Royal Assent, and was proclaimed into force on May 1, 2000. The legislation bridged the enforcement gap that previously limited the ability of a border services officer to take action when a *Criminal Code* offence was encountered during the normal course of their duties.

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15. Under the legislation, the President may designate any officer for the purposes of administering Part VI.1 of the *Customs Act* (Enforcement of Criminal Offences other than Offences under this Act), and provide the officer with a certificate of designation. The Minister has delegated the authority to designate officers to Regional Directors General.

Note: A copy of the delegation authority letter can be found at the end of the Appendix.

POLICY GUIDELINES

16. To qualify for designation, a border Services Officer must successfully complete Officer Powers (OP) training. It is also the policy of the CBSA that an officer will not be designated unless he/she also successfully completes the Control and Defensive Tactics (CDT) Training.
17. A Border Services Officer is designated when the Regional Director General, signs the Designation Document (K160).
18. Designated Officers will be issued a Certificate of Designation card.

Note: regional security officials are responsible for the issuance and control of the Certificate of Designation cards.

19. Designated officers will sign the Acknowledgement of Receipt (section D of the Controlled Asset form (BSF208) when they receive their Certificate of Designation card.
20. Designated officers must attend and complete the CBSA approved training within the CBSA established time frames in order to retain their designated status
21. Designated officers retain their designated status until the Regional Director General, revokes the designation by signing an Amendment – Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K161).
22. The Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160) and the Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* – Amendment form (K161) are considered the legal instruments to designate and to amend designation. The secure safekeeping of these documents is essential as they may be required in a court of law to substantiate the designated officer's authority.

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Note: pdf fillable Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form(K160) and the Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* - Amendment form (K161) can be found on Infozone, Forms & Publications at the following websites:

23. The original signed copies of Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160) and the Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* - Amendment form (K161), if applicable, are to be retained on file in a central regional depository under the jurisdiction of the Regional Director General.
24. A “certified true copy” of the Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160) and the Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* - Amendment form (K161), where applicable, will be forwarded to the appropriate area for inclusion in each officer’s security file.
25. The original, signed Controlled Asset form (BSF208) will be forwarded to the Corporate Security and Internal Affairs Directorate for inclusion in each officer’s security file.
26. A “certified true copy” of the signed Controlled Asset form (BSF208) will be kept by regional security.
27. Designated officers will retain their designated status and Designation card when they:
 - a) transfer between offices or regions;
 - b) accept a secondment or temporary assignment to an area not requiring designation;
 - c) are temporarily incapacitated for medical reasons or any other reason approved by regional management; or,
 - d) commence long-term leave of absence (4 months less a day).
28. Officers incapacitated due to medical reasons that could hinder ability to affect arrest (i.e. broken limbs or pregnancy), will not be expected to carry out enforcement actions against infractions under the *Criminal Code*.

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29. When the officer returns to the duties of a designated officer following a secondment, temporary assignment, temporary incapacitation, or long-term leave of absence, they must meet the requirement to attend and complete Control and Defensive Tactics Skills Maintenance training within the CBSA established three-year time frame.
30. Designated officers will have their designation revoked and will surrender their Certificate of Designation card when they:
 - a) no longer meet the CBSA approved criteria of designation (e.g. do not attend and complete Control and Defensive Tactics Skills Maintenance Training within the CBSA established three-year time frame);
 - b) accept a permanent assignment to an area within the CBSA not requiring designation;
 - c) are on extended leave for a period of greater than four (4) months;
 - d) leave the employment of the CBSA.
31. Should a former designated officer return to the duties of an officer, their designated status will be reinstated when the Regional Director General signs a Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160), and they will be issued with a Certificate of Designation card.
32. Former designated officers must meet the requirement to attend and complete the CBSA approved training (i.e. Control and Defensive Tactics Skills Maintenance) within the CBSA established three-year time frame in order for their designation to be reinstated.
33. The front of the card includes a color photograph or digitized image and the name and surname of the individual, job title, and expiry date (year, month, day) covering a maximum period of five years from the date of issue.
34. The back of the card reads as follows:

The bearer is an employee of the Canada Border Services Agency and is a peace officer pursuant to the *Criminal Code of Canada* in the performance of his/her duties as an officer under the *Customs Act* and/or the *Immigration and Refugee Protection Act*.

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Pursuant to section 163.4 of the Customs Act, the bearer has been designated by the President of the Canada Border Services Agency and, in accordance with section 163.5 of that Act, has certain powers and obligations of a peace officer with respect to criminal offences while performing the duties of a customs officer at a customs office.

If you find this card, please drop in any mailbox

Ottawa, ON K1A 0L8

35. The back of the card will also bear a JPG image of the President's signature.
36. The designation card will be printed horizontally, to differentiate them from the current identification cards.

ROLES AND RESPONSIBILITIES

Designated Officer

37. A designated officer is responsible for:
 - a) signing the Acknowledgement of Receipt of the Certificate of Designation section of the Controlled Asset form (BSF208) when they receive their Certificate of Designation card;
 - b) reporting immediately the loss, theft, mutilation or destruction of their card to their immediate supervisor and to HQ/regional security and Rigaud Officials. All appropriate documentation shall be completed, including Form BSF152 *Security Incident Report* according to the security policies established in Chapter 15 of the CBSA Security Manual. Further information on security incident reporting procedures may be found at:

How to Report Security Incidents

- c) following local practices when surrendering their Certificate of Designation card when they accept a permanent assignment to an area within the CBSA not requiring designation or leave the employment of the CBSA; and,
- d) notifying a security official of a name change

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Training Unit and/or Technical Trainer

38. The training unit and/or technical trainer is responsible for providing the Officer Powers Regional Coordinator with the names of the officers who were successful in completing the CBSA approved training programs.

Officer Powers (OP) Regional Coordinator

39. The OP Regional Coordinator is responsible for:

- a) ensuring that documentation required to designate or to revoke designation is completed and provided to the Regional Director General for signature;
- b) ensuring that a certified true copy of the signed Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160) and the original Controlled Asset form (BSF208) is forwarded to the applicable regional security official, in order for the Certificate of Designation card to be issued to the designated officer;
- c) ensuring that certified true copies of the signed Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* – Amendment form (K161), and the original completed Controlled Asset form (BSF208) are forwarded to the applicable regional security official, when designation has been revoked, and the Certificate of Designation card is no longer required; and,
- d) forwarding the signed original Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* form (K160), the signed original Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* – Amendment form (K161), and the completed certified true copy of the Controlled Asset form (BSF208) to the appropriate area for inclusion in each officer's security file.

Director, Program Services

40. The Director, Program Services is responsible for:

- a) monitoring compliance with these policies and procedures;
- b) ensuring that designated officers continue to meet the CBSA approved criteria for designation (e.g. attend and complete Control and Defensive Tactics Skills Maintenance training every three years from the date of

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initial Control and Defensive Tactics training or from the date of subsequent Control and Defensive Tactics Skills Maintenance training);

- c) ensuring that a designated officer who transfers into their area of responsibility is qualified to carry out enforcement actions against infractions under the *Criminal Code* in their jurisdiction (e.g. impaired driving infractions), and if not, provide the appropriate training as soon as is reasonable;
- d) notifying the applicable regional security official to ensure that the control of a designated officer's Certificate of Designation card is transferred when the designated officer is transferred out of or into their area of responsibility;
- e) ensuring the original K160 is transferred to the regional office where the employee will be deployed
- f) ensuring that a former designated officer who returns to the duties of an officer continues to meet the CBSA approved criteria for designation (e.g. attend and complete Control and Defensive Tactics Skills Maintenance training within the CBSA approved three year time frame) and is qualified to carry out enforcement actions against infractions under the *Criminal Code* in their jurisdiction (e.g. impaired driving infractions), and if not provide the appropriate training prior to the officers designation being reinstated;
- g) notifying the Officer Powers Regional Coordinator of regional management decisions to revoke the designated status of a designated officer in order that an "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act* - amendment" (K161 form) may be prepared. (e.g. designated officer leaves the employment of the CBSA);
- h) notifying the regional security office of regional management decisions to revoke the designated status of a designated officer in order that a Controlled Asset form (BSF208) may be completed (e.g. authorized officer leaves the employment of the CBSA); and to ensure the return of the Designation card.
- i) notifying security official of a name change.
- j) notifying the Officer Powers Regional Coordinator when a former designated officer returns to the duties of an officer and qualifies for designation in order that a "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*" (K160 form) may be prepared; and,

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- k) where an Officer Powers Regional Coordinator is not available or the position does not exist, assigning/delegating the duties of the Officer Powers Regional Coordinator.

Regional Director General

41. The Regional Director General is responsible for:

- a) ensuring compliance with these policies and procedures;
- b) signing the “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) to designate officers who have successfully completed the CBSA approved training programs and qualify for designation; and,
- c) signing the “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*” (K161 form) to revoke the designation when an officer no longer meets the requirement for designation.

Regional Security Official

42. A Regional Security Official is responsible for:

- a) issuing and controlling the Certificate of Designation card; including having the designated officer sign the completed acknowledgement section of the Controlled Asset form (BSF208), when they receive their Certificate of Designation card;
- b) forwarding the original signed copy of the Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate and retaining a copy for inclusion in each officer’s security file;
- c) when advised of an authorized officer’s transfer between regions and/or offices; Regional Security must transfer control of the Certificate of Designation card by forwarding a copy of the BSF208 to the new Regional Security office and by sending the original completed BSF208 to Corporate Security.
- d) Regional Security to coordinate the transfer of the original K160 to the regional office where the employee will be deployed.

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- e) maintaining a regional repository of names in a database of who has been issued a Designation card.

Corporate Security and Internal Affairs Directorate

43. The Corporate Security and Internal Affairs Directorate is responsible for:

- a) liaising with the Enforcement Branch on the matters concerning the control and issuance of the Designation card; and,
- b) creating Issuance Procedures to regional security officials on the issuance and control of the Designation card
- c) maintaining a national repository of names in a database of who has been issued a Designation card.

Headquarters – Enforcement Branch

44. The Headquarters Enforcement Branch is responsible for:

- a) developing and modifying the policy and procedures as required;
- b) providing guidance and support to the field; and,
- c) liaising with the Corporate Security and Internal Affairs Directorate on matters concerning the control and issuance of the Certificate of Designation card.

PROCEDURES

45. These procedures are intended to reflect national consistency for the process of designating border services officers for the purposes of administering Section 163.4(1) of the *Customs Act*.

Designation Process

Technical Trainer/Training Unit

46. Advise the OP Regional Coordinator of the names of officers who successfully complete the CBSA approved training for designation (i.e. Control and Defensive Tactics training and/or Officer Powers training).

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Director, Program Services

47. Advise the OP Regional Coordinator of the name(s) of former designated officers who meet the CBSA approved criteria to have their designation reinstated. (e.g. Attend and complete Control and Defensive Tactics Skills Maintenance training within the CBSA established timelines)

OP Regional Coordinator

48. Upon notification that an officer has successfully completed the CBSA approved training programs to qualify for designation, or that a former designated officer meets the CBSA criteria to have their designation reinstated, prepare the “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) for the Regional Director’s General signature.

Note: The “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) is the legal instrument to designate an officer. The officer’s full legal name and badge number must be used when completing this document (e.g. Anthony John Smith Badge # 12345).

49. Provide the Regional Director General with the “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) for signature.
50. Arrange to have a “certified true copy” of the signed “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) forwarded to the appropriate area for inclusion in the designated officer’s security file.
51. Forward the original of the signed “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) to the regional security official to initiate the issuance of a Certificate of Designation card.

Regional Director’s General Office or Delegate

52. File a copy of the signed “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) in a central regional depository under the jurisdiction of the Regional Director General.

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Amendment Process (Revoking Designation)

Regional Director General or delegate

53. Advise the OP Regional Coordinator of regional management's decision to revoke the designated status of a designated officer who no longer meets the requirements for designation.

OP Regional Coordinator

54. Upon notification that a designated officer no longer meets the requirements for designation, prepare the "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) for the Regional Director's General signature.

Note: The "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) is the legal instrument to amend (revoke) the designation of a designated officer; the officer's full legal name and badge number must be used when completing this document.

55. Provide the Regional Director General with the "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) for signature.
56. Complete the Controlled Asset form BSF208 and submit with the K161 form for signature.
57. Arrange to have the original signed "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) forwarded to the Regional Director's office for inclusion in the designated officer's security file.
58. Forward a "true certified" copy of the signed "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) to the regional security official responsible for the control of the Designation card.

Regional Director's Office or Delegate

59. File the signed original "Designation of Officers for the Purposes of Part VI.1 of the *Customs Act - Amendment*" (K161 form) in a central regional depository under the jurisdiction of the Regional Director General.

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APPENDIX B Designation Cards

Issuance of Certificate of Designation Card Process

Regional Security Official

60. The issuance of the Certificate of Designation card is the responsibility of regional security official.
61. On receipt of a copy of the signed “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form), and the Controlled Asset form (BSF208) the regional security official will issue a Certificate of Designation card following procedures outlined in Corporate Security and Internal Affairs Directorate’s directives
62. Ensure that the designated officer signs the acknowledgement section of the Controlled Asset form (BSF208) on receiving their Certification of Designation card.
63. Forward the signed original of the Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate, along with certified true copy of the “Designation of Officers for the Purposes of Part VI.1 of the *Customs Act*” (K160 form) for inclusion in the designated officer’s security file.

Transfer (Deployment) Process (Certificate of Designation card)

Director, Program Services

64. Advise the regional security official of a designated officer’s transfer (deployment) prior to the designated officer relocating.
65. Provide the following information:
 - a) Designated officer’s full legal name and badge number;
 - b) Certificate of Designation number;
 - c) The CBSA office and/or region the designated officer is transferring to; and,
 - d) The date that the transfer/deployment takes effect.
66. When notified that a designated officer is transferred/deployed, follow the procedures provided for in the Corporate Security and Internal Affairs

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Directorate's directives "Certificate of Designation Cards, Control and Issuance Procedures – Field Offices".

Regional Security Official

67. Ensure that the designated officer signs the appropriate area of the Controlled Asset form (BSF208) to transfer their Certification of Designation card.
68. A "certified true copy" of the Controlled Asset form (BSF208) is returned to the regional security office for inclusion in the officer's security file.
69. Forward the original Controlled Asset form (BSF208) to the Corporate Security and Internal Affairs Directorate, for inclusion in the designated officer's security file.

REFERENCES

Customs Act

Criminal Code

Management Services Manual

The Corporate Security and Internal Affairs Directorate Manual

CUSTOMS ENFORCEMENT MANUAL

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 1

CUSTOMS PROSECUTION POLICY

POLICY STATEMENT

7. Investigations is a fundamental part of the CBSA's enforcement presence. Investigations will investigate, assess penalties, seize goods and/or evidence, and recommend prosecution when significant cases of fraud and smuggling are encountered in order to ensure a level playing field and that Canadians are protected from the importation of prohibited, restricted or hazardous goods.
8. To achieve and maintain a high degree of uniformity in the enforcement of Customs legislation with respect to the initiation of criminal proceedings, all customs officers (and members of the Royal Canadian Mounted Police while acting as customs officers) will be governed by the policy stated herein.
9. Whenever an offence under the *Customs Act* is uncovered and there is evidence of intent to avoid the payment of a substantial amount of duty or taxes, or in any manner, evade or attempt to evade compliance with any provision of the Act, consideration should be given to initiating a criminal process.

POLICY GUIDELINES

10. The Directors of Investigations in the region are responsible for approving requests from customs investigators to proceed with prosecutions. All cases for prosecution will ultimately be referred to the Department of Justice (DOJ) for opinions on the sufficiency of the evidence and the circumstances to justify prosecution. The final decision to proceed with the prosecution rests with the DOJ.
11. The Director, Investigations (or the Commanding Officer of the RCMP Customs and Excise section) must ensure that the decision to proceed with prosecution is fair and consistent with similar situations. There are three main issues for the Director, Investigations to consider:
 - a) Does the case meet the minimum thresholds established in this policy? Is the offence significant? Is there justification for an exception to the threshold standards?
 - b) Is there evidence of willful intent/mens rea? Is there a reasonable prospect of conviction?

- c) Is the prosecution in the public interest? Public interest factors include (but are not limited to) the following:
- i. the gravity of the alleged offence;
 - ii. the type of goods;
 - iii. the frequency of the alleged offender's unlawful activities;
 - iv. the alleged offender's degree of responsibility for the offence;
 - v. the prosecution's likely effect on public order and morale or on public confidence in the administration of justice; or
 - vi. the prevalence of the alleged offence in the community and the need for general and specific deterrence.

Referrals to Investigations

12. Referrals may be made as a result of an enforcement action taken against an importer, exporter, traveller, warehouse operator, customs broker, transporter etc. Alternatively, they may be based upon the instincts or suspicions of a customs officer or an intelligence officer.
13. In port prosecution situations, where goods are seized, penalties are assessed and/or persons are under arrest or detention for *Customs Act* related offences, customs officers should immediately contact Investigations. Investigators will assess the situation and advise the officer on the procedures to follow. In many cases investigators will respond to the port in person since they may need to take statements from the parties involved and secure evidence for an anticipated prosecution. At times, investigators may not be able to attend within a reasonable time, and will advise the port officers to send them a written referral.
14. For other situations whereby customs officers develop suspicions over a period of time, a written referral may be sent to Investigations. Written referrals should contain an outline of the known or suspected offence(s) and any evidence uncovered through verification and inspection activities. The referral will be assessed in conjunction with information from other sources in order to determine if it is a viable case.

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Customs Prosecution Policy

15. Some regions may have different procedures for customs officers to follow when making referrals to their respective Investigations unit. In many regions Regional Intelligence Officers are the initial point of contact for customs officers for all significant interdictions, regardless of the nature of the offence. However, all violations of the *Customs Act* should be discussed with Investigations before referring the matter to the RCMP or other law enforcement agencies. This also applies to other government departments since Investigations also enforces the legislation of various OGDs (e.g. DFAIT, Environment, Heritage). For more information on the procedures to follow regarding Customs prosecutions, please refer to Part 9 Chapter 2 Customs Prosecution Procedures.

Prosecution Categories

16. The criminal process may be initiated where the offence falls within the criteria outlined in the categories listed below. If officers are uncertain as to whether the case falls within these guidelines or how to proceed, they should contact Investigations for assistance. All cases that fall within any of the following categories are to be referred for review and evaluation to the Director, Investigations in the appropriate region:
- a) where goods have been smuggled or otherwise unlawfully imported into Canada and the revenue evaded on any single occasion exceeds \$1000, and evidence is found during the course of an investigation to indicate the smuggling or otherwise unlawful importation was wilful;
 - b) where evidence indicates that goods have been smuggled or otherwise unlawfully imported, and there has been a previous infraction by the same party, even if the revenue evaded did not exceed the amounts determined above, and the aggregate of revenue evaded during the course of any 12 month period exceeds \$500;
 - Note: A previous infraction consists of an enforcement action such as a seizure, ascertained forfeiture, forced payment or a Notice of Penalty Assessment. The retention periods for infractions are as follows: seizures and ascertained forfeitures: 6 years; forced payments: 2 years; NPA: 3 years (or less depending on the contravention).
 - c) where 25 cartons of cigarettes, 150 cigars or 5 kilograms of tobacco are smuggled or otherwise unlawfully imported into Canada;
 - d) where 25 litres of spirits are smuggled or otherwise unlawfully imported into Canada;

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- e) customs offences where revenue is not the only element of the offence, such as the smuggling or otherwise unlawful importation of firearms, and prohibited material, hindering an officer, breaking seals, presenting false documents, possession of blank documents etc; or

Note: Where firearms and prohibited material are concerned, prosecution may be considered pursuant to the *Criminal Code* or the *Customs Act*. Investigations (in consultation with Regional Intelligence Officers (RIO)) will consult with local police to decide on the best approach for each case. Please refer to Part 2, chapters 3, 8 and 14 of this manual for more information on firearms, prohibited material and child pornography.

- f) all offences that would otherwise fall within the guidelines, except that the amount of revenue evaded or quantities of alcohol or tobacco products smuggled are less than the amounts determined by the Head, Customs Contraband, Intelligence and Investigations.

Note: In the event of an Access to Information request, the entire contents of Part 9, Chapter 1, Paragraph 16 is to be considered exempt under subsection 16(1)(a) and 16(2) of the *Access to Information and Privacy Act*.

17. In addition to criminal prosecution, the appropriate seizure, Notice of Penalty Assessment or ascertained forfeiture proceedings will be initiated and the necessary reports will be forwarded to the Minister as required by the *Customs Act*.
18. The Regional Director of Customs for the region in which a case originates will be notified:
 - a) whenever a decision is taken to initiate criminal proceedings pursuant to category (f) above; and
 - b) wherever a decision is taken to initiate criminal proceedings under the *Criminal Code* even though such proceedings can be initiated under the *Customs Act*.

Division of responsibility with the RCMP:

19. Incidents of customs fraud or smuggling (with the exception of narcotics) should be discussed with Investigations to determine the appropriate agency to investigate the matter.

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20. In cases of smuggled or otherwise illegally imported goods (with the exception of narcotics), Investigations will determine whether Customs or the RCMP will pursue the matter as stipulated in the previous ministerial directive.

Types of offences:

21. Investigations will conduct investigations and pursue prosecution where deemed appropriate for the following types of offences:
- a) **Customs Act:** Where goods are smuggled into or out of Canada or false statements are made to Customs to avoid duties and/or permit requirements, for example:
 - i. goods are described as Canadian goods returning when in fact they are foreign;
 - ii. goods are undervalued to avoid the full amount of duties and taxes lawfully owing;
 - iii. goods are misrepresented by undervaluing/misdescribing the commodity or quantity or origin, to avoid permit requirements;
 - iv. goods are over-valued to avoid anti-dumping duties;
 - v. goods are described as being a product of a NAFTA country when in fact they are not to avoid duties; or,
 - vi. a person hinders an officer from performing their duties pursuant to the *Customs Act*.
 - b) **Export and Import Permits Act:** Where goods are illegally imported or exported without the proper permits, for example:
 - i. country of origin is falsified to avoid import and export requirements;
 - ii. goods are misdescribed to avoid import permit requirements; or
 - iii. goods that are to be exported are misdescribed or the country of destination is falsified to avoid export permits.
 - c) **United Nations Act and regulations:** Where goods are destined to a country that is under embargo due to a United Nations sanction and the exporter falsifies information to conceal the country of ultimate destination.

- d) **Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act:** For example, goods are misdescribed or smuggled to avoid import or export permit requirements.
- e) **Tobacco Act:** For example, the illegal inter-provincial movement of tobacco products from Ontario to Manitoba.
- f) **Excise Act.** For example, after an audit by CBSA personnel it is found that the business' inventory is missing tobacco products or during the course of a routine examination, customs officers discover unmarked tobacco products

Hindering an Officer

- 22. The Agency's policy on the use of section 153.1 of the *Customs Act* is as follows:
 - a) for non-violent situations that occur while customs officers are performing traditional *Customs Act* duties of processing travellers or goods, officers may arrest persons for "hindering an officer" and refer the matter to Investigations;
 - b) assaulting or threatening customs officers are violations of section 270 and 264.1 of the *Criminal Code* respectively and these matters must be immediately referred to the RCMP or to the local police; and
 - c) if officers are assaulted or prevented from performing "Officer Powers" duties (demanding breath samples, processing individuals who are the subject of outstanding warrants, in possession of property obtained by crime, suspected of having abducted or kidnapped another person) then the matter will be dealt with pursuant to the *Criminal Code* and turned over to the police.
- 23. Hindering may be described as a situation where a member of the travelling public is interfering with or adversely affecting the customs operation, or their actions directly interfere with other travellers. To hinder requires a direct action, other than a physical assault. While they are unpleasant to deal with, clients who are rude, insulting or slightly uncooperative are **not** hindering an officer.
- 24. The tool of arrest should neither be immediate nor automatic in these situations. It should only be used as a last resort, assuming all avenues of resolution have been exhausted, and only after consulting a superintendent. Further, an accused cannot be prosecuted for "hindering an officer" if they

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Customs Prosecution Policy

- exercise their right not to say anything that may be used as evidence of a criminal offence.
25. If officers feel that an arrest cannot be safely made, they should not put themselves or others in danger. Charges may be laid after the fact. Please refer to Part 6 Chapter 1 of this manual for information on arrest procedures.

ROLES AND RESPONSIBILITIES

Investigators

26. Investigators are responsible for:
- acknowledging receipt of all referrals received;
 - investigating the alleged offences;
 - consulting with the Department of Justice to determine whether a prosecution is warranted;
 - advising the referring agency of the status of the investigation; and
 - referring cases to other custom divisions and/or OGDs for follow-up action (e.g. collection of duties and taxes by Compliance Verification).

Customs Officers

27. Customs officers are responsible for:
- referring all seizures that fall within the Investigations mandate to their regional Investigations Division or to the RIO as directed by regional policy; and
 - providing all pertinent details in referrals, whether verbal or written, including the reasons for believing that an offence has occurred and all relevant documentation pertaining to a suspected fraudulent importation or exportation.

REFERENCES

28. *Customs Act* and Regulations
Export and Import Permits Act and Regulations
Criminal Code
Tobacco Act
WAPPRIITA
Excise Act
United Nations Act and Regulations
Department of National Revenue, Division of Investigative and Enforcement
Responsibilities (Ministerial Directive)
Investigations Manual

CUSTOMS ENFORCEMENT MANUAL

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 2

CUSTOMS PROSECUTION PROCEDURES

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Prosecution Procedures

INTRODUCTION

1. The purpose of this chapter is to outline the procedures to follow when prosecutions under the *Customs Act* are considered. It is designed as a tool for customs officers to complement Part 9, Chapter 1, Customs Prosecution Policy, and the guidance provided by investigators and any other law enforcement agencies involved in prosecutions related to the *Customs Act*.

GENERAL

2. There are provisions for imposing both criminal and civil sanctions under the *Customs Act*. Criminal prosecutions are undertaken when an additional deterrent is warranted due to the seriousness of the offence and the potential harm to society. Investigations are responsible for initiating all prosecutions relating to the *Customs Act* (with the exception of narcotics).
3. Investigations' mandate is to conduct criminal investigations into suspected cases of smuggling or fraud with respect to the *Customs Act*, the *Customs Tariff Act*, the *Excise Tax Act*, the *Excise Act* and the *Export and Import Permits Act* (among others) and to prosecute in each case where sufficient evidence is obtained to support convictions for deliberate or wilful evasion with respect to these acts and others enforced by the Canadian Border Services Agency (CBSA).
4. In most cases, Investigations will perform all of the necessary duties related to the criminal investigation. However, depending on the circumstances of the case and the location of the offence, Investigations may ask other law enforcement agencies for assistance or turn the entire matter over to another agency. The decision to refer a case to another agency rests with the Director of Investigations.

PORt PROSECUTIONS

5. Port prosecutions are usually initiated at the time of a seizure or the issuance of a Notice of Penalty Assessment (NPA). Part 9 Chapter 1 of this manual contains guidelines on the types of offences that Investigations will investigate. When customs officers encounter situations where the prosecution guidelines are met, they may, arrest the person and advise them of their right to counsel and then contact Investigations. Further, if customs officers are unsure if the guidelines have been met, or how to proceed, they should discuss the matter with their superintendent and/or contact Investigations for clarification and guidance. Arrest procedures are described in more detail in Part 6, Chapter 1 of this manual.

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6. Regions may have different procedures for customs officers to follow when making referrals to their respective Investigations unit. In many regions, Regional Intelligence Officers (RIOs) are the initial point of contact for customs officers for all significant interdictions, regardless of the nature of the offence. Timely notification of Investigations will ensure that investigators have the opportunity to take statements from the parties involved and to secure evidence in accordance with the *Charter of Rights and Freedoms*. In situations where a local SOP advises customs officers to contact Investigations directly, customs officers are responsible for informing RIO's of the incident via the Occurrence Reporting System (ORS).
7. An investigator will assess the situation and advise the officer as to the proper course of action to be followed. In many cases, an investigator will be dispatched to complete legal formalities including taking statements, securing evidence and interviewing witnesses.

OTHER REFERRALS TO INVESTIGATIONS

8. It is common for customs officers to uncover indications of customs fraud over a period of time. These usually relate to commercial matters. At the time that they decide that a referral to Investigations is warranted, officers may not have sufficient grounds to issue an NPA, seize goods or arrest someone. In these situations, officers should consult with their superintendent, contact Investigations and await further instructions from an investigator.
9. If an immediate response to the customs office is not possible, customs investigators will ask officers to send them a referral. Customs officers should ensure that their reports provide sufficient details of the circumstances of the offence, the actions taken, and the reasons why they believe prosecution is justified. The superintendent involved with the proceedings should review the report, and may add comments as well.
10. An investigator will seek to establish a pattern of behaviour over a certain period of time for the subject(s) of the investigation. This could be persistent undervaluation of an imported commodity, misdescription of strategic goods to evade export controls, using transshipment fraud to conceal the true origin of imported goods, etc. Once sufficient evidence is collected, an investigator will seek the approval of the Director of Investigations and Crown counsel to lay charges against the subject(s).

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HINDERING AN OFFICER

11. Amendments to the *Customs Act* include the addition of section 153.1, which prohibits a person from hindering or preventing an officer from doing their duty. Investigations will investigate these offences when they involve persons interfering with an officer who is performing "traditional" *Customs Act* duties and the interference does not constitute an assault or a threat.
12. The first reaction for customs officers who encounter interference or uncooperative behaviour should be to attempt to defuse the situation using all available resources, including the intervention of a superintendent.
13. The following examples describe situations where officers are performing "traditional" *Customs Act* duties and an arrest for hindering an officer may be warranted (assuming all attempts to resolve the situation by other means have failed):
 - a) At the "point" area of an airport, a customs officer refers a traveller to secondary but the person does not comply, does not respond to multiple requests to comply, refuses to discuss the matter with the superintendent and prevents the point officer from processing other travellers.
 - b) A traveller is referred to secondary for examination after which he refuses to leave. Instead, he encourages others not to cooperate with Customs, purposely interferes with other examinations and intrudes on other travellers' rights to privacy.
 - c) At customs secondary, an officer finds undeclared goods. Upon their discovery, the traveller starts destroying evidence of the offence by tearing up the invoices.
14. In such instances, officers should arrest the person and read them the following statement followed by the standard cautions and warnings:

"I am arresting you, under the provisions of section 153.1 of the Customs Act for hindering an officer."
15. Once a person has been arrested, cautioned and warned, Investigations must be contacted. An investigator will assess the situation and advise the officer as to the proper course of action to be followed. In most cases an investigator will respond to the port to take statements and gather evidence. In accordance with the Customs Prosecution Policy outlined in Part 9 Chapter 1 of this manual, investigators will seek their Director's approval prior to laying charges. In some regions, Investigations may refer the matter to the RCMP or the local police. If it is

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decided that prosecution is not appropriate, the person is to be released from arrest and the normal customs process should continue.

16. Assaulting or threatening customs officers are violations of section 270 and 264.1 of the *Criminal Code* respectively. These matters must be immediately referred to the appropriate police agency.
17. If officers are prevented from enforcing the *Criminal Code* in the course of performing "Officer Powers" duties, then the matter should be dealt with in accordance with the *Criminal Code* and turned over to the appropriate police agency. "Officer Powers" duties include demanding a breath sample, processing individuals who are the subject of outstanding warrants, processing individuals who are in possession of property obtained by crime, processing persons who are suspected of having abducted or kidnapped another person.
18. When completing arrest reports in ICES, officers should ensure that they identify the offence as "*Customs Act* and *Criminal Code*" and the reason as "Obstructing or Assaulding a Peace Officer" depending on the nature of the event.

RIGHTS AND CAUTION

Note: The following directives are in addition to the procedures described in Part 6 Chapter 1 of this manual.

19. Officers must be concerned about the admissibility of any statements made by a person who is arrested or detained at Customs. As soon as it becomes apparent to an officer that charges could be laid as a result of a contravention (or the officer thinks that the matter will be referred for prosecution), the client or the client's agent is to be advised of the possibility of prosecution, advised of their right to retain and instruct counsel without delay and cautioned about making statements. The following caution must be read to the client:

"Sir (or Madam), I wish to advise you that charges MAY be laid against you (or your company) for violation of the *Customs Act*. You need not say anything. You have nothing to hope from any promise or favour, or nothing to fear from any threat, whether or not you do say anything. Anything you do say may be used in evidence. Do you understand?"

20. Prior to advising persons that charges under the *Customs Act* may be laid, officers should discuss the matter with their superintendents. Where it is not possible to discuss matters beforehand, officers should follow procedures concerning advice and caution, and notify their superintendents as soon as possible.

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21. Following the caution, it is essential that the alleged offender be asked whether the caution was understood. The answer to this question must be recorded in the officer's notes as well as any spontaneous remarks made by the person. These notes must include details of any questions asked, answers given, persons involved, evidence found, etc. In addition, the physical appearance, bearing and demeanour of the alleged offender should be noted, as well as the ability or inability of the person to understand the discussions. A record must also be made of all other individuals who came into contact with the alleged offender.

Note: Please refer to Part 6, Chapter 1 of this manual for a complete description of arrest procedures.

22. Where an arrested or cautioned person requests to speak to counsel, the officer will provide access to a telephone and a private room.
23. If counsel asks to speak to the customs officer or superintendent, the requests should be accommodated. Any conversation should be restricted to matters such as the reason for arrest, or the seizure allegations and the procedures that will be followed. Officers should never allow themselves to be drawn into discussions involving legal justifications for actions taken or possible "deals" in return for co-operation.

YOUNG PERSONS

24. When investigators (or customs officers) arrest persons who appear to be between the ages of 12 and 18, they should be asked to state their age and produce identification. If the subject is between the ages 12 to 17 inclusive, the arrest must adhere to the provisions of the *Youth Criminal Justice Act* (YCJA).
25. Sections 6, 8 and 10 of the YCJA identify types of measures that can be used instead of court proceedings. An investigator, before charging a young person, must take account of the principles in section 4 of the YCJA and consider whether it would be sufficient to:
 - a) take no further action;
 - b) give the young person an informal warning;
 - c) give the young person a formal caution;
 - d) refer the young person to a community program or agency to assist the young person in not committing offences; or
 - e) refer the young person to an extrajudicial sanctions program.

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Note: If the grounds for a charge are not present, the investigator should not use a warning, caution or referral as a means of dealing with the matter.

26. Young persons who are arrested or detained must be advised without delay about the right to counsel by the arresting officer. The officer must also provide the young person with an opportunity to obtain counsel. The right to counsel belongs to the young person. It is not exercised through a parent or guardian.

Note: For further details, refer to Part 6, Chapter 3, Arrest and Detention of Young Persons Policy and Procedures.

INTERVIEWS AND EVIDENCE

27. In most cases, customs investigators will interview the subject and take their formal statements. However, there may be occasions when customs officers will be required to conduct the interview. If the person requests the presence of legal counsel during the interview and counsel agrees to attend, this request should be accommodated and the interview deferred until such time as counsel arrives.

Note: When obtaining a written statement, form E 368 should be used.

28. It should be noted that the decision to conduct or delay the interview should not preclude the completion of formalities relating to the seizure or the issuance of the NPA. In this regard, the officer should secure all information and physical or documentary evidence relating to the goods and the offences. Details such as the full name and mailing address of the individual and company concerned, the person's date of birth and other basic information taken from a driver's licence or passport, should be recorded. In the absence of these details, it may be difficult to issue a summons if charges are laid.
29. Taking statements and seizing evidence is a crucial step towards successful prosecution. For complete instructions, please refer to the chapter on Evidence and Statements in Part 10, Chapter 2 of this manual.

COURT EXHIBITS

30. For *Customs Act* offences, evidence may be seized pursuant to section 110(3) using form E352 *Evidence Seizure Receipt*. If the goods were already seized as forfeit pursuant to section 110 (1) or (2), form K19S *Customs Seizure Receipt* should be used to document the seizure. In order to transfer the evidence to another location (including Investigations) form K129 *Exhibit Control* must also be completed (in addition to forms K19 or E352). Form K129 is to be endorsed to indicate that the goods must be returned to the CBSA at the conclusion of the court proceedings.

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31. When another agency proceeds with the prosecution and the goods or documents required as evidence are not already confiscated or abandoned, the other agency must seize the exhibits themselves using the appropriate legal authorities and forms (including warrants). Form K129 is only an exhibit control form. It does not provide the CBSA or any other agency with the authority to seize exhibits. The use of form E352 is restricted to present cases where there has been a contravention (or an attempted contravention) of the *Customs Act* or its regulations. Form E352 (section 110(3)) cannot be used to seize evidence of contraventions that occurred in the past or will occur in the future or for contraventions of other Acts of Parliament.

Note: Pornographic material should be documented on form K27. Please refer to Part 2, Chapter 14 of this manual.

32. Civil penalties (seizures, ascertained forfeitures and NPAs) are separate and distinct actions from a criminal prosecution. If the court acquits the individual, the civil penalties are not automatically overturned. Officers should consult with Investigations and/or Adjudications prior to releasing any seized goods upon the completion of a prosecution.
33. Where the Court orders the goods to be confiscated or returned to the individual from whom they were seized, Investigations must immediately notify the Adjudications Division, prepare a report, and submit it shortly thereafter. In all cases, the relevant customs documentation (forms E650, E352, K19S, K19, K24, K27, K129, etc.) is to be cross-referred to create an audit trail.

ROLES AND RESPONSIBILITIES

Customs Officers

34. Customs officers are responsible for:
- notifying their superintendent as soon as possible when smuggled or otherwise unlawfully imported goods are discovered and/or persons are arrested for suspected *Customs Act* violations;
 - ensuring that goods and evidence are seized and persons are arrested in accordance with legislative requirements and these policy and procedure guidelines;
 - maintaining an open line of communication with Investigations; and
 - recording and maintaining detailed notes of an occurrence in the issued Customs Notebook (CE1) and preparing the necessary documentation for further investigation and prosecution.

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Customs Superintendents

35. Customs superintendents are responsible for:
- a) ensuring adherence with these policies and procedures;
 - b) ensuring that Investigations is contacted whenever there is potential for prosecution for Customs violations (with the exception of narcotics); and
 - c) taking appropriate corrective action on any breaches of this policy.

Investigators

36. Investigators are responsible for:
- a) acknowledging receipt of all referrals received;
 - b) providing guidance to customs officers and superintendents involved in port prosecutions and other referrals to investigations;
 - c) investigating the alleged offences;
 - d) consulting with the Director of Investigations and the Department of Justice to determine whether a prosecution is warranted;
 - e) advising the referring agency of the status of the investigation; and
 - f) referring cases to other custom divisions and/or OGDs for follow-up action (e.g. collection of duties and taxes by Compliance Verification).

Regional Intelligence Officers

37. Regional Intelligence officers are responsible for:
- a) forwarding referrals received from ports of entry to Investigations in a timely manner;
 - b) considering whether requests for assistance received from other law enforcement agencies involve offences that are part of Investigations's mandate and consulting as appropriate; and,
 - c) determining whether information referred to them has intelligence value

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- d) consulting with Investigations to determine whether the matter should be referred to another agency in addition to Investigations (in accordance with section 107 of the *Customs Act*).

CUSTOMS ENFORCEMENT MANUAL

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 3

EVIDENCE AND STATEMENTS

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Evidence and Statements

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to professionally collect evidence of *Customs Act*, *Criminal Code*, or any other Act of Parliament contraventions where criminal prosecution is a possibility and to treat the evidence with due care.

DEFINITIONS

2. Refer to Part 11 - Glossary.

AUTHORITIES

Customs Act

3. Subsection 110(1) authorizes officers that have reasonable grounds to believe that this Act or its' regulations have been contravened with regard to goods, to seize without terms of release:
 - a) goods; or
 - b) any conveyance they have reasonable grounds to believe was used in respect of the goods either at or after the time of the contravention.
4. Subsection 110(3) authorizes an officer who believes on reasonable grounds that this Act or the regulations have been contravened, to seize anything that the officer believes on reasonable grounds will afford evidence in respect of the contravention.
5. Subsection 114(2) obligates an officer who seizes anything as evidence under this Act, to report the circumstances of the case.
6. Subsection 114(3) requires that anything seized as evidence alone be returned on completion of all proceedings.
7. Subsection 115(1) authorizes an officer to copy any record examined or seized. A copy certified by the Minister, or a person authorized by the Minister, is admissible in evidence.
8. Subsection 115(2) restricts the detention of a record seized as evidence to three months unless: the person from who it was seized agrees to further detention for a specified time; a justice of the peace orders its further detention for a specified time; or the record is required for instituted judicial proceedings.

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Criminal Code

9. Subsection 489(2) authorizes a designated officer in the execution of duties to, without a warrant, seize anything that the officer believes on reasonable grounds will afford evidence in respect of an offence against this or any other Act of Parliament.

Canadian Charter of Rights and Freedoms

10. Section 11 states that any person charged with an offence has the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal.

Youth Criminal Justice Act

11. Subsection 146(2) states that no oral or written statement made by a young person who is less than eighteen years old, to a peace officer or other person of authority, on the arrest or detention of the young person or in circumstances where the peace officer or other person of authority has reasonable grounds for believing that the young person has committed an offence is admissible against the young person unless:
 - a) the statement was voluntary;
 - b) the person to whom the statement was made has, before the statement was made, clearly explained to the young person, in language appropriate to his or her age and understanding, that
 - i) the young person is under no obligation to make a statement,
 - ii) any statement made by the young person may be used as evidence in proceedings against him or her,
 - iii) the young person has the right to consult counsel and a parent or other person in accordance with paragraph c), and
 - iv) any statement made by the young person is required to be made in the presence of counsel and any other person consulted in accordance with paragraph c), if any, unless the young person desires otherwise;
 - c) the young person has, before the statement was made, been given a reasonable opportunity to consult

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- i) with counsel, and
 - ii) with a parent or, in the absence of a parent, any other appropriate adult chosen by the young person, as long as that person is not a co-subject, or under investigation, in respect of the same offence; and
 - d) if the young person consults a person in accordance with paragraph c), the young person has been given a reasonable opportunity to make the statement in the presence of that person.
12. Subsection 146(3) provides the exception in certain cases for oral statements. The requirements set out in paragraphs (2) b) to d) do not apply in respect of oral statements if they are made spontaneously by the young person to a peace officer or other person in authority before that person has had a reasonable opportunity to comply with those requirements.
13. Subsection 146(4) provides the young person the waiver of right to consult. A young person may waive the rights under paragraph (2) c) or d) but any such waiver
- a) must be recorded on video tape or audio tape, or
 - b) must be in writing and contain a statement signed by the young person that he or she has been informed of the right being waived.

PURPOSE AND SCOPE

14. The purpose of this chapter is to outline the nature and types of evidence and the procedures for CBSA officers to follow when obtaining and handling evidence.

BACKGROUND

15. A CBSA officer may suspect a person of having committed an offence, however, the person is not guilty of having done so until the offence is proven in a court of law. To prove the offence, the officer must gather and present evidence that substantiates the allegation.
16. By definition, evidence is that which serves to prove or disprove a belief or a conclusion. Evidence in criminal matters is whatever serves, as proof that the person charged with an offence is either guilty or innocent. Evidence can be oral, written or can consist of physical exhibits (such as the goods seized).

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POLICY GUIDELINES

Seizing as evidence

23. An officer may seize anything that he or she believes on reasonable grounds will afford evidence in respect of a contravention of the *Customs Act*, the *Criminal Code* or any other Act or Parliament.

Note: Refer to Part 6, Chapter 7 *Criminal Code* Offences and Part 5, Chapter 3, *Criminal Code* - Seizure of Evidence and Goods

24. An officer will associate anything seized as evidence under the *Customs Act*, to a specific contravention of the *Customs Act*. Anything seized as evidence under the *Criminal Code* or another Act must be associated with the applicable contravention of that legislation.

25. An officer may seize goods as evidence of a current contravention.

Note: An officer cannot seize a conveyance with an empty hidden compartment because there is a belief that the conveyance was used to smuggle goods in the past or will be used to do so in the future.

26. An officer will only seize goods as evidence when there is a potential for prosecution. To determine if the case meets the prosecution thresholds, and to receive further instructions, officers will contact the CBSA Investigations Division. The CBSA investigators may contact the police or other government department to determine if they will pursue prosecution when it is not a *Customs Act* contravention.

Note: Refer to Part 9, Chapter 1, Customs Prosecution Policy.

Note: Refer to Part 6, Chapter 7, Criminal Code Offences and Part 5, Chapter 3, Criminal Code – Seizure of Evidence and Goods.

27. An officer may seize records, books or documents that relate to imported or exported goods and will seize the originals rather than make photocopies, except when specified.

Note: Photocopying personal information not related to enforcing the *Customs Act* may be interpreted as an unlawful seizure under section 8 of the *Charter of Rights and Freedoms*.

Note: Refer to Part 4, Chapter 3, Personal Baggage, Goods and Conveyance Examination for more information on the procedures for examining and photocopying personal documents.

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28. The following are some examples of when officers may seize goods as evidence:
- a) The discovery of a second invoice for a personal vehicle is found showing a higher value than was previously reported. The CBSA Investigations Division decides to pursue prosecution action. The CBSA officers should seize the vehicle as forfeit under 110(1) and both sets of invoices as evidence pursuant to 110(3);
 - b) A person willfully attempts to significantly mis-describe, undervalue or smuggle high-value goods and the CBSA Investigations Division decides to initiate prosecution proceedings. The goods should not be seized and released after payment of a penalty (i.e. under subsection 110(1)) but rather the goods should be seized as evidence (i.e. under subsection 110(3)) and held pending further instructions from the CBSA Investigations Division.
- Note: This does not apply to alcohol, tobacco, weapons, drugs or child pornography, which is to be seized as forfeit with no terms of release rather than seized as evidence.
- c) The discovery of a large amount of diamonds concealed in the false lining of a traveller's suit jacket leads to an examination of his laptop computer. The laptop examination reveals electronic mail instructions on how to smuggle and where to deliver the diamonds. The laptop should be seized pursuant to 110(3).

Chain of Custody

29. Officers must treat anything seized as evidence as a potential court exhibit. It is important that the chain of custody or continuity of possession be maintained and the exhibits properly handled.

Return of Evidence

30. Officers will not release goods seized as evidence until completion of all proceedings. CBSA Investigations Division will provide instructions.
31. Officers will not detain records seized as evidence for more than three months unless the person from whom it was seized agrees, a justice of the peace orders a longer detention or judicial proceedings are instituted. The CBSA Investigations Division will provide instructions.

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ROLES AND RESPONSIBILITES

CBSA Officers

32. CBSA officers are responsible for:

- a) adhering to the policy and procedures outlined in this chapter;
- b) enforcing the *Customs Act*, *Criminal Code* and other federal statutes in accordance with legislative requirements, established policies, and standard operating procedures;
- c) seizing evidence as required;
- d) recording and maintaining detailed notes of evidence seized, in the issued CBSA Notebook (CE 1) and preparing the necessary documentation for further investigation and prosecution;
- e) notifying their superintendent as soon as possible when smuggled or otherwise unlawfully imported goods and/or evidence is seized and/or persons are arrested for suspected *Customs Act* violations;
- f) ensuring the chain of custody of all evidence seized;
- g) ensuring all evidence seized is stored in a safe and secure manner prior to being transferred to the CBSA Investigations Division or responding police agency;
- h) labeling and sealing all evidence in the CBSA evidence bags;
- i) taking statements of individuals when required;
- j) ensuring all evidence is properly transferred to the CBSA investigator or the responding police agency; and
- k) maintaining an open line of communication with the CBSA Investigations Division.

CBSA Superintendents

33. CBSA superintendents are responsible for:

- a) ensuring adherence with the policy and procedures outlined in this chapter;

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- b) ensuring that the CBSA Investigations Division is contacted whenever there is potential for prosecution for *Customs Act* violations (with the exception of narcotics);
- c) ensuring officers are provided the necessary time to take statements, seize all necessary evidence and complete all necessary paperwork;
- d) contacting the Regional Intelligence Officer (RIO), or responding police agency when necessary;
- e) recording and maintaining detailed notes of any involvement they had in the case in the issued CBSA Notebook (CE 1) and preparing the necessary documentation for further investigation and prosecution; and
- f) taking appropriate corrective action on any breaches of this policy.

Regional Intelligence Officer

34. RIO's are responsible for:

- a) taking statements from individuals when necessary and recording and maintaining detailed notes of these interviews in the issued their notebook;
- b) consulting with the CBSA Investigations Division to determine whether the matter should be referred to another agency in addition to the CBSA Investigations Division (in accordance with section 107 of the *Customs Act*); and
- c) contacting the RCMP when the CBSA Investigations Division does not wish to take custody of the goods;

CBSA Investigations Division

35. CBSA Investigations Division is responsible for:

- a) consulting with the Director of Investigations and the Department of Justice to determine whether a prosecution is warranted;
- b) referring cases to other CBSA divisions and/or other government departments for follow-up action;
- c) ensuring chain of custody for seized goods transferred to their possession;

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- d) holding evidence for court purposes in a safe and secure manner;
- e) providing instructions regarding the release of goods seized as evidence;
- f) obtaining extensions for the detention of evidence for periods greater than 3 months;
- g) reviewing all evidence seizures after 60 days from the date of seizure; and
- h) taking formal statements and recording and maintaining detailed notes of these interviews in the issued CBSA notebook (CE 1).

Regional Directors of Investigations

36. Regional Directors of Investigations are responsible for:

- a) reviewing appeals of the seizure of evidence;
- b) determining appropriate course of action for an appeal to the seizure of evidence;
- c) advising the appellant to file appropriate documents with the court regarding seizures of evidence that lead to criminal charges;
- d) authorizing the return of evidence; and
- e) advising the appellant to appeal to the CBSA Recourse Division when evidence is required to support civil actions.

Enforcement Branch

37. The Enforcement Branch is responsible for:

- a) providing guidance to the field regarding the collection of evidence and the taking of statements;
- b) developing, modifying and approving policies in accordance with court jurisprudence, related to the seizure of evidence and the taking of statements;
- c) developing, modifying and delivering training courses related to the taking of statements and collection of evidence; and

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- d) monitoring adherence with this policy and procedures by the regions.

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PROCEDURES

Note: The procedures of this chapter outline some of the usual procedures that may occur during the course of seizing and preserving evidence and statements.

38. Verify there is a potential for prosecution by contacting the CBSA Investigations Division.
39. Determine if the goods are commercial and specified (i.e. alcohol, tobacco, weapons, drugs or child pornography) and the contravention is specified the Ministerial Directive (i.e. C19, 20, 25, 31, 66, 69, 203, 344, 345, 346 and 348).

Note: Refer to other chapters in Part 5 - Enforcement Actions - Goods, Documents, Evidence and Conveyances.

40. If the commercial goods and contravention are specified;
 - a) seize the goods as forfeit pursuant to subsection 110(1); and
 - b) any evidence related to the goods maybe seized pursuant to subsection 110(3).
41. If the goods or the contravention are not specified or the goods are not commercial, seize the goods as evidence pursuant to subsection 110(3).
42. Do not release goods and/or evidence seized pursuant to 110(3) until the CBSA Investigations Division determines their disposition in accordance with sections 114(3) and 115(2) of the *Customs Act*.
43. Complete any CBSA processes such as collecting duties and taxes, issuing penalties and releasing non-evidence goods.
44. Seize the evidence.
45. Complete form E352 Evidence Seizure Receipt.
46. Report the details of the evidence seized on form K19A Report of the Circumstances and Events.

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Note: If the seizure of evidence is made in conjunction with another enforcement action (i.e. an administrative monetary penalty, a physical seizure of goods or an ascertained forfeiture), it is not necessary to complete form K19A since the details will already be documented in forms E650 - Notice of Penalty Assessment (NPA) or K19S Seizure Receipt. A copy of the applicable narrative report should be attached to form E352 and provided to the CBSA Investigations Division.

Documenting Seizures

47. If the case involves specified goods and contraventions, the goods should be seized as forfeit pursuant to section 110(1), documented on form K19S and any evidence related to the goods should be seized pursuant to 110(3) and documented on form E352.
48. If prosecution is warranted but the case does not involve goods and contraventions specified by ministerial directive, then the *goods* should be seized as evidence pursuant to 110(3) and documented on form E352.

Note: Refer to Part 5, Chapter 1, Commercial Seizures, Ascertained Forfeitures and Administrative Monetary Penalties for information on specified goods and contraventions.

49. Goods and/or evidence seized pursuant to 110(3) are not to be released until the CBSA Investigations Division determines their disposition in accordance with sections 114(3) and 115(2) of the *Customs Act*.
50. In most cases where the CBSA Investigations Division considers prosecuting, investigators will respond to the CBSA office in person and seize the evidence. However, in some regions or on some occasions, the CBSA Investigations Division will ask officers to seize the evidence.
51. For narcotics related offences, evidence need not be documented on form E352. Form HC/SC 3515, Drug Offence and Disposition Report, should be used for such purposes. Form HC/SC 3515 also provides for the transfer of evidence to the police.

Note: Please refer to Part 2, Chapter 6, Drugs for more information on the procedures to be followed for drug seizures.

From E 352 Distribution

52. The form E352 is a four-part form. The distribution is as follows:

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- a) CBSA copy: to be forwarded to the Recourse Division;
- b) Original copy and page 5: to be given to the person from whom the evidence was seized;
- c) Seizing Office copy: to be placed in seizure of evidence file; and
- d) Regional Investigations copy: to be given to the responding CBSA Investigator or forwarded to the Director of Investigations.

Disputes and Appeals of Evidence Seizures

- 53. Items seized as evidence pursuant to section 110(3) are generally seized for the purpose of affording evidence of the commission of a criminal offence. Since an individual might be charged with an offence as a result of the seizure of the evidence, the return and reporting provisions of section 114(2) and 114(3) of the *Customs Act* must be followed.
- 54. If the CBSA Investigations Division decides not to prosecute, the items seized as evidence pursuant to 110(3) would also be subject to the correction and review provisions of sections 127.1 and 129 of the *Customs Act* respectively.

Note: Refer to Part 5, Chapter 1, Commercial Seizures, Ascertained Forfeitures and Administrative Monetary Penalties for information on canceling a seizure.

- 55. If an individual wishes to dispute or appeal the seizure of evidence, the matter should be referred to the Director of Investigations in the region.
- 56. The Director of Investigations will then determine the appropriate course of action for each particular case.
- 57. If the investigation leads to criminal charges, the courts will decide on the disposition of the evidence.
- 58. The Director of Investigations will advise the appellant to file the appropriate documents with the courts.
- 59. If no charges are laid, the Director of Investigations can authorize the return of the evidence or if the evidence is required to support the civil actions taken, advise the appellant to appeal to the CBSA Recourse Division.

Return of Evidence

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60. When anything is seized as evidence alone, it is not seized as forfeit.

Note: Consequently, subsection 114(3) requires that anything seized as evidence alone is returned to the person or company from whom it was seized upon completion of all proceedings in which the thing(s) seized may be required.

61. The office that seized the evidence will be responsible for the actual return of seized evidence. This will be accomplished by sending a certified letter to the person or company concerned, offering the option of either:

- a) having the thing(s) seized returned by registered mail; or
- b) picking up the thing(s) seized at the CBSA office where the goods are located.

62. If there is no response to the letter after a period of 30 days from which it was sent, the thing(s) seized will be recorded as unclaimed goods and disposed of in accordance with the procedures outlined in Memorandum D4-1-6.

63. Should the certified letter be returned as undelivered, the address should be verified and the letter sent once again. Upon subsequent return or no response within 30 days, the procedures listed in the previous paragraph will apply.

Detention of Seized Records

64. Subsection 115(2) of the *Customs Act* requires that where any records, books or documents are seized as evidence they must not be detained for a period of more than 3 months from the date of seizure, unless, before that time:

- a) the person from whom they were seized agrees to their further detention for a specified period of time;
- b) a justice of the peace is satisfied that their further detention for a specified period is warranted and so orders; or
- c) judicial proceedings are instituted (prosecution) in which the thing(s) seized may be required.

65. Normally, three months will be a sufficient length of time in which to determine if judicial proceedings are warranted or not.

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66. At the end of 60 days from the date of seizure, all evidence seizures should be reviewed with the CBSA Investigations Division to determine if the evidence should be returned or not.
67. When it is decided that evidence will not be returned, it will be the responsibility of the CBSA Investigations Division to obtain the extension.
68. When records, books or documents seized as evidence are to be returned, the procedures outlined previously for the return of evidence will be followed.

Copies of Records, Books or Documents

69. For most seizure actions involving goods and where it is believed that prosecution will not be undertaken, it is appropriate to copy the records, books or documents seized and return the originals to their owner.
70. Where only copies are kept, an E352 form will not be required.
71. Where the criteria of the prosecution policy has been met and it is believed that prosecution will be undertaken, the originals should be kept, a form E352 completed, and if necessary, copies of the original documents, etc., made for use by the person from whom the originals were seized.

Physical Evidence

72. Whenever undeclared or prohibited goods are found, they are to be considered as potential evidence.
73. Officers are to ensure that other persons, including CBSA personnel not involved with the seizure, do not arbitrarily handle the goods they seize.
74. As soon as undeclared or prohibited goods are found, they should be taken into the custody of the officer and removed from the importer's possession.

Note: This is the beginning of the chain of custody.

75. The goods should then be placed in a secure area away from the importer or other persons, but within the view and control of the officer.
76. When it is determined that the goods may be used as evidence, the goods should be marked or labeled showing the date, time, initials of the seizing officer and exhibit number.

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Evidence and Statements

77. Where an officer assists another officer in a search, it would be appropriate to have the assisting officer do the marking, but the seizing officer must also initial the evidence.

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Note: Only goods that will not be returned to the importer should be physically marked, i.e., cloth wrapped narcotics. Evidence bags and labels are available for all seized goods. Narcotics should always be placed in evidence bags as well as being physical marked.

78. Once evidence, which would warrant arrest, has been discovered, the subject is to be immediately placed under arrest, advised of the right to counsel without delay and cautioned concerning the making of statements.

Note: This is to be done even if the search has not been completed.

79. When the arrested traveller elects to contact counsel and this necessitates removing the traveller from the secondary area, the seizing officer is to maintain continuous possession of the seized goods or must have another officer remain with the goods.

Note: When an assisting officer watches over goods or evidence for another officer, that person becomes part of the chain of custody and could be called as a witness in any subsequent court proceedings where the continuity of evidence becomes an issue. In anticipation of such proceedings, the seizing officer should record the assisting officer's participation so that it becomes part of the history of the chain of custody.

80. Any goods or evidence remaining in the CBSA's possession are to be labeled and marked using the CBSA identification labels and/or evidence bags.
81. The identification labels are used to mark and identify all seized, detained or abandoned goods or evidence that are too large to be placed in evidence bags.
82. The label should be completed prior to being applied to the goods or evidence, with a cross reference to the applicable enforcement action number K19S, K19, E650 or K24, the date and time of the seizure, NPA or detention, the CBSA office number and the officer's initials.
83. The label should then be applied directly to the goods or evidence in a conspicuous area prior to storage.
84. When it appears that the goods or evidence could be damaged by the label's gum adhesive, pre-punched labels should be attached to the goods using a wire or string.
85. Evidence bags are available in two sizes and are used for items that may be handled frequently and used as court exhibits.

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86. The larger bags are used for items such as firearms, pornography, documents, etc., while the smaller bags are used for items such as drugs and jewellery.
87. The seizing officer should complete the label portion of the bag before it is sealed.
88. After the waxed backing has been peeled off, the label may be folded over and used to seal the bag.
89. Once sealed, the bag becomes tamper proof as the labels are pressure sensitive and will tear with any attempt at opening.
90. Once marked and identified, seized goods should be placed in the CBSA office safe or the bond room until required, released, or disposed.

Transferring Evidence

91. The *Customs Act* contravention takes precedence and should result in a seizure of the goods under section 110 of the *Customs Act*.
92. The CBSA Investigations Division is to be contacted for matters that are ordinarily referred to them before informing the RCMP of other statute offences that may have been contravened.

Note: This should be done in order to determine if the CBSA Investigations Division is interested in taking the CBSA portion of the case and whether they are interested in taking custody of the goods as "evidence" of the *Customs Act* contravention.
93. Where the CBSA Investigations Division declines the case or does not wish to take custody of the goods, the RCMP may be contacted via the RIO or as per established lines of communications.
94. Where the CBSA Investigations Division takes the case and custody of the goods, the RCMP are to be informed of the other statute offence via the RIO (or established lines of communication) and the location/status of the goods.
95. When the CBSA Investigator notes an offence of another Act of Parliament involving goods imported into Canada during the course of an investigation into a *Customs Act* matter, the RCMP is to be notified of the offence by the CBSA Investigations Division.

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96. When the RCMP are so notified, the Intelligence and Contraband manager of the region is to be informed that such matter has been referred to the RCMP and what, if any, action is being taken by the RCMP.
97. Whenever it is necessary to transfer evidence to another location or law enforcement agency, it is essential that the chain of custody remain unbroken.
98. In order to transfer the evidence to another location (including the CBSA Investigations Division) form K129 *Exhibit Control* must also be completed (in addition to forms K19 or E352).
99. Form K129 is to be endorsed to indicate that the goods must be returned to the CBSA at the conclusion of the court proceedings.

Note: When an agency other than the CBSA proceeds with the prosecution and the goods or documents required as evidence are not already seized or abandoned pursuant to the *Customs Act*, the other agency must seize the exhibits themselves using the appropriate legal authorities and forms. Form K129 is only an exhibit control form. It does not provide the CBSA or any other agency with the authority to seize exhibits.

100. The person or officer taking possession of the goods must sign for receipt of the goods on form K129.
101. The original copy of the signed receipt should then be placed on the seizure file.
102. When the goods are contained in an evidence bag, the receiving officer should indicate on the receipt the condition of the seal when received (e.g., "Seal intact").
103. When seized goods are returned, the above process is to be reversed.
104. The seized goods will normally be returned in a new envelope or evidence bag, along with the evidence bag originally used by the CBSA.
105. The envelope or other agency evidence bag should then be placed in a new CBSA evidence bag, and sealed by the officer.
106. It is not necessary to break the seal of the other agency bag if the goods are visible.

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107. All used envelopes or evidence bags should be retained, either with the goods or on file, to prove chain of custody.
108. When evidence is introduced into court, officers should be aware that they might be called upon to verify the chain of custody of the evidence.
109. This may involve the court appearance of each person who has had the opportunity to come into contact with the goods.
110. If defence counsel can establish for the courts that the chain of custody was broken, they may be able to create doubt as to the authenticity of the goods and may argue that the goods presented in evidence are not the same as those seized. In such instances, the evidence may be found inadmissible.
111. Civil penalties (seizures, ascertained forfeitures and NPAs) are separate and distinct actions from a criminal prosecution. If the courts acquit the individual, the civil penalties are not automatically overturned.
112. Officers should consult with the CBSA Investigations Division and/or the CBSA Adjudications Division prior to releasing any seized goods upon the completion of a prosecution.
113. Where the Court orders the goods to be confiscated or returned to the individual from whom they were seized, the CBSA Investigations Division must immediately notify the CBSA Adjudications Division, prepare a report, and submit it shortly thereafter.
114. In all cases, the relevant CBSA forms (E650, E352, K19S, K19, K24, K27 K129, etc.) are to be cross-referred to create an audit trail.

Statements

115. All peace officers and persons in authority must provide the subject with a warning or “caution”, concerning the uttering of statements. While there is no court prescribed wording for this caution, the CBSA has adopted the following wording:

“You are not obliged to say anything. You have nothing to hope from any promise of favour, or nothing to fear from any threat, whether or not you do say anything. Anything you do say, may be used in evidence.”

116. This caution is to be given to all persons as soon as an arrest is made or immediately following a spontaneous admission by the person that an offence has been committed.

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Note: For example, a traveller is sent to secondary for a mandatory examination. Prior to opening his luggage, the traveller makes a statement to the officer to the effect that he is carrying narcotics although physical evidence has not yet been uncovered. Depending on the circumstances, the traveller should be cautioned prior to further statements being made.

117. Once an arrest is made, if the person has already spoken with other officers or has made admissions, it should be made clear to the arrested person that there is no requirement to make further statements merely because another officer has entered the interview/search room or has attended nearby.

Note: This is done so the person cannot claim that there was inducement to make a statement by the very presence of another officer.

118. Each officer who enters the area must provide the subject with a secondary caution. The wording of this caution is as follows:

"If you have spoken to any customs officer, police officer or to anyone with authority, or if any such person has spoken to you in connection with this case, I want it clearly understood that I do not want it to influence you in making any statement."

119. It is vital that following either caution the accused be asked whether the caution was understood. The answer to this question must be recorded in the officer's notebook.

120. If the accused does not understand, paraphrase the caution so that it is understood and record in the officer's notebook the wording of the paraphrased caution.

121. If there appears to be a language problem, the services of an interpreter should be employed where possible.

122. It is important that following either caution, officers make it a practice to automatically record in their notebooks the actual time at which the caution was provided.

Note: When dealing with "young persons", officers must provide the caution in words that are appropriate to the age and understanding of the young person.

Note: Please refer to Part 6, Chapter 3, Arrest and Detention of a Young Person for further details.

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123. Whenever an accused does say anything to an officer, notes of what was said should be made in the officer's notebook as soon thereafter as possible.

Note: These notes should record the person's comments *verbatim*.

Taking Formal Statements

124. In most cases, CBSA investigators, RIO's or the police will interview the subject and take their formal statements.

125. There may be occasions when officers will be required to conduct the interview.

126. If the person requests the presence of legal counsel during the interview and counsel agrees to attend, this request should be accommodated and the interview deferred until such time as counsel arrives.

Note: When obtaining a written statement, form E368 should be used. Refer to Appendix B for a copy of form E368.

127. It should be noted that the decision to conduct or delay the interview should not preclude the completion of formalities relating to the seizure or the issuance of the Notice of Penalty Assessment.

128. CBSA officers should secure all information and physical or documentary evidence relating to the goods and the offences.

129. Details such as the full name and mailing address of the subject and company concerned, the person's date of birth and other basic information taken from a driver's licence or passport, should be recorded in the officer's notebook. In the absence of these details, it may be difficult to issue a summons if charges are laid.

130. All interviews should be conducted in private with two officers present when and if possible.

131. Whenever possible, at least one of the officers should be the same sex as the person interviewed.

132. Access to the interview room should be limited to only those persons involved in the interview or statement taking.

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Note: All persons who have had access or who have communicated directly or indirectly with the person during the interview may be called as witnesses.

133. If the person wishes to have his or her counsel present during the interview, this should be allowed although there is no legal requirement to do so.
134. If counsel has not attended at the CBSA office by the time the interview is to be conducted, there is no requirement to wait for counsel.
135. Prior to taking a statement, the subject should be made as comfortable as possible.
136. Officers should allow the person to use the washroom or to have a drink of water if safe to do so.
137. Once the interview is under way, no interruptions should be permitted unless they are of an urgent nature. Use of discretion is recommended.
138. The narrative form of statement is preferable. The person should be provided with a sheet of paper and a pen and asked to record in his or her own handwriting the circumstances of the offence.
139. A narrative statement written by the accused is not always obtainable. In such instances, a statement may be obtained using questions and answers duly recorded by the questioning officer.

Note: All questions and answers should be recorded verbatim. It is not advisable to paraphrase as this may affect the validity of any statement.

140. When two officers are working together in the taking of a statement, one officer should do the questioning and recording, while the other officer should make observations and record details.

Note: For example, the observer should note the appearance and dress of the person, his location in the room, his bearing and demeanour, whether the person is nervous or calm, etc.

141. Officers should note in their notebooks all the steps of the interview, including any interruptions. Times should also be noted for all steps.
142. Although an accused may have been previously cautioned, a second caution should again be provided at the beginning of the interview.

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Note: It is advisable to write this warning into the statement including the words "Do you understand?". The accused should then be asked to sign beside his answer.

Note: CBSA Statement forms E368 and E368-1 contain the warning in the forms.

143. In obtaining a statement from an accused person, every effort should be made to avoid leading or suggestive questions.
144. When the accused makes a voluntary statement of explanation, be it denial or admission, there should be no interruptions until such statement is finished.
145. Persons making a voluntary statement must not be cross-examined concerning the statement and no questions should be asked about it, except for the purpose of clarifying any ambiguity, i.e., to clear up certain points or to establish times.
146. When a statement is complete, it should be read out loud and the subject should be given an opportunity to amend or correct the statement in the person's own handwriting.
147. They should then be asked to sign the statement at the end of the last paragraph and to initial any changes.

Note: It is not absolutely necessary that the statement be signed.

148. The recording and observing officers must both sign the statement as well as the bottom of each page. Each page of the statement should also be numbered "page ____ of ____".

Statements from Young Persons

149. The taking of statements from young persons is strictly governed. The provisions relating to statements are found in section 146 of the *Youth Criminal Justice Act*. If these provisions are not complied with, then the statement may not be admitted.
150. The following steps must occur before a young person makes a voluntary statement:
 - a) the person to whom the statement is to be made must caution the young person that he or she has the right to consult counsel and a parent or other appropriate adult;

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- b) the person to whom the statement is to be made must caution the young person that any statement he or she makes must be made in the presence of counsel, a parent or other appropriate adult, unless the young person desires otherwise;
- c) the young person must be given a reasonable opportunity to consult with counsel, a parent or other appropriate adult; and
- d) if consultation with counsel, a parent or other adult occurs, the young person must be given a reasonable opportunity to give the statement in the presence of the person with whom he or she has consulted.

REFERENCES

- 151. *Customs Act*
- Criminal Code*
- Youth Criminal Justice Act*
- CBSA Investigators Training Course*
- Canadian Charter of Rights and Freedoms*
- Investigations Manual*

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 3

EVIDENCE AND STATEMENTS

APPENDIX A

STATEMENTS AND CONFESSIONS CHECK LIST

APPENDIX A

STATEMENTS AND CONFESSIONS CHECK LIST

During a Personal Search or Baggage/Conveyance Examination

1. Questions may be asked of any person associated with any goods, during a personal search or a baggage/vehicle examination, to ascertain the lawful status of the goods in question.
2. If a person makes a spontaneous inculpatory statements concerning any goods in their possession, and it becomes apparent that they may be arrested as a result of it (e.g., the person states that they have narcotics or undeclared restricted or prohibited firearms in their possession), they should be cautioned immediately thereafter concerning any further statements.
3. As soon as evidence has been obtained which provides reasonable grounds to arrest a person (e.g., narcotics or undeclared prohibited or restricted firearms are found), the person must be formally arrested, advised of the right to counsel and warned concerning statements.

After an Arrest Has Been Made

4. Once an arrest is made, the subject must be advised of the right to retain and instruct counsel and cautioned concerning statements. The caution should be read to the subject whenever possible, however in certain instances it may be read by the subject. In either case, it must always be confirmed that the caution is understood. Any language difficulties must be clarified and an interpreter summoned if necessary.
5. The physical and emotional state of the subject should be noted. If the subject is under the influence of drugs or alcohol, any statement obtained may not be admissible, however, this should not preclude an attempt to obtain one. In these circumstances, the taking of a statement should be delayed if possible.
6. Once the form that the statement will take has been determined (narrative or question/answer), the subject should be asked if he wishes to write his own statement.
7. All questions and answers must be recorded. Questions must not be in the form of a cross-examination (avoid making accusations, etc.). If after warning the subject, there is an unwillingness to say anything further, questioning should cease.

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Evidence and Statements

APPENDIX A

8. Any interruptions occurring during a statement should be noted and recorded.

9. Never lie to, promise, or threaten a subject in any manner. Any questions asked by the subject should be responded to politely and to the best of the officer's ability. If you do not know the answer to a question, say that you do not know.

After the Statement Has Been Taken

10. Have the statement read by the subject in a loud voice. If this is refused, read the statement to the individual.

11. Have any changes that are required (e.g., when the subject wishes to make a correction to what has been recorded) made by the subject and initialed. These changes may be made by the officer if necessary, but should be initialed by the subject. The part(s) to be corrected must never be obliterated but simply ruled out.

12. Do not pressure or coerce the subject into signing the statement. An unsigned statement will have more chance of admission as evidence than one in which the signature has been forced.

13. If a copy of the statement is given to any other person or agency, ensure that the original is retained for the file. An evidence bag may be used to store the document but it is not necessary to do so.

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 3

EVIDENCE AND STATEMENTS

APPENDIX B

**CANADA CUSTOMS VOLUNTARY
STATEMENT FORM**

CANADA CUSTOMS VOLUNTARY STATEMENT FORM

1. Form E 368 should be used whenever a statement is taken and it is intended that the statement will be used as evidence.
2. The form need not be typed, as it will not be possible to do so during the interview. Transcribing may be done at a later date; however, the handwritten copy is the one, which will be used as the exhibit. In this regard, the original must be completed in ink.
3. If it is necessary to make changes or corrections to the statement, these should be initialed by the subject. It is preferable to have the subject make changes in his own handwriting. The part(s) that is (are) changed or corrected must not be obliterated, but simply ruled out so that the original is still legible.
4. Care should be taken to ensure that the voluntary statement form is completed in full detail. The following points are important:
 - a) the pages must be numbered and the total number of pages comprising the statement noted;
 - b) the time that the interview commenced;
 - c) the time that the interview ended, i.e., when the complete statement has been read by the subject and all changes made;
 - d) the full name of the person giving the statement. Initials must not be used and surnames should be written in capital letters;
 - e) the current address of the person giving the statement. If the person has no fixed address a notation should be made indicating "no fixed address" or "care of.....";
 - f) the name of the city and the province in which the statement is taken;
 - g) the date;
 - h) the name of the officer who has provided the warning. In most instances, this will be the questioning/recording officer;
 - i) the title of the officer who has provided the warning;

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Evidence and Statements

APPENDIX B

- j) the answer given by the person from whom the statement is taken, as to whether or not the caution is understood. This should always be a "yes" for the statement to be admissible in court;

Note: If the person states that the warning has not been understood, it should be repeated and explained in other words. Always make a record of the explanation.

- k) the signature of the person who was cautioned; and
- l) the signature of the officer who provided the caution, and of the witnessing officer.

CUSTOMS ENFORCEMENT MANUAL

Part 9

INVESTIGATIONS AND CRIMINAL PROCEEDINGS

Chapter 4

COURT POLICY AND PROCEDURES

EN Part 9 Chapter 4

Court Policy and Procedures

POLICY STATEMENT

1. It is the policy of the Canada Border Services Agency (CBSA) to have CBSA officers attend court cases when required. CBSA investigators recommend prosecution of significant cases of fraud and smuggling under the *Customs Act, Excise Act, Export and Import Permits Act, United Nations Act, Tobacco Act and Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*.

DEFINITIONS

2. Refer to Part 11 - Glossary.

AUTHORITIES

Customs Act

3. Section 160(1) states that every person who contravenes section 11, 12, 13, 15 or 16, subsection 20(1), section 31 or 40, subsection 43(2), 95(1) or (3), 103(3) or 107(2) or section 153, 155, 156, or 159.1 or commits an offence under section 159 or knowingly contravenes an order referred to in subsection 107(11):
 - a) is guilty of an offence punishable on summary conviction; or
 - b) is guilty of an indictable offence.
4. Subsection 160.1 states that every person who contravenes section 153.1 is guilty of an offence, and in addition to any penalty otherwise provided, is liable on summary conviction to a fine, imprisonment or both.
5. Section 161 states that every person who contravenes any of the provisions of the *Customs Act* not otherwise provided for in section 160 is guilty of an offence punishable on summary conviction.

PURPOSE AND SCOPE

6. The purpose of this chapter is to outline some of the usual procedures that may occur during the course of a typical trial. It should be noted, that a specific or generic procedure couldn't be established. The actual procedures followed, will differ from court to court.

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Court Policy and Procedures

BACKGROUND

7. Most charges laid under the *Customs Act* are tried by way of summary conviction before magistrates or judges, and the procedure is similar in all parts of Canada. In non-jury trials, judges or magistrates act as both judge and jury. They instruct themselves in the law and find a verdict on the facts. The general rules governing this procedure are contained in Part XXVII of the *Criminal Code*.
8. CBSA officers will often be called as witnesses for cases involving charges laid under the *Criminal Code*. These trials may involve the use of juries. Jury trials differ in that the judge instructs the jury in the law and the jury finds a verdict on the facts. Part XX of the *Criminal Code* contains provisions governing juries.

The Court Process

Swearing the Information

9. An arrest and a decision to prosecute are the preliminary steps in the lengthy process necessary to bring the matter before the court. All court proceedings commence with the swearing of an “Information”, in writing, before a justice of the peace or a Provincial or Territorial Court Judge.
10. The information (*Criminal Code* Form 2) may be sworn by anyone who has reasonable grounds to believe that an accused committed an offence. For CBSA cases, usually a CBSA investigator or police officer will swear the information; however, in some cases such as assault, the aggrieved party may do so. The person who swears the information is called the informant.

The Subpoena

11. A subpoena is a court order requiring a person (other than an accused who receives a summons) to appear in court at a specified time in order to give evidence pertaining to the case that is before the court. CBSA officers served with a subpoena must attend court on the specified date, bring along any related materials (evidence) requested in the subpoena and remain until the case is over unless dismissed by the presiding judge. Although only one subpoena is issued, it remains in effect for the entire trial.

Note: Refer to Appendix B for the national procedures for testimony of CBSA officers testifying in foreign courts.

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Court Policy and Procedures

12. The CBSA does not usually issue subpoenas to its own officers, as they are required to attend court for *Customs Act* charges as part of their job description. CBSA investigators will usually contact CBSA officers for notes and will-says and will notify the officers of upcoming court cases.
13. Failure to obey a subpoena is considered to be contempt of court, which is a criminal offence.
14. Officers who receive a subpoena to testify in court must immediately notify their superintendents so that appropriate arrangements can be made.

Election of Trial

15. All offences that are not within the absolute jurisdiction of a particular court are known as "electable offences". This means that the accused may elect to be tried by either a provincial or territorial court judge alone, by a Superior Court judge alone or with a jury.
16. Once an information or charge has been laid, the accused is brought before a justice of the peace or a provincial court judge. The charge against the accused will be read and the accused will be asked to elect a mode of trial, if the offence is one for which the option to elect is provided. If the accused elects to be tried by a higher court, no plea is taken by the provincial (territorial) court judge.
17. If the accused elects to be tried by a provincial court judge, the judge will endorse the election on the information, take the plea and then proceed with the trial or set a date for trial. In the case where the person is brought before a justice of the peace (who is without the power of a provincial or territorial court judge), a date for trial before a provincial court judge will be set.
18. When the matter proceeds by indictment and the accused has elected to be tried by a higher court, the provincial (territorial) court judge must hold a preliminary inquiry (preliminary hearing) to determine if there is sufficient evidence to proceed to trial. The preliminary inquiry may be held at the time of election but is usually set for a later date. The accused may, however, with the agreement of the prosecutor, waive the right to a preliminary inquiry and go directly to trial. CBSA officers are not normally required to attend at the election unless the Crown Attorney feels that the trial may proceed immediately after the election.

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Court Policy and Procedures

Preliminary Inquiry

19. A preliminary inquiry is not a trial but rather a hearing to determine if there is sufficient evidence to commit the accused for trial in a higher court. The onus on the Crown is to put before the court sufficient evidence upon which a reasonable jury, properly instructed, could convict the accused. It also serves to give the defence an opportunity to hear some of the Crown's evidence against the accused.
20. Since the Crown is not required to present its entire case at a preliminary inquiry, it is possible that not all Crown witnesses will be asked to attend at this stage. The defence may, if it chooses, call witnesses at the preliminary inquiry. Attending witnesses will be re-subpoenaed if a trial date is set and must return to court on that date.

Voir Dire

21. There will be occasions when, during testimony, it will be necessary to determine if a statement made by an accused can be introduced. At this point, the court will pause to hold a *voir dire*, which is commonly referred to as a "trial within a trial". It should be noted that a *voir dire* is not held to determine the text of a statement but, rather, to determine the voluntary nature of the statement given by the accused. Consequently, the judge will conduct the *voir dire* to hear the evidence in question.
22. In a jury trial, the jurors must leave the courtroom while the judge alone hears the evidence in question. If the judge decides to admit the evidence, it will be repeated for the jury once they return. If the judge rules against the admission of the evidence, the judge will recall the jury and the trial will continue without the evidence being presented to them. In the courtroom, the judge is the final authority on what evidence is admissible and what questions witnesses may be compelled to answer.

POLICY

23. Officers will prepare for court by completing accurate and detailed notes, by securing and preserving all evidence and by completing and submitting all necessary CBSA and responding police agency required paperwork at the time of the incident.
24. Officers required to testify in court must immediately notify their superintendent so that appropriate arrangements can be made.
25. CBSA investigations will be the liaison with the Crown Counsel for *Customs Act* related court cases.

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Note: CBSA investigators will on some occasions set up a meeting with both the CBSA officers and the Crown in order to go over testimony prior any appearance in court.

26. CBSA court liaison officers will be the liaison with the Crown Counsel for Criminal Code related court cases.

Note: Court liaison officers will on some occasions set up a meeting with both the CBSA officers and the Crown in order to go over testimony prior any appearance in court.

27. Officers attending court will be well groomed and may wear the full, standard uniform with a shirt and tie or proper business attire. Regional policies may apply.

Note: Refer to the Customs Uniform Handbook for further information.

28. Officers will review their notebook, all evidence and court procedures before attending court.

29. Officers should review the charges laid and contents of the information.

30. Officers will arrive early for court with their notebook and all the case evidence in their possession and be prepared to answer to the Crown.

31. CBSA investigators will be in control of case evidence in most *Customs Act* related court cases and as such should arrive early for court with all the case evidence in their possession.

32. Designated Officers must carry their Designation Card with them while attending court for *Criminal Code* related court cases.

33. Officer's court deportment must be above reproach at all times.

ROLES AND RESPONSIBILITIES

CBSA Officers

34. CBSA officers are responsible for:

- a) adhering to the policy and procedures set out in this chapter;

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- b) enforcing the *Customs Act*, *Criminal Code* and other federal statutes in accordance with legislative requirements, established policies, and standard operating procedures;
- c) recording and maintaining detailed notes of an occurrence in the issued Customs Notebook (CE 1) and preparing the necessary documentation for further investigation and prosecution;
- d) being prepared to testify in court;
- e) acting in a professional manner while attending court;
- f) ensuring their attendance in court when required; and
- g) bringing their notebooks and all evidence in their possession to court.

Court Liaison Officers

35. Court liaison officers are responsible for:

- a) informing local management and involved officers of upcoming court dates, which they will be expected to attend;
- b) providing guidance to CBSA personnel with regards to court preparation requirements regarding *Criminal Code* offences;
- c) attending court cases when available to gain familiarity with the court process and to assist in the debriefing of court cases;
- d) liaising with court officers of the responding police agency and/or court Crown to obtain court rulings of all *Criminal Code* cases;
- e) liaising with CBSA investigators when necessary;
- f) informing officers involved in court cases how the case proceeded and when possible, providing feedback and suggestions to them;
- g) providing court transcripts of any unusual court cases that could affect the Officer Powers program or training and reporting these to the regional Officer Powers training unit;
- h) updating officers on the status/results of their court cases; and
- i) identifying local trends in court results for *Criminal Code* offences and reporting these to the regional Officer Powers training unit.

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CBSA Superintendents

36. CBSA superintendents are responsible for:
- a) ensuring officers are notified of any subpoenas received at the CBSA office that are not provided directly to the officer;
 - b) ensuring officers are scheduled the time needed to attend court when required;
 - c) ensuring CBSA personnel abide by the policy and procedures set out in this chapter;
 - d) recording and maintaining detailed notes of an occurrence in the issued Customs Notebook (CE 1) and preparing the necessary documentation for further investigation and prosecution;
 - e) being prepared to testify in court;
 - f) acting in a professional manner while attending court;
 - g) ensuring their attendance in court when required; and
 - h) taking appropriate corrective action on any breaches of this policy.

CBSA Investigators

37. CBSA investigators are responsible for:
- a) liaising with the Crown on all *Customs Act* related charges;
 - b) providing assistance in court to the Crown when requested by the Crown;
 - c) bringing all evidence in their possession to court;
 - d) liaising with CBSA officers regarding court cases and procedures;
 - e) liaising with court liaison officers when necessary;
 - f) being prepared to testify in court;
 - g) acting in a professional manner while attending court;
 - h) ensuring attendance in court when required;

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- i) identifying local trends in court results reporting to local CBSA management;
- j) debriefing officers on court cases, providing feedback and suggestions; and
- k) providing guidance to personnel about court preparation issues.

The Enforcement Branch

38. The Enforcement Branch is responsible for:

- a) developing, modifying, and approving policies in accordance with court jurisprudence;
- b) monitoring adherence with this policy and procedures by the regions;
- c) providing guidance to the field regarding courtroom policy and procedures; and
- d) developing, modifying and delivering training as required.

TRIAL PROCEDURES

39. At the beginning of either a trial or a preliminary inquiry, the judge (usually at the request of the defence) may make an order for the "Exclusion of Witnesses", requesting that all witnesses leave the courtroom.

Note: This is done so that each witness gives testimony, without being influenced by the testimony of other witnesses.

- 40. After the order is made, all witnesses must leave the courtroom until they are called to testify. In this respect, the court will order witnesses to not discuss their testimony with one another.
- 41. The accused is not subject to this exclusion rule. The accused will be permitted to stay in the courtroom and can still testify as a witness.
- 42. While outside the courtroom or anywhere in the courthouse, do not talk about the case, your testimony or someone else's testimony.

Note: All Agency witnesses should be very careful as to what they say and how they act. Friends and family of the accused and aides to attorneys may also be in the halls or other locations, and will report on your behaviour to the Defence Attorney.

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43. Do not talk to any of the witnesses who testified prior to you as they leave the courtroom.

Note: Any such conversation would be brought up by the Defence on cross-examination and could seriously harm the case.

44. The Crown may request that the CBSA investigator in charge of the case be allowed to remain in the courtroom to assist the Crown with the evidence and with any clarification on customs issues that may arise. The judge will rule on this issue.
45. Evidence in court is based on sworn testimony. When called to the stand, a witness is asked to take an oath and swear to the truth of the evidence they are about to give on a Bible.
46. If officers prefer not to swear on the bible, the law allows the witness to make an affirmation of truth or take an oath in some other form.

Note: If the witness wants to take an alternate form of oath, the clerk of the court should be notified a few days before the trial.

47. The most common form of oath is:

“Do you swear that the evidence you are about to give the court in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?”

48. CBSA officers testify as a witness for the Crown. The Crown Counsel will begin the questioning. This is called the “examination in chief”.
49. When the Crown has completed the questioning, the defence counsel will then begin the “cross-examination”.
50. There will also be occasions when the Crown will ask more questions after the defence questioning is completed or the Crown will re-address issues raised by the defence. This is referred to as the “re-examination” or “re-direct”.

TESTIMONY

51. When giving testimony, always pay attention to the questions that are asked of you and ensure that you understand them prior to responding

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Note: If you do not understand a question, politely ask the magistrate or judge for it to be explained or to be re-phrased. It may be possible that you do not know the answer or are unable to remember or recall the specifics. Simply state "I do not recall" or I do not know the answer.

52. Professionalism must be displayed on the witness stand while testifying. A CBSA officer's behaviour is directly related to establishing the credibility of the testimony.
53. The defence may continually ask the same question in an attempt to provoke the witness or to change their testimony. It is imperative that CBSA officers remain professional in their answers and demeanour.
54. If this line of questioning becomes abusive, it is up to the Crown to object, not the witness.
55. When answering questions, CBSA officers should answer them objectively without bias.

Note: Do not attempt to emphasize the incriminating evidence against the accused. Witnesses are frequently accused of being biased by attempting to conceal favourable evidence that might help to acquit the accused. Witnesses enhance their credibility by properly giving both sides of the story (i.e., the complete facts as they are recalled).

56. Speak slowly and distinctly when testifying.
57. Never attempt humour while testifying.
58. There may be occasions when evidence in an officer's testimony, such as statements made by the accused, may be considered inappropriate in a courtroom. Before giving such evidence, ask for the judge's permission. If you are directed to repeat the statement, do so without hesitation. The judge may instruct you to write the evidence for the court instead of repeating it aloud.
59. Prior to attending court, an officer should section off their notes with a paper clip or elastic bands to make it easier to locate the pertinent notes related to the event.

Note: Refer to Part 8, Chapter 1, Notebooks for detailed information regarding notebooks.

60. It is a common occurrence in court for CBSA officers to use their notebooks to refresh their memory while testifying. This is, however, a privilege and a witness must request the court's permission prior to referring to notes.

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61. Usually, the request is worded as follows:
“Your Honour, may I refresh my memory from my notes, which were made by me on or about the time of the incident?”
62. A defence attorney has the legal right to study the notes to which an officer will refer. There have also been occasions when an officer's notebook has been put on record and identified as an exhibit. Again, it is important for the officer to ensure that other irrelevant confidential notes in the book are sectioned off by using elastics, paper clips or staples.

COURTROOM CONDUCT

The following are certain rules of protocol that must be followed in the courtroom.

63. When a judge or justice of the peace enters or leaves the court, everyone present is required to stand.
64. When an officer enters or leaves the courtroom, it is proper to bow or nod to the judge.
65. An officer should try to avoid entering or leaving the courtroom when there is a witness testifying.
66. When giving evidence refer to:
 - a) a justice of the peace in Provincial Court as “Your Worship”,
 - b) a judge in Provincial, County or District Court as “Your Honour”,
 - c) a judge in Supreme Court as “My Lord” or “My Lady”.
67. If you cannot remember the title, refer to the person as “Sir” or “Ma'am”.
68. The decorum of the court should be respected at all times and the CBSA officer should avoid leaning on the witness stand and on the judge's bench.
69. Hands should never be put in trousers or jacket pockets.
70. Eating or chewing gum in the courtroom is not allowed.
71. All cell phones, pagers, etc. must be turned off or put on silent or vibrate mode while in court.

Note: Never use a cell phone, pager etc, in the courtroom.

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72. A professional appearance while testifying in court is crucial to the acceptance of the individual's testimony by both judge and jury.
73. The information and procedures given in this chapter are general in nature only. They are subject to provincial and regional variation.

Note: For specific concerns on procedures, or anything in respect to the particular case, CBSA officers are encouraged to discuss their concerns with the CBSA investigator or prosecuting officer handling that particular case. If it is necessary to speak to the Crown Counsel, the CBSA investigator or prosecuting officer will contact the Crown Counsel to arrange a meeting.

REFERENCES

74. *Customs Act*
Criminal Code
Canadian Charter of Rights and Freedoms
Canada Evidence Act
CBSA Investigator Training Course

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Appendix A

OUTLINE OF A TYPICAL CUSTOMS TRIAL

OUTLINE OF A TYPICAL CUSTOMS TRIAL

Motions – Any defence motions, or *Charter* challenges will usually be dealt with prior to trial to expedite court proceedings. Rather than stop and start the trial to deal with motions, they will frequently be dealt with before the main trial commences.

1. Introduction of counsel, reading of the Information (charges) and identification of accused.
2. Any amendments that are required to the Information are made at the start of the trial. Generally, the numbers and dates on an Information can be changed without successful challenge by the defence.
3. The court clerk reads the charges into the court records. If a plea (guilty/not guilty) has not already been entered, it is taken at this time.
4. The Crown and the Defence counsels make opening statements outlining their case. Defence counsel may wait until the start of their case to give their opening statement.
5. Any agreed statement of facts as well as the admission of agreed evidence is entered.

Note: An agreed statement of facts will be negotiated between Crown and Defence counsels along with the presiding judge to speed up the trial process. Any evidence that illustrates *mens rea* will not likely be included in the agreed statement of facts, as evidence entered by this method is no longer in dispute and cannot be re-addressed.

6. In CBSA cases, the Crown may introduce affidavit evidence, such as:
 - a) customs declarations, GST returns etc.;
 - b) affidavit from CBSA Collections stating that the relevant duties and taxes were not paid prior to the start of the investigation;
 - c) bank records introduced by affidavit;
 - d) Certificates of Incorporation for companies; and
 - e) business records pursuant to section 30 of the *Canada Evidence Act*.

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7. Search and seizure documents (information to obtain a warrant, warrants and retention orders, customs seizure notices) are introduced into evidence. The CBSA must prove to the court that it is in legal possession of the documents that will be used as evidence and that the CBSA has maintained legal possession since the time of seizure.
8. An order for the exclusion of all prosecution and defence witnesses is frequently given. Witnesses must remain outside the courtroom until after they have testified.
9. The Crown enters its evidence first.
10. For each Crown witness, the following order of questioning will take place:
 - a) Direct examination by the Prosecutor;
 - b) Cross-examination by the Defence lawyer;
 - c) Re-Direct examination by the Prosecutor. This is restricted to obtaining explanations of certain answers given by the witness, or to clarifying apparent inconsistencies in the testimony of the witness during cross-examination. No new areas of evidence may be brought up during the re-direct; and
 - d) Re-Cross examination by Defence. The Defence may be allowed to re-cross with regard to areas covered in the re-direct.
11. In most cases, the CBSA investigator (or police officer) in charge of the case will appear as the first witness to introduce the seized records and exhibits into evidence, as this evidence may be required in the testimony of other witnesses. The investigator in charge of the case will then step down and may be recalled later, normally as the last witness.
12. Should the investigator in charge of the case be allowed to stay in the court room to assist the Crown, the investigator would do the following:
 - a) maintain exhibits - keep Crown exhibits in order, and note numbers of Defence exhibits;
 - b) ensure that all supplies/equipment required are available, and fully functioning. (i.e.: visual aids, tape recorder, laptop);
 - c) take notes of testimony, and alert Crown counsel of areas of concern; and

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- d) manage witnesses - if there are a small number of Crown witnesses, the investigator could look after them but if there are many witnesses, another staff member would be appointed to look after the witnesses.
- 13. The Crown witnesses are called in the order determined in pre-trial meetings to present their evidence/testimony.
- 14. The investigator may be called to testify as the last witness to tie up any loose ends and then the Crown closes its case.
- 15. A "No Evidence" motion can be entered at this point.
- 16. The Defence will present its case. For each Defence witness, the order of questioning the witnesses in paragraph 10 will be reversed. Direct examination is by the Defence. The accused does not have to testify, and his or her failure to do so shall not be made the subject of comment by the Judge, or by counsel for the Prosecution, (*Canada Evidence Act* (Sec. 4(6))).
- 17. After the Defence has presented its case, the Crown is allowed to introduce rebuttal evidence. This evidence must be strictly confined to rebutting the defendant's case and must not merely confirm the Crown's case. Witnesses who have previously testified, including the investigator, may be recalled to testify, or a witness who is new to the trial may be called.
- 18. The Crown and Defence make their closing arguments. These must be confined to the evidence and issues in the case on trial. It is proper for them to state their views of the evidence, and to state the various inferences and conclusions, which they believe the judge should draw from the testimony and the evidence. In presenting closing arguments, if the Defence calls evidence, then its closing arguments are presented first.
- 19. The judge determines if the accused is guilty or not. For the judge to find the accused guilty, he or she must feel that the Crown has proven their case beyond a reasonable doubt.
- 20. If the accused is found guilty, the counsels will speak to sentence. This may take place at the same time as the plea is entered, or at a later court date.
- 21. The Judge pronounces sentence.

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Appendix B

**NATIONAL PROCEDURE ON THE TESTIMONY OF CBSA OFFICERS IN
FOREIGN COURT**

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APPENDIX B

National Procedure on the Testimony of CBSA Officers in Foreign Court

1. Paragraph 107(5) of the *Customs Act* authorizes a customs officer to testify in a foreign court and disclose customs information. The *Customs Act* provides an officer with the authority to comply with a subpoena, warrant, or an order made by a court outside Canada, solely for the purposes of criminal proceedings.
2. It must be noted that there is no obligation on the part of any CBSA officer to comply with a subpoena, warrant or request/order from a foreign court. In the spirit of cooperation and support, it is recommended that the CBSA consider assisting the foreign request whenever possible.
3. The routing of such an order or request is to be made through the Mutual Legal Assistance Treaty (MLAT) process. The MLAT requires that the request be sent from the Justice Department of the requesting country to the Department of Justice Canada. For example, an MLAT request for testimony from the United States is channelled through the US Department of Justice, Office of International Affairs, Washington, DC to the International Assistance Group (IAG) in Ottawa.
4. All requests should be sent by the requesting country to the Minister's delegate at:

Justice Canada

International Assistance Group (IAG)
284 Wellington Street
Ottawa, ON K1A 0H8
Phone: (613) 957-4769
Fax: (613) 957-8412

5. Once the IAG has approved the request, it will be forwarded directly to the Enforcement Branch. The Enforcement Branch will review all pertinent information regarding the case to ensure that sensitive information will not be disclosed during the foreign proceedings. The Enforcement Branch will notify the region of the request and approval.
6. This process applies to countries with which Canada has a signed MLAT agreement; otherwise the request will be processed through diplomatic channels. Such diplomatic requests should be referred to the Enforcement Branch to assist the foreign government in this process.

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7. Urgent requests, where time does not permit for the diplomatic or MLAT processes, are to be sent directly to the Enforcement Branch. In addition, prior to the involvement of Justice Canada or the diplomatic process, the Enforcement Branch must be contacted to determine the most efficient manner of fulfilling the request for assistance. All requests regarding the above procedures will be directed to:

Director, Borders Intelligence
Enforcement Branch
Canada Border Services Agency
191 Laurier Avenue West, 18th Floor
Ottawa, ON, K1A 0L8
Phone: (613) 954-7575
Fax: (613) 952-0209

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ABDUCTION	ENLÈVEMENT
As per sections 280 to 283 of the <i>Criminal Code</i> , the term refers to taking or causing to be taken an unmarried person under sixteen-years-of-age, a person under fourteen-years-of-age, or the taking of a child in contravention of a custody order against the will of the parent, guardian, or other person who has lawful care of charge of them.	D'après les articles 280 à 283 du Code criminel, ce terme désigne le fait d'enlever ou de faire enlever une personne non mariée, âgée de moins de seize ans ou une personne de moins de quatorze ans ou encore le fait d'enlever un enfant contrairement à une ordonnance de garde et contre la volonté du parent, du tuteur ou de toute autre personne qui en a la garde ou la charge légale.
ACTUS REUS	ACTUS REUS
A wrongful deed which when combined with <i>mens rea</i> renders a person criminally liable. One of the constant elements of an offence, which must be proved.	Acte coupable qui, joint à la <i>mens rea</i> , rend une personne passible de poursuites au criminel. C'est l'un des éléments constitutifs d'une infraction qui doit être étayé par une preuve.
ADMINISTRATIVE MONETARY PENALTY SYSTEM (AMPS)	RÉGIME DE SANCTIONS ADMINISTRATIVES PÉCUNIAIRES (RSAP)
The Administrative Monetary Penalty System (AMPS) is a civil penalty regime that secures compliance with Customs' commercial legislation through the application of monetary penalties, based on the type, frequency and seriousness of the infraction.	Le Régime de sanctions administratives pécuniaires (RSAP) est un régime de sanctions au civil qui permet d'assurer l'observation de la législation douanière commerciale grâce à l'imposition de sanctions pécuniaires, en tenant compte du type, de la fréquence et de la gravité de l'infraction.
ADVANCED PASSENGER INFORMATION (API)	INFORMATION PRÉALABLE SUR LES VOYAGEURS (IPV)
API is data identifying the person, including full name, date of birth, gender, citizenship, travel document type and number and country of issue.	L'IPV représente les données qui identifient une personne, y compris le nom complet, la date de naissance, le sexe, la citoyenneté, le type de document de voyage et le numéro et pays d'émission.

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API AUTHORIZED OFFICER - MINISTER'S REPRESENTATIVE	AGENT AUTORISÉ DE L'IPV - REPRÉSENTANT DU MINISTRE
API authorized officers are employees who are authorized to access API/PNR data. The Minister's representative is a person authorized by the Minister to obtain such information.	Les agents autorisés de l'IPV sont des employés qui ont accès aux données de l'IPV/DP. Le représentant du ministre est un employé autorisé par le ministre à obtenir de tels renseignements.
ALLEGATION	ALLEGATION
A statement that provides the reason for taking action against goods.	Énoncé de la raison invoquée d'effectuer une action contre des marchandises.
APPEAL	APPEL
A request, usually written, for a review by higher authority of some action that has been taken or enforced.	Demande présentée, habituellement par écrit, à une autorité supérieure pour qu'une mesure qui a été prise ou appliquée fasse l'objet d'une révision.
APPEARANCE NOTICE	CITATION À COMPARAÎTRE
A notice to compel the appearance in court of a person not yet charged with an offence. A notice in Form 9 issued by a peace officer.	Ordre de comparaître devant un tribunal délivré à une personne qui n'est pas encore inculpée d'infraction. Citation selon la formule 9, délivrée par un agent de la paix.
APPROVED BREATH ANALYSIS INSTRUMENT (ABAI)	ALCOOTEST APPROUVÉ
An instrument of a kind that is designed to receive and make an analysis of a sample of the breath of a person in order to measure the concentration of alcohol in the blood of that person and is approved as suitable for the purposes of section 258 of the <i>Criminal Code</i> by order of the Attorney General of Canada.	Instrument du type destiné à recueillir un échantillon de l'haleine d'une personne et à en faire l'analyse en vue de déterminer l'alcoolémie de cette personne, qui est approuvé pour l'application de l'article 258 du <i>Code criminel</i> par un arrêté du procureur général du Canada.

APPROVED SCREENING DEVICE (ASD)	APPAREIL DE DÉTECTION APPROUVÉ (ADA)
A device of a kind that is designed to ascertain the presence of alcohol in the blood of a person and that is approved for the purposes of section 254 of the <i>Criminal Code</i> by order of the Attorney General of Canada.	Instrument d'un genre conçu pour déceler la présence d'alcool dans le sang d'une personne et approuvé pour l'application de l'article 254 du <i>Code criminel</i> par un arrêté du procureur général du Canada.
ARREST	ARRÊTER
To deprive a person of his liberty by legal authority. Also, the action of taking custody of another person for the purpose of holding or detaining the person to answer a criminal charge.	Priver une personne de sa liberté en vertu d'une autorisation légale. En outre, l'action de prendre la garde d'une autre personne en vue de retenir ou de détenir la personne pour répondre à une accusation au pénal.
ASCERTAINED FORFEITURE	CONFISCATION COMPENSATOIRE
This is an assessment of an amount of money for goods that have been imported or exported in contravention of the <i>Customs Act</i> , where the goods themselves are not available for physical seizure, or the seizure would be impractical.	La confiscation est la cotisation d'un montant d'argent pour des marchandises importées ou exportées en contravention de la <i>Loi sur les douanes</i> , lorsque les marchandises ne peuvent être saisies ou que la saisie est problématique.
AUTHORIZED PERSON	PERSONNE AUTORISÉE
An authorized person is any person engaged or employed or formerly engaged or employed	Une « personne autorisée » signifie toute personne engagée ou employée, ou précédemment engagée ou employée
a) by or on behalf of Her Majesty, b) by or on behalf of an agent of Her Majesty, or c) by or on behalf of an agent of an agent of Her Majesty,	a) par Sa Majesté ou en son nom, b) par un mandataire de Sa Majesté ou en son nom, c) par un mandataire d'un mandataire de Sa Majesté ou en son nom,
to assist in carrying out the purposes and provisions of the <i>Customs Act</i> or the <i>Customs Tariff</i> or an agreement made under subsection 147.1(3) of the <i>Customs Act</i> .	pour aider à la réalisation des objets de la <i>Loi sur les douanes</i> ou du <i>Tarif des douanes</i> ou d'un accord conclu en vertu du paragraphe 147.1(3) de la <i>Loi sur les douanes</i> et à l'application de leurs dispositions.

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BENEFIT OF THE DOUBT	BÉNÉFICE DU DOUTE
This is a process of decision-making whereby, having considered and weighed all the evidence and circumstances of a specific matter, doubt still remains as to whether a particular action such as seizure action should be taken. When such doubt remains, the benefit of this doubt is given to the party against whom the action would be taken and the decision is rendered in their favour.	Élément intervenant dans la prise de décision lorsqu'il existe encore un doute quant à l'opportunité de prendre une mesure quelconque telle que la saisie après avoir fait l'examen et l'évaluation de tous les éléments de preuve et de toutes les circonstances d'une affaire particulière. Lorsqu'il subsiste un doute, le bénéfice de ce doute est accordé à la partie visée par les mesures envisagées, et la décision est rendue en sa faveur.
CANADIAN POLICE INFORMATION CENTRE (C.P.I.C.)	CENTRE D'INFORMATION DE LA POLICE CANADIENNE (C.I.P.C.)
A computerized storage and retrieval system, monitored by the RCMP, containing files related to persons, vehicles, boats and motors, property and criminal records.	Réseau informatique contrôlé par la GRC qui permet le stockage et l'extraction de données dans des dossiers concernant des personnes, des véhicules, des bateaux et des moteurs, des biens et des casiers judiciaires.
CANUTEK	CANUTEK
The Canadian Transport Emergency Centre is operated by Transport Canada to assist emergency response personnel in handling dangerous-goods emergencies.	Le Centre canadien d'urgence transport est exploité par Transports Canada afin d'aider le personnel d'intervention lors de situation d'urgence mettant en cause des marchandises dangereuses.
CAUTION	AVIS
A warning or notice given to an individual concerning the making of statements.	Avertissement donné à une personne concernant l'énoncé de déclarations.
CAVITY SEARCH	EXAMEN DES CAVITÉS CORPORELLES
This term refers to the physical inspection of a person's body cavities by qualified medical personnel, on behalf of CBSA in order to detect unreported, prohibited, controlled, or regulated goods that the person may have concealed. This may include the use of x-rays and or emetics.	Cette expression se rapporte à l'examen physique des cavités corporelles d'une personne par un membre du personnel médical qualifié, au nom de l'ASFC, à la recherche de marchandises non déclarées, prohibées, contrôlées ou réglementées que cette personne aurait pu dissimuler. Un tel examen peut

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	comprendre l'utilisation de radioscopies ou d'émettiques.
CHAIN OF CUSTODY	CHAÎNE DE POSSESSION
The one who offers real evidence must account for the custody of the evidence from the moment in which it reaches their custody until the moment in which it is offered in evidence.	Selon le droit de la preuve, la personne qui présente une preuve matérielle doit rendre compte de la garde des éléments de preuve en sa possession depuis le moment où ils sont entrés en sa possession jusqu'au moment de leur présentation en preuve.
CHILD	ENFANT
A person who is or, in the absence of evidence to the contrary, appears to be under the age of 12 years.	Personne qui a moins de 12 ans ou qui, à moins de preuve contraire, semble avoir moins de 12 ans.
CIVIL ACTION	ACTION AU CIVIL
An action can be either "civil" or "criminal". A civil action is taken under the process of a civil proceeding to enforce re-dress or protect rights. For example, the seizure of goods or the assessment of an administrative monetary penalty for a violation of the <i>Customs Act</i> is a civil action.	Une action peut être intentée au civil ou au criminel. Une action au civil prise en vertu du droit civil vise à faire valoir ou protéger des droits ou à obtenir réparation. Par exemple, la saisie de marchandises ou l'émission d'une sanction pécuniaire administrative pour une infraction à la <i>Loi sur les douanes</i> est une action au civil.
CIVIL LAW	DROIT CIVIL
Civil laws are concerned with civil or private rights and remedies, as contrasted with criminal laws.	Le droit civil traite des droits et des recours civils ou privés, contrairement au droit pénal.
COMMERCIAL AIR SERVICE	SERVICE AÉRIEN COMMERCIAL
An air service is commercial if there is any use of aircraft for hire or reward.	Un service aérien est commercial lorsqu'il comprend l'utilisation d'un aéronef contre paiement ou rémunération.
COMMERCIAL GOODS/SHIPMENTS	MARCHANDISES OU EXPÉDITIONS COMMERCIALES
Goods that are imported for sale in Canada or for any industrial, occupational, institutional, or other like use are considered commercial.	Les marchandises importées au Canada pour y être vendues ou pour servir à des fins industrielles, professionnelles ou institutionnelles ou à d'autres fins semblables.

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COMMERCIAL PASSENGER CARRIER	TRANSPORTEUR COMMERCIAL DE VOYAGEURS
Any person who owns or operates an airline, cruise line, ferry service, railway company or bus company for the purpose of carrying or transporting passengers for hire or reward, is considered a commercial carrier.	Toute personne qui possède ou exploite une entreprise aérienne, de paquebots de croisière, de traversiers, ferroviaire ou d'autocars afin de transporter des passagers contre paiement ou rémunération est considérée à titre de transporteur commercial.
COMMERCIAL PASSENGER CONVEYANCE	MOYEN DE TRANSPORT COMMERCIAL DE PASSAGERS
Any publicly available conveyance used in the transportation of passengers by a commercial passenger carrier, charter, or vendor such as an aircraft, cruise ship, ferry, rail car, bus or other contrivance.	Tout moyen de transport mis à la disposition du public et utilisé pour le transport de passagers par un transporteur, un affréteur ou un vendeur, comme un aéronef, un paquebot de croisière, un traversier, un wagon de chemin de fer ou tout autre moyen de transport.
COMMISSIONER	COMMISSAIRE
"Commissioner" has the same meaning as in subsection 2(1) of the <i>Customs Act</i> .	« Commissaire » a la même signification que la définition donnée au paragraphe 2(1) de la Loi sur les douanes.
COMPLIANCE VERIFICATION	VÉRIFICATION DE L'OBSERVATION
This term refers to the act of verifying compliance with the legislation administered by CBSA in the areas of cargo and release. Verification may be in the form of random or targeted examinations, review of trade information, and periodic on-site audits or investigations. The compliance verification program carries out analyses and develops specific targets for cargo and release programs such as misdescription, enclosure, and other government departments, and measures and reports on levels of compliance in these areas. By monitoring these targets, the extent of compliance/non-compliance is assessed. These responsibilities are outside the Enforcement Branch mandate and,	Ce terme se rapporte à la vérification de l'observation à l'égard des lois appliquées par l'ASFC dans les domaines du fret et des mainlevées. La vérification peut être effectuée sous forme d'examens au hasard ou ciblés, d'examen de renseignements commerciaux et de vérifications ou d'enquêtes périodiques sur place. Le programme de vérification de l'observation comprend des analyses et il élabore des cibles précises dans les programmes du fret et des mainlevées comme les descriptions erronées, les pièces jointes et les autres ministères du gouvernement ainsi que les mesures et rapports sur les niveaux d'observation dans ces domaines. En surveillant les cibles en question, la portée de

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therefore, do not constitute “enforcement” activities.	l’observation ou de l’inobservation est évaluée. Ces responsabilités ne font pas partie du mandat de la Direction générale de l’exécution de la loi et, par conséquent, elles ne représentent pas des activités « d’exécution ».
CONFESSTION	CONFESSTION
A confession is a statement made by an accused person to an individual in authority that is self-incriminating with respect to the offence(s) for which the accused person is charged.	Déclaration que fait un accusé à une personne en autorité et dans laquelle il reconnaît avoir commis l’infraction ou les infractions dont il est accusé.
CONSULAR OFFICER	FONCTIONNAIRE CONSULAIRE
Any person, including the head of a consular post, who is entrusted with the exercise of consular functions, is considered a consular officer. However, there are two types of consular officers; one of which is the “honorary consular officer” (i.e., Honorary Consul Generals, Honorary Vice-Consuls, and Honorary Consular Agents). An honorary consular officer who is not entitled to any clearance privileges other than personal exemption tariff item numbers of heading 98.04 of the <i>Customs Tariff</i> . Honorary consular officers are Canadian citizens or permanent residents of Canada.	Toute personne, y compris le chef d’un poste consulaire, qui est engagée dans l’exercice de fonctions consulaires est considérée à titre de fonctionnaire consulaire. Toutefois, il existe deux types de fonctionnaires consulaires; l’un est composé de « fonctionnaires consulaires honoraires » (c.-à-d. les consuls généraux honoraires, les vice-consuls honoraires et les fonctionnaires consulaires honoraires). Un fonctionnaire consulaire honoraire n’est pas admissible aux priviléges de dédouanement autres que celui accordé pour les exemptions personnelles en vertu des numéros tarifaires de la position 98.04 du <i>Tarif des douanes</i> . Les fonctionnaires consulaires honoraires sont des citoyens canadiens ou des résidents permanents du Canada.
CONSULAR POST	POSTE CONSULAIRE
A consular post promotes its’ states economic, cultural, trade, and tourism-related interests and may be located in one or more Canadian cities. There are four levels of consular posts: consulate general, consulate, vice-consulate, and consular agency.	Un poste consulaire doit promouvoir les intérêts économiques, culturels, commerciaux et touristiques de son pays et il peut être situé dans une ou plusieurs villes canadiennes. Il existe quatre niveaux de postes consulaires, soit le consulat général, le consulat, le vice-consulat et l’agence consulaire.

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CONTRABAND	CONTREBANDE
Prohibited or controlled goods (e.g. drugs, child pornography, firearms, strategic exports and embargoed goods, hazardous waste, alcohol, tobacco) illegally imported or exported that can cause significant economic or social harm to Canada or Canadians are considered contraband.	Les marchandises prohibées ou contrôlées (p. ex. drogues, pornographie juvénile, armes à feu, exportations stratégiques et marchandises soumises à un embargo, déchets dangereux, alcool, tabac) importées ou exportées illégalement qui peuvent entraîner des dommages économiques ou sociaux importants au Canada ou aux Canadiens sont considérées comme étant des marchandises de contrebande.
CONTRABAND TARGETING	CIBLAGE DE LA CONTREBANDE
Targeting is the evaluation of information to eliminate low risk persons, conveyances, and goods in order to identify high-risk persons, conveyances and goods that are likely to carry contraband. The information used to target contraband includes data gathered prior to the arrival of the person, conveyance, and/or goods, as well as information gathered at primary, roving, and secondary.	Le ciblage consiste en une évaluation de renseignements visant à éliminer les personnes, les moyens de transport et les marchandises à faible risque afin d'identifier les personnes, les moyens de transport et les marchandises à risque élevé qui sont susceptibles de transporter de la contrebande. Les renseignements utilisés afin de cibler la contrebande comprennent les données recueillies avant l'arrivée des voyageurs, des moyens de transport et (ou) des marchandises, ainsi que les renseignements recueillis lors des examens primaires ou secondaires ou lors des activités de patrouilles.
CONTRAVENTION	INFRACTION
A breach, violation, or infringement of an Act or regulation is termed a contravention.	Toute contravention, infraction ou violation à l'égard d'une loi ou d'un règlement est considérée à titre d'infraction.
CONTROLLED DELIVERY	LIVRAISON CONTRÔLÉE
A controlled delivery is a formal undertaking between CBSA and other law enforcement agencies, which, after an interdiction by CBSA, permits the furtherance of the contraband (under the direction and control of an appropriate law enforcement agency), to the point of identification and arrest of persons involved in the importation/exportation and	La livraison contrôlée est une opération à laquelle participent l'ASFC et d'autres organismes d'exécution de la loi et qui, suite à une mesure de répression de la part des douanes, permet d'acheminer la contrebande (sous la direction et le contrôle d'un organisme d'exécution compétent) jusqu'à l'endroit où il sera possible d'identifier et d'arrêter toutes les

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distribution of that contraband.	personnes impliquées dans l'importation, l'exportation et la distribution des marchandises de contrebande.
CONTROLLED SUBSTANCE	SUBSTANCE CONTRÔLÉE
A controlled substance is a substance included in Schedule I, II, III, IV or V of the <i>Controlled Drugs and Substances Act</i> .	Une substance contrôlée est une substance inscrite aux annexes I, II, III, IV ou V de la <i>Loi réglementant certaines drogues et autres substances</i> .
CONVEYANCE	VÉHICULE
A conveyance is any vehicle, aircraft, vessel, or other contrivance that is used to move persons or goods.	Véhicule à moteur, aéronef, embarcation ou tout autre moyen servant à transporter des personnes ou des marchandises.
COUNSEL	CONSEILLER JURIDIQUE
A Barrister or Solicitor authorized by the law to perform duties in relation to legal proceedings is considered "counsel". An individual who is detained or arrested by CBSA has the right to counsel.	Un avocat ou un procureur autorisé par la loi à exécuter des tâches liées à des instances judiciaires est considéré à titre de « conseiller juridique ». Toute personne détenue ou arrêtée par l'ASFC a droit à un avocat.
COUNTERFEIT CURRENCY	ESPÈCES CONTREFAITES
If you would like to know more about counterfeit currency visit the Bank of Canada web site (http://www.bankofcanada.ca/en/banknotes/counterfeit/index.html)	Si vous voulez en savoir plus sur la contrefaçon, visitez le site de la Banque du Canada à l'adresse suivante : (http://www.banqueduquebec.ca/fr/billets/contrefacon/index.html)
COURIER	MESSAGER
A courier is a commercial carrier that is engaged in scheduled international transportation of shipments of goods other than goods imported by mail.	S'entend d'un messager commercial qui offre un service de transport international régulier, exception faite des marchandises importées par la poste.
CRIMINAL ACTION	ACTION CRIMINELLE
An action brought about to punish a person for a violation of a Federal Statute (a criminal offence). Generally, the procedure whereby a person is charged with a criminal offence and brought before the courts.	Procédure intentée pour punir une personne d'une infraction à une loi fédérale (acte criminel). En règle générale, il s'agit d'une procédure par laquelle une personne est poursuivie en justice pour infraction criminelle.

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CRIMINAL INVESTIGATIONS INFORMATION MANAGEMENT SYSTEM (CIIMS)	SYSTÈME DE GESTION DE L'INFORMATION DES ENQUÊTES DES DOUANES (SGIED)
CIIMS is a case management system used by CBSA Investigators to track the progress of criminal investigations.	Le SGIED est un système de gestion de cas qui est utilisé par les enquêteurs de l'ASFC pour faire le suivi des progrès réalisés dans les enquêtes criminelles.
CRIMINAL OFFENCE	INFRACTION CRIMINELLE
A violation of any of the Federal Statutes of Canada (criminal law), whether it is described as an indictable offence or one punishable on summary conviction. Offences under a Provincial or Territorial Law are not criminal offences.	Infraction de n'importe quelle loi du Parlement du Canada (droit pénal) soit décrite comme infraction punissable par mise en accusation ou infraction punissable par procédure sommaire. Une infraction sous les lois provinciales ou territoriales ne sont pas des actes criminels.
CROSS BORDER CURRENCY REPORTING FORMS	LES FORMULAIRES DES RAPPORTS DMTE
E677 - Cross-Border Currency or Monetary instruments Report - Individual: The E677 is to be used when an individual crosses the border and is carrying Currency and/or Monetary Instruments which is their own.	E677 - Déclaration des mouvements transfrontaliers d'espèces et d'effets - Individu : Le formulaire E677 vise les personnes qui traversent la frontière en transportant des espèces ou des effets qui leur appartiennent.
E667 – Cross-Border Currency or Monetary Instruments Report - General: The E667 is used when an individual is carrying Currency and/or Monetary Instruments on behalf of another person or entity, or when sending currency and/or monetary instruments by mail.	E667 - Déclaration des mouvements transfrontaliers d'espèces et d'effets - généralités : Le formulaire E667 vise les personnes qui transportent des espèces ou des effets pour une autre personne ou entité, ou qui les envoient par poste.
E668 – Cross-Border Currency or Monetary Instruments Report - Couriers: The E668 is used when Currency and/or Monetary Instruments arrives via a commercial carrier (driver) or commercial shipment (cargo) other than postal.	E668 - Déclaration des mouvements transfrontaliers d'espèces et d'effets - Courriers : Le formulaire E668 permet de déclarer les espèces ou les effets envoyés par l'entremise de transporteurs (conducteurs) ou d'envois commerciaux (cargo) autres que la poste.
CURRENCY	ESPÈCES
"Currency" includes all foreign and domestic banknotes and circulation coins.	Le terme « espèces » englobe toutes les pièces de monnaie et les billets de banque canadiens et étrangers en circulation au pays.

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controlled goods into or out of Canada without the required permits or in contravention of another government department's legislation that is administered by the CBSA.	d'une sous-évaluation des marchandises ou de l'altération de marchandises sous douane. Une fraude douanière peut également être commise en important ou en exportant des marchandises prohibées, restreintes ou contrôlées au Canada ou du Canada sans l'obtention préalable des permis nécessaires ou en contrevenant à une loi d'un autre ministère, appliquée par l'ASFC.
CUSTOMS INFORMATION	RENSEIGNEMENT DOUANIER
Any information obtained by or on behalf of the Minister of Public Safety and Emergency Preparedness for the purposes of the <i>Customs Act</i> or the <i>Customs Tariff</i> , or information prepared from such information. It includes any oral statement, book, record, writing, or other document in any form, including electronic form, obtained by or on behalf of the Minister for such purposes. It also includes information obtained by an authorized person for the purposes of carrying out an agreement made under Subsection 147.1(3) of the <i>Customs Act</i> . Section 107 of the <i>Customs Act</i> regulates the disclosure, including provision and use, of CBSA information.	Tout renseignement obtenu par la ministre de la Sécurité publique et Protection civile ou en son nom aux fins de la <i>Loi sur les douanes</i> ou du <i>Tarif des douanes</i> , ou toute information préparée pour de tels renseignements. Ceci comprend toute déclaration verbale, livre, registre, écrit ou tout autre document sous n'importe quelle forme, y compris sous forme électronique, obtenu par la ministre ou en son nom à de telles fins. Ceci comprend également les renseignements obtenus par une personne autorisée afin de donner suite à une entente en vertu du paragraphe 147.1(3) de la <i>Loi sur les douanes</i> . L'article 107 de la <i>Loi sur les douanes</i> réglemente la communication des renseignements de l'ASFC, y compris leur fourniture et leur utilisation.
CUSTOMS NOTICE OF INSPECTION	AVIS D'INSPECTION DOUANIÈRE
CBSA form number K158 is used to notify airline representatives when certain types of CBSA examinations have been conducted.	Le formulaire K158 de l'ASFC est utilisé afin d'informer des représentants de compagnies aériennes lorsque certains types d'exams de l'ASFC ont été effectués.
CUSTOMS OFFICE	BUREAU DE DOUANE
A Customs office is an area designated by the Minister, inside or outside of Canada, generally for business relating to customs as per section 5 and subsection 2(1) of the <i>Customs Act</i> .	Un bureau de douane est un emplacement établi par le ministre, à l'intérieur ou à l'extérieur du Canada, en règle générale afin d'y traiter des opérations liées aux douanes, en vertu de l'article 5 et du paragraphe 2(1) de la <i>Loi sur les douanes</i> .

CUSTOMS SELF ASSESSMENT (CSA)	PROGRAMME D'AUTOCOTISATION DES DOUANES (PAD)
CSA is a CBSA program that streamlines the import process and furthers self-assessment of reported trade data, payment of duties, and subsequent adjustment using the internal business systems of CBSA clients.	Le PAD est un programme de l'ASFC qui uniformise le processus d'importation et qui étend la portée de l'autoévaluation des données commerciales présentées, du paiement des droits et des rajustements ultérieurs au moyen des systèmes commerciaux internes des clients de l'ASFC.
DANGEROUS GOODS	MATIÈRES DANGEREUSES
Dangerous goods are defined under the <i>Transportation of Dangerous Goods Act</i> 1992, as any product, substance, or organism included by its nature or in the <i>TDG Regulations</i> that falls within one of the following nine classes:	Aux termes de la <i>Loi sur le transport des matières dangereuses de 1992</i> , on définit les matières dangereuses comme des produits, substances ou organismes compris d'après leur nature ou figurant dans les 9 classes ci-dessous du RTMD :
Class 1 Explosives Class 2 Gases Class 3 Flammable and combustible liquids Class 4 Flammable and reactive solids Class 5 Oxidizing substances Class 6 Poisonous/infectious substances Class 7 Radioactive materials Class 8 Corrosives Class 9 Miscellaneous (environmentally harmful) substances.	Classe 1 – Explosifs Classe 2 – Gaz Classe 3 – Liquides inflammables et combustibles Classe 4 – Solides inflammables et réactifs Classe 5 – Substances oxydantes Classe 6 – Substances toxiques/infectieuses Classe 7 – Matières radioactives Classe 8 – Matières corrosives Classe 9 – Diverses substances (nocives pour l'environnement)
DEBTOR	DÉBITEUR
For customs purposes, a debtor is a person liable to pay an amount owing or payable in accordance with the <i>Customs Act</i> . A person is not generally considered a debtor until the debt has become overdue and collection action is taking place.	Aux fins des douanes, un débiteur est une personne responsable du paiement d'une somme due ou à payer conformément à la <i>Loi sur les douanes</i> . En règle générale, une personne n'est pas considérée comme un débiteur avant que la dette ne soit en souffrance et que des mesures de recouvrement n'aient été prises.
DESIGNATED OFFICER	AGENT DÉSIGNÉ
A Border Services Officer who is designated by the Minister pursuant to subsection 163.4 of the <i>Customs Act</i> .	Un agent des services frontaliers qui est désigné par le ministre en vertu du paragraphe 163.4 de la <i>Loi sur les</i>

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Subsection 163.5 provides a designated Border Services Officer with the powers and obligations afforded to peace officers for the purposes of enforcing sections 495 to 497 and 254 and 256 of the <i>Criminal Code</i> .	<i>douanes</i> . Le paragraphe 163.5 fournit aux agents des services frontaliers désignés des pouvoirs et des fonctions qui sont conférés à des agents de paix aux fins d'appliquer les parties 495 à 497, 254 et 256 du <i>Code criminel</i> .
DETENTION	DETENTION
Detention is the act of depriving an individual of his or her liberty. For Customs purposes is the act of keeping an individual within the confines of the CBSA area once all normal processing has been completed. The purpose is to verify legislative requirements have been met. All legal rights must have been engaged.	La détention est le fait de priver une personne de sa liberté. Aux fins des douanes, il s'agit de l'acte qui consiste à garder une personne, une fois que tout le traitement douanier normal est conclu, à l'intérieur d'une zone de l'ASFC afin de vérifier que toutes les conditions légales ont été remplies. Tous les droits reconnus par la loi doivent avoir été respectés.
DETERRENT	DISSUASION
Any disincentive to future non-compliance is considered a deterrent.	Tout moyen de dissuasion à l'égard de mesures d'inobservation futures.
DIPLOMATIC AGENT	AGENT DIPLOMATIQUE
The head of a mission or member of the diplomatic staff of the mission is termed a diplomatic agent.	Le chef de la mission ou membre du personnel diplomatique de la mission.
DIRECT QUESTIONING	INTERROGATOIRE DIRECT
Direct questioning is a forthright questioning technique utilized by officers involved in specialized enforcement activities such as roving or during secondary examination. Direct questioning techniques are used to elicit behavioural indicators to confirm or deny officers suspicions arising from observations of the traveller during any part of the customs process.	Un interrogatoire direct est une technique d'interrogation franche utilisée par les agents responsables d'activités d'exécution spécialisées comme le patrouillage, ou alors au cours d'un examen secondaire. Les techniques d'interrogatoire direct sont utilisées afin d'obtenir des indicateurs de comportement servant à confirmer ou à démentir les soupçons des agents découlant de l'observation des voyageurs au cours du processus douanier.
DISCLOSURE	DIVULGATION
The authorized release of information through approved channels is termed "disclosure".	La communication autorisée de renseignements par la filière approuvée.

DRUG COURIER	PASSEUR DE DROGUE
A person who transports illicit drugs secreted in baggage, a conveyance, or goods, or in or on their person.	Une personne qui transporte des drogues illicites dissimulées dans des bagages, dans un moyen de transport, dans des marchandises ou sur lui-même.
DRUGS	DROGUES
Drugs are natural, chemically altered, and chemical substances that are taken to alter the mood, behaviour, judgement, physical senses, and/or mental perceptions and are prohibited entry into Canada. For CBSA enforcement purposes, the term 'drugs' includes narcotics.	Les drogues sont des substances naturelles, modifiées chimiquement ou chimiques qui sont prises afin de modifier l'humeur, le comportement, le jugement, les sensations physiques et(ou) les perceptions mentales et leur entrée au Canada est prohibée. Aux fins de l'exécution de l'ASFC, le terme « drogues » comprend les stupéfiants.
DUAL PROCEDURE or HYBRID OFFENCE	INFRACTION MIXTE
An offence that can be prosecuted by way of indictment or summary conviction. Hybrid offences are considered indictable until the Crown makes its election	Infraction où les poursuites peuvent être intentées par voie de mise en accusation ou de déclaration sommaire de culpabilité. Les infractions mixtes sont considérées intentées par voie de mise en accusation jusqu'au temps que la couronne fait son élection.
DUE DILIGENCE	DILIGENCE RAISONNABLE
Due diligence is the defence that a person has taken all reasonable care to comply with legislation.	Moyen de défense que peut invoquer une personne qui a fait tous les efforts raisonnables pour se conformer à la loi.
ELEMENT OF A CRIMINAL OFFENCE	ÉLÉMENTS D'UNE INFRACTION CRIMINELLE
The elements of an offence are those factors, which must be proven for a conviction. The elements of each offence are found in the wording of the particular offence section or the section describing the offence. All of the factors must exist for an offence to have taken place. Every charge laid under a statute must be based on the elements, which comprise that offence. Taken together these elements	Les éléments d'une infraction sont les facteurs qui doivent être prouvés pour qu'il y ait déclaration de culpabilité. Les éléments de chaque infraction se trouvent dans l'énoncé décrivant cette infraction. Tous les facteurs doivent être présents pour qu'une infraction ait été commise. Chaque accusation portée en vertu d'une loi doit reposer sur les éléments qui constituent cette infraction. Ensemble, ces

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constitute the crime. In order to convict the accused each element must be proved to the satisfaction of the justice, judge or jury. <i>Actus reus</i> and <i>mens rea</i> are two constant elements, which must be proved in each case. The other elements are the essential parts or pieces of the offence which, when combined create the offence.	éléments constituent l'acte criminel. Chaque élément doit être prouvé à la satisfaction du juge ou du jury pour que l'accusé puisse être reconnu coupable. L'<i>actus reus</i> et la <i>mens rea</i> sont deux éléments constants qui doivent être prouvés dans chaque cas. Les autres éléments sont les parties ou les pièces essentielles de l'infraction qui, lorsqu'elles sont combinées, constituent l'infraction.
ENFORCEMENT	EXÉCUTION
Enforcement is the act of compelling adherence to the law. Enforcement represents an essential tool in ensuring we meet our goal of compliance. It includes a wide range of activities (examination, audit, investigation, seizure prosecution, etc.) designed to detect, correct and deter non-compliance.	L'exécution signifie le respect obligatoire de la loi. L'exécution représente un outil essentiel afin de nous permettre d'atteindre notre objectif en matière d'observation. Elle comprend une vaste gamme d'activités (examens, vérifications, enquêtes, saisies, poursuites, etc.) conçues afin de détecter, de corriger et de prévenir l'inobservation.
ENFORCEMENT ACTION	APPLICATION DE LA LOI
In the customs environment, enforcement action refers to the levying of a sanction, seizing goods, ascertaining forfeiture, detaining or arresting a person, or any like occurrence.	En matière de douanes, mesure d'exécution comprenant la perception d'une pénalité, la saisie de marchandises, une confiscation compensatoire, la détention ou l'arrestation d'une personne ou tout autre événement semblable.
EVIDENCE	PREUVE
Evidence is that which serves to prove or disprove a belief or a conclusion. It is offered to prove the existence or non-existence of a fact. Evidence in criminal matters is whatever serves as proof that the person charged with an offence is either guilty or innocent. Evidence can be oral, written or can consist of physical exhibits (such as the goods seized, testimony, records, documents, material objects, etc)	La preuve est ce qui sert à prouver ou à infirmer une croyance ou une conclusion. Elle sert à prouver l'existence ou la non-existence d'un fait. La preuve dans les affaires criminelles est ce qui sert à prouver qu'une personne accusée d'une infraction est coupable ou innocente. La preuve peut être orale ou écrite ou elle peut se composer de pièces matérielles (p. ex. des marchandises saisies, des témoignages, des registres, des documents, des objets matériels, etc.).

EXAMINATION	EXAMEN
An examination is an inspection applied to goods, baggage, and conveyances for the purpose of appraisal or classification, to confirm a declaration made concerning goods, baggage, and conveyances, or to search for contraband or unreported or improperly reported goods. This includes the inspection of the contents of a traveller's pockets, purse, or wallet. An examination also includes questioning of a traveller or importer to elicit or confirm a declaration.	Un examen comprend l'inspection de marchandises, de bagages et de moyens de transport qui a pour objet l'appréciation ou le classement dans le but de confirmer une déclaration faite à leur égard ou de découvrir des marchandises passées en contrebande, non déclarées ou incorrectement déclarées. Elle comprend de plus l'inspection des poches, du sac à main ou du portefeuille du voyageur. Cette définition comprend également l'interrogation d'un voyageur afin de clarifier sa déclaration ou de la confirmer.
EXCULPATORY STATEMENT	DÉCLARATION DISCULPATOIRE
A statement that tends to justify, excuse, or clear an accused from alleged fault or guilt is an exculpatory statement.	Déclaration qui tend à justifier, excuser ou exonérer l'accusé de la faute ou de l'infraction qui lui est reprochée
EXHIBIT	PIÈCE
Physical or tangible evidence which has been admitted into court as evidence.	Élément physique ou tangible admis en cour à titre de preuve.
FIELD OPERATIONAL SUPPORT SYSTEM (FOSS)	SYSTÈME DE SOUTIEN DES OPÉRATIONS DES BUREAUX LOCAUX (SSOBL)
FOSS is an automated system of Citizenship and Immigration Canada, which contains Immigration lookout information.	Le SSOBL est un système automatisé de Citoyenneté et Immigration Canada, qui contient des renseignements sur les avis de surveillance de l'immigration.
FINDS COMMITTING	TROUVER EN TRAIN DE COMMETTRE
Actually seeing an offence being committed.	Voir une personne en train de commettre une infraction.
FINTRAC	CANAFE
FINTRAC is an acronym for the Financial Transaction and Reports Analysis Centre of Canada, which was created by Bill C-22. The Centre, on the basis of their analysis	CANAFE est un acronyme qui signifie Centre d'analyse des opérations et déclarations financières du Canada; le projet de loi C-22 est la raison de sa création.

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<p>and assessment can only disclose designated information where there are reasonable grounds to suspect the information is relevant to terrorist financing or a money laundering investigation and prosecution.</p> <p>The following organizations may receive "designated information" directly and may receive a full intelligence analysis report upon a production order.</p>	<p>Le Centre, à la lumière de son analyse et de son appréciation, est en mesure de divulguer des renseignements désignés uniquement lorsqu'il y a des motifs raisonnables de soupçonner que les renseignements seraient pertinents aux fins d'enquête ou de poursuite relativement au financement d'activités terroristes ou au recyclage des produits de la criminalité.</p> <p>Les organisations suivantes pourront obtenir des renseignements désignés directement ainsi qu'un rapport d'analyse complet du renseignement si une ordonnance de production est émise.</p>
<p>a) The appropriate police force: FINTRAC must disclose, "designated information" where there is reasonable grounds to suspect, based on the analysis of the information that it would be relevant to investigating or prosecuting a money laundering offence or terrorist activity.</p>	<p>a) Forces policières compétentes : Le CANAFE doit divulguer des renseignements désignés lorsqu'il existe des motifs raisonnables de soupçonner, selon l'analyse des renseignements, qu'ils seraient utiles aux fins d'enquête ou de poursuite relativement à une infraction de recyclage des produits de la criminalité ou de financement d'activités terroristes.</p>
<p>b) The Canada Border Services Agency (CBSA): FINTRAC must disclose, "designated information" where there is reasonable grounds to suspect based on the analysis of the information that the information is relevant to both money laundering offence and the evasion of duties and taxes.</p>	<p>b) Agence des services frontaliers Canada (ASFC) : Le CANAFE doit divulguer des renseignements désignés lorsqu'il existe des motifs raisonnables de soupçonner, selon l'analyse des renseignements, qu'il seraient utiles à la fois à une infraction de recyclage des produits de la criminalité et pour évasion fiscale.</p>
<p>c) The Canadian Security Intelligence Service (CSIS): FINTRAC must disclose, "designated information" where there is reasonable grounds to suspect, based on its analysis of the information that the information is relevant to both money laundering offence and a threat to the security of Canada.</p>	<p>c) Service canadien du renseignement de sécurité (SCRS) : Le CANAFE doit divulguer des renseignements désignés lorsqu'il existe des motifs raisonnables de soupçonner, selon l'analyse des renseignements, qu'ils seraient utiles à la fois au recyclage des produits de la criminalité et représentent une menace envers la sécurité du Canada.</p>
<p>d) The Department of Citizenship</p>	<p>d) Ministère de la Citoyenneté et de</p>

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<p>and Immigration Canada (CIC): FINTRAC must disclose, "designated information" where there is reasonable grounds to suspect, based on its analysis of the information is relevant to both money laundering offence and an <i>Immigration Act</i> offence.</p>	<p>l'Immigration Canada (CIC) : Le CANAFE doit divulguer des renseignements désignés lorsqu'il existe des motifs raisonnables de soupçonner, selon l'analyse des renseignements, qu'ils seraient utiles à la fois à une infraction de recyclage des produits de la criminalité et à une infraction de la Loi sur l'immigration.</p>
<p>FIREARMS AND WEAPONS</p>	<p>ARMES À FEU ET ARMES</p>
<p>A weapon means anything used, designed to be used or intended for use:</p>	<p>Une arme s'entend de toute chose utilisée ou conçue pour être utilisée ou qu'une personne entend utiliser</p>
<p>a) in causing death or injury to any person, or</p>	<p>a) soit pour tuer ou blesser quelqu'un;</p>
<p>b) for the purpose of threatening or intimidating any person, and;</p>	<p>b) soit pour menacer ou intimider quelqu'un;</p>
<p>c) without restricting the generality of the foregoing, includes any firearm as defined in Section 2 of the <i>Criminal Code</i>.</p>	<p>c) sans limiter la généralité de ce qui précède, cette définition comprend toute arme à feu au sens de l'article 2 du <i>Code criminel</i>.</p>
<p>A prohibited weapon means any weapon, other than a firearm, that is prescribed to be a prohibited weapon (e.g. a knife that has a blade that opens automatically by gravity or centrifugal force or by hand pressure applied to a button, spring or other device in or attached to the handle of the knife).</p>	<p>Une arme prohibée s'entend de toute arme, qui n'est pas une arme à feu, mais qui est désignée comme telle par règlement (par ex. un couteau dont la lame s'ouvre automatiquement par gravité ou force centrifuge ou par pression manuelle sur un bouton, un ressort ou un autre dispositif incorporé ou attaché au manche);</p>
<p>Note: For a complete list of prohibited weapons, refer to Appendix G of D19 -13 - 2 Importing and Exporting Firearms, Weapons, and Devices.</p>	<p>Note : Voir la liste complète des armes prohibées à l'annexe G du D19-13-2 Importation et exportation d'armes à feu, d'autres armes et de dispositifs.</p>
<p>A firearm means any barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or</p>	<p>Arme à feu s'entend de toute arme susceptible, grâce à un canon qui permet de tirer du plomb, des balles ou tout autre projectile, d'infliger des lésions corporelles</p>

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death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm.	graves ou la mort à une personne, y compris une carcasse ou une boîte de culasse, ainsi que toute chose pouvant être modifiée pour être utilisé comme telle.
A prohibited firearm means:	Une arme à feu prohibée s'entend de :
a) a handgun that:	a) une arme de poing :
i. has a barrel equal to or less than 105 mm (approximately 4.1 inches) in length; or	i. pourvue d'un canon dont la longueur ne dépasse pas 105 mm (environ 4,1 po); ou
i. is less than 660 mm (approximately 25.74 inches) in length; or	ii. la longueur totale de l'arme soit inférieure à 660 mm (environ 25,74 po); ou
ii. is 660 mm (approximately 25.74 inches) or more in length and has a barrel less than 457 mm (approximately 17.82 inches) in length;	iii. la longueur totale soit inférieure à 660 mm (environ 25,74 po) et la longueur du canon soit de moins de 457 mm (environ 17,82 po);
b) an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger; or	b) une arme automatique, même si elle a été ou non modifiée pour ne tirer qu'un seul projectile à chaque pression de la détente;
c) any firearm that is prescribed to be a prohibited firearm.	c) une arme à feu désignée comme telle par règlement.
Note: For a complete list of prohibited weapons, refer to Appendix G of D19-13-2 Importing and Exporting Firearms, Weapons, and Devices.	Note : Voir la liste complète des armes prohibées à l'annexe G du D19-13-2 Importation et exportation d'armes à feu, d'autres armes et de dispositifs.

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A restricted firearm means:	Une arme à feu à autorisation restreinte s'entend de :
a) a handgun that is not a prohibited firearm;	a) toute arme de poing qui n'est pas une arme à feu prohibée;
b) a firearm that:	b) toute arme à feu
i. is not a prohibited firearm;	i. qui n'est pas une arme à feu prohibée;
ii. has a barrel less than 470 mm (approximately 18.33 inches) in length; and	ii. pourvue d'un canon de moins de 470 mm (environ 18,33 po) de longueur;
iii. is capable of discharging centre-fire ammunition in a semi-automatic manner, e.g., semi-automatic pistols;	iii. qui peut tirer des munitions à percussion centrale d'une manière semi-automatique, par exemple un pistolet semi-automatique;
c) a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm (approximately 25.74 inches) by folding, telescoping, or otherwise; or	c) toute arme à feu conçue ou adaptée pour tirer lorsqu'elle est réduite à une longueur de moins de 660 mm (environ 25,74 po) par repliement, emboîtement ou autrement;
d) a firearm of any other kind that is prescribed to be a restricted firearm.	d) toute arme à feu désignée comme telle par règlement.
A prohibited device means:	Dispositif prohibé s'entend de :
a) any component or part of a	a) un élément ou une pièce d'une

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weapon, or any accessory for use with a weapon that is prescribed to be a prohibited device;	arme, ou un accessoire destiné à être utilisé avec l'arme, désignés comme tel par règlement;
b) a handgun barrel that is equal to or less than 105 mm (approximately 4.1 inches) in length, but does not include any such handgun barrel that is prescribed where the handgun barrel is used in international sporting competitions governed by the rules of the International Shooting Union;	b) un canon d'une arme de poing, qui ne dépasse pas 105 mm (environ 4,1 po) de longueur, sauf celui désigné par règlement pour être utilisé dans des compétitions sportives internationales régies par les règles de l'Union internationale de tir;
c) a device or contrivance designed or intended to muffle or stop the sound or report of a firearm, e.g., silencers;	c) un appareil ou dispositif propre ou destiné à amortir ou à étouffer le son ou la détonation d'une arme à feu, par exemple un silencieux;
'd) large-capacity cartridge magazines prescribed by regulation. Generally, cartridge magazines are limited to five rounds for centre-fire semi-automatic rifles or shotguns and ten rounds for semi-automatic handguns, with certain exemptions for rare and valuable magazines; or	'd) un chargeur grande capacité désigné comme tel par règlement. Les chargeurs se limitent généralement à cinq cartouches dans le cas des carabines ou fusils de chasse semi-automatiques utilisant des munitions à percussion centrale, et à dix cartouches pour les armes de poing semi-automatiques. Certaines exemptions s'appliquent pour les chargeurs rares et de valeur ou;
e) a replica firearm.	e) une réplique.
Note: For a complete list of prohibited devices, refer to Appendix G of D19-13-2 Importing and Exporting Firearms, Weapons, and Devices.	Note : Voir la liste complète des dispositifs prohibés à l'annexe G du D19-13-2 Importation et exportation d'armes à feu, d'autres armes et de dispositifs.
A replica firearm means any device that is designed or intended to exactly resemble, or to resemble with near precision, a firearm, and that it is not a firearm, but	Une réplique d'arme à feu s'entend de tout objet, qui n'est pas une arme à feu, conçu de façon à en avoir l'apparence exacte, ou à la reproduire le plus fidèlement possible,

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does not include any device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm.	ou auquel on a voulu donner cette apparence. La présente définition exclut tout autre objet conçu de façon à avoir l'apparence exacte d'une arme à feu historique, ou à la produire le plus fidèlement possible, ou auquel on a voulu donner cette apparence.
Note: For additional information on antique firearms, refer to Appendix G of D19-13-2 Importing and Exporting Firearms, Weapons, and Devices.	Note : Pour de plus amples renseignements sur les armes à feu historiques, voir l'annexe G du D19-13-2 Importation et exportation d'armes à feu, d'autres armes et de dispositifs.
Items not considered to be firearms are:	Armes réputées ne pas être des armes à feu :
a) any antique firearm;	a) toute arme à feu historique;
b) any device designed and intended by the person in possession thereof, for use exclusively for signalling, notifying of distress or firing blank or stud cartridges, explosive-driven rivets or similar industrial projectiles;	b) tout instrument qui est conçu exclusivement pour envoyer un signal, appeler au secours ou tirer des cartouches à blanc ou pour tirer des cartouches d'ancre, des rivets explosifs ou d'autres projectiles industriels, et est destiné par son possesseur à servir exclusivement à ces fins;
c) any shooting device designed and intended by the person in possession thereof, for use exclusively for slaughtering of domestic animals, tranquillizing animals, or discharging projectiles with lines attached to them;	c) tout instrument de tir qui est conçu exclusivement pour soit abattre les animaux domestiques, soit administrer des tranquillisants à des animaux, soit encore tirer des projectiles auxquels sont attachés des fils, et est destiné par son possesseur à servir exclusivement à ces fins;
d) any other barrelled weapon where it is proved that such weapon is not designed or adapted to discharge a shot,	d) toute arme à canon lorsqu'il est prouvé qu'elle n'est ni conçue ni adaptée pour tirer du plomb, des balles ou tout autre projectile à

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bullet or other missile at a muzzle velocity exceeding 152.4 m per second (500 feet per second) or to discharge a shot, bullet or other missile that is designed or adapted to attain a velocity exceeding 152.4 m per second (500 feet per second).	une vitesse initiale de plus de 152,4 m (500 pi par seconde), et tirer du plomb, des balles ou tout autre projectile conçus ou adaptés pour atteindre une vitesse de plus de 152,4 m (500 pi) par seconde.
FORCED COLLECTION/PAYMENT	PAIEMENT/PERCEPTION FORCÉ(E)
This term is often used in the customs environment to refer to the collection of duties and taxes lawfully owing on goods in lieu of taking seizure action when the importer did not voluntarily declare goods.	Ce terme est souvent utilisé dans le milieu des douanes afin de se rapporter au fait de percevoir les droits et les taxes légalement exigibles à l'égard de marchandises au lieu de prendre des mesures de saisies sur ces marchandises lorsqu'un importateur n'a pas volontairement déclaré certaines marchandises.
FORCIBLE CONFINEMENT	SÉQUESTRATION
Forcible confinement is the act of depriving an individual of liberty to move from point to point. It differs from kidnapping, as kidnapping consists of taking control of the person and carrying them away from one point to another.	La séquestration consiste à priver une personne de la liberté de se déplacer d'un point à un autre. Elle diffère du kidnapping, qui consiste à prendre le contrôle d'une personne et de la transporter d'un point à un autre.
FOREIGN NATIONAL	RESSORTISSANT ÉTRANGER
A person who is not a Canadian citizen or permanent resident, including a stateless person is a foreign national.	Personne qui n'est pas un citoyen ni un résident permanent du Canada, y compris un apatride
FOREIGN REPRESENTATIVE	REPRÉSENTANT ÉTRANGER
Diplomatic, consular post and international organization personnel are foreign representatives.	Membre du personnel d'une mission consulaire ou d'une ambassade ou employé d'une organisation internationale.
FORFEIT	CONFISQUER
To forfeit property or money is to lose the right to ownership as a penalty for some infraction, error or omission of law. For customs purposes, a forfeiture of goods occurs at the time and place that a	Le fait de retirer le droit de propriété à l'égard de biens ou d'argent à cause d'une infraction, d'une erreur ou d'une omission constituant une infraction à la loi. Aux fins des douanes, la confiscation de

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contravention of the <i>Customs Act</i> takes place and means forfeit to Her Majesty in right of Canada.	marchandises prend effet au moment et à l'endroit où se produit l'infraction à la <i>Loi sur les douanes</i> et les marchandises sont alors confisquées au profit de Sa Majesté du chef du Canada.
FRISK	FOUILLE-PALPATION
A frisk is a quick and minimally intrusive search for weapons performed for the health and safety of CBSA personnel and the public. A frisk will be performed on persons detained and/or arrested. For example, a detained and/or arrested person may be frisked prior to transport to a hospital for x-ray for ingested drugs, prior to the administration of an ABAI, or prior to a personal search.	Une fouille-palpation est une fouille rapide mais à intrusion minimale à la recherche d'armes et elle est effectuée afin d'assurer la santé et la sécurité des employés de l'ASFC et du public. Une fouille-palpation est effectuée sur des personnes détenues et(ou) arrêtées. Par exemple, une personne détenue et(ou) arrêtée peut être soumis à une fouille-palpation avant d'être transportée à l'hôpital pour une radiographie afin de découvrir des drogues ingérées, avant l'application d'un AA ou avant de subir une fouille personnelle.
FULL OFFLOAD	DÉCHARGEMENT COMPLET
Full off-loads, where 76 to 100% of goods are removed from a conveyance, container, or truck, are mandatory for random exams and shipments that pose a high risk for contraband and may be required for other government departments or trade purposes as specified in the target request.	Un déchargement complet, qui signifie qu'un pourcentage variant de 76 à 100 % des marchandises sont déchargées d'un moyen de transport, d'un conteneur ou d'un camion, est obligatoire pour les examens aléatoires et pour les expéditions qui représentent un risque élevé de contrebande et il peut être exigé par un autre ministère ou nécessaire à des fins commerciales, tel que précisé dans la demande de ciblage.
FUNCTUS OFFICIO	FUNCTUS OFFICIO
This is a Latin term used to denote where an official or an agency has fulfilled their or its purpose and consequently has no further authority to act. In the adjudication process, once the Minister, or his delegate, has rendered a formal decision, they are without further power to change or rescind such decision.	Terme latin utilisé pour indiquer qu'un agent ou un organisme a rempli sa fonction et n'est donc plus autorisé à agir. Dans le processus d'arbitrage, une fois que le Ministre ou son délégué a rendu une décision officielle, il ne peut modifier ou annuler cette décision.
GUARDIAN	GARDIEN
Any person who has in law or in fact the	Toute personne qui, de fait ou en vertu de

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custody or control of another person.	la loi, a la garde d'une autre personne ou exerce un contrôle sur elle.
HABEAS CORPUS	HABEAS CORPUS
A writ directed to the person detaining another commanding him to produce the body of the person detained or arrested before a court or judge. The purpose is to test the legality of the detention or imprisonment.	Bref adressé à la personne qui détient une autre personne lui ordonnant d'amener la personne détenue ou arrêtée devant un tribunal ou un juge. L'objet est de vérifier la légalité de la détention ou de l'emprisonnement.
HATE PROPAGANDA	PROPAGANDE HAINEUSE
As defined in subsection 320(8) of the Criminal Code, hate propaganda consists of goods which advocate or promote hatred against an identifiable group distinguished by colour, race, religion, or ethnic origin. The importation of hate propaganda is prohibited under tariff item 9899.00.00.	Comme le stipule le paragraphe 320(8) du Code criminel, la propagande haineuse consiste en marchandises qui préconisent ou fomentent la haine contre un groupe identifiable qui se différencie des autres par la couleur, la race, la religion ou l'origine ethnique. L'importation de propagande haineuse est interdite en vertu du numéro tarifaire 9899.00.00.
HAZARDOUS WASTE	DÉCHETS DANGEREUX
Dangerous goods, that no longer are to be used for their intended purpose but are to be recycled or disposed, are considered hazardous waste. For example, gasoline is a dangerous good; stale or contaminated gasoline becomes a hazardous waste. Hazardous wastes are controlled under the <i>Canadian Environmental Protection Act</i> .	Les déchets dangereux sont des matières qui ne sont plus utilisées à leur fin propre et doivent être recyclées ou détruites. Par exemple, l'essence est un déchet dangereux; l'essence altérée ou contaminée devient un déchet dangereux. Les déchets dangereux sont contrôlés en vertu de la <i>Loi canadienne sur la protection de l'environnement</i> .
ICES/ORS REPORT	RAPPORT SIED/SRE
The ORS report is an integral part of the Integrated Customs Enforcement System and is directly linked to the Intelligence Management System (IMS). The officer's reports are sent electronically to the Regional Intelligence Division detailing the officer's suspicions and indicators based on an occurrence. The Intelligence Division will develop the information on the report received or keep it for future reference in the event that a similar event arises.	Le rapport SRE fait partie intégrante du Système intégré d'exécution des douanes tout en étant relié directement au Système de gestion des renseignements (SGR). Les rapports des agents sont envoyés électroniquement à la Division régionale des renseignements. On y trouve des explications sur les soupçons d'un agent relativement à une situation donnée. La Division des renseignements examinera de plus près les renseignements contenus dans le rapport ou conservera ce dernier

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	aux fins de consultation éventuelle au cas où une situation semblable se présenterait de nouveau.
INQUISITORIAL STATEMENT	DÉCLARATION INCRIMINANTE
A statement that tends to establish the guilt of an accused or from which their guilt may be inferred is inquisitorial.	Déclaration qui tend à établir la culpabilité d'un accusé ou d'où la culpabilité peut être inférée
INDICATOR	INDICATEUR
An indicator is an abnormality or inconsistency in information or physical appearance or a trend that could create a reasonable suspicion in the mind of an officer that laws administered by the CBSA may have been contravened. An indicator can be a piece of information or aspect of physical appearance that when added to other information raises doubt about the validity of a declaration. to name just a few. Race, age and sex of the traveller are not considered indicators.	Un indicateur se traduit par une anomalie ou une contradiction de l'information ou de l'apparence physique ou d'une variation qui sème un doute raisonnable dans l'esprit d'un agent à savoir que les lois appliquées par l'ASFC pourraient avoir été enfreintes. Un indicateur peut être une information ou un aspect de l'apparence physique qui lorsque jumelé à d'autres renseignements soulève le doute à l'égard de la validité de la déclaration. Les indicateurs peuvent être fondés sur des données statistiques ou des antécédents de saisies antérieures. pour ne nommer que ceux-là. La race, l'âge et le sexe du voyageur ne sont pas considérés comme étant des indicateurs.
INDICTABLE OFFENCE	ACTE CRIMINEL
An indictable offence is any offence described in a Federal Statute which is stated to be an indictable offence or which is punishable by indictment. Indictable offences are generally more serious offences and prosecution by indictment is a lengthier and more complex court process involving preliminary hearings and trials before judge or a judge and jury. All offences under the <i>Customs Act</i> referred to in section 160 are dual procedure offences. All other offences are summary conviction offences. There are no purely	Infraction décrite comme telle dans une loi fédérale ou qui est punissable par voie de mise en accusation. Les actes criminels constituent généralement des infractions graves, et la poursuite par mise en accusation est un processus judiciaire plus long et complexe impliquant la tenue d'une enquête préliminaire et un procès devant un juge ou un juge et jury. Toutes les infractions qui figurent à l'article 160 de la <i>Loi sur les douanes</i> sont des infractions mixtes. Toutes les autres infractions sont des infractions punissables par voie de

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indictable offences under the <i>Customs Act</i> .	déclaration sommaire de culpabilité. Il n'existe aucune infraction grave en vertu de la <i>Loi sur les douanes</i> .
INDUCEMENT	INCITATION
Any statement or action that leads the accused into believing that they will be treated better or worse depending on whether or not they make a statement.	Toute déclaration ou action qui incite l'accusé à croire que le fait de faire ou de ne pas faire une déclaration quelconque déterminera la façon dont il sera traité.
INFORMANT	INFORMATEUR
An informant is a human source that has knowledge of criminal activity through association or personal involvement, and provides information to law enforcement agencies. Such sources often require the protection afforded by anonymity, and hence may not be compelled to become witnesses.	Toute personne qui a connaissance de certaines activités criminelles à cause de son association ou de sa participation personnelle à ces activités et qui fournit des renseignements à un organisme de police. Comme ces personnes ont souvent besoin de la protection garantie par l'anonymat, elles ne peuvent être tenues de témoigner.
IN PERSONAM	IN PERSONAM (PERSONNEL)
This is a term used to denote proceedings or actions that are taken against persons. Prosecution of individuals are “in personam” actions.	Terme qualifiant les procédures ou les actions prises contre des personnes. Les poursuites intentées contre des personnes constituent des actions personnelles ou in personam.
IN REM	IN REM (RÉEL)
A term used to denote proceedings or actions that are taken against things. Customs seizures are “in rem” actions.	Terme qualifiant les procédures ou les actions prises contre des choses. Les saisies aux douanes constituent des actions réelles ou in rem.
INSTRUMENT FOR ILLICIT DRUG USE	INSTRUMENT POUR L'UTILISATION DE DROGUES ILLICITES
These instruments are, as defined by section 462.1 of the <i>Criminal Code</i> , anything designed primarily or intended under the circumstances for consuming or to facilitate the consumption of an illicit drug.	Il s'agit, selon l'article 462.1 du <i>Code criminel</i> , de tout ce qui est destiné essentiellement ou en l'occurrence à la consommation d'une drogue illicite ou à la facilitation de sa consommation.

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INTEGRATED CUSTOMS ENFORCEMENT SYSTEM (ICES)	SYSTÈME INTÉGRÉ D'EXÉCUTION DES DOUANES (SIED)
ICES is an automated system providing lookout and enforcement information. It automates seizure documentation and contains a library of enforcement and intelligence information and examination results.	Le SIED est un système automatisé qui fournit des avis de surveillance et des renseignements en matière d'exécution. Il sert à automatiser les documents de saisie et il contient une bibliothèque d'information sur l'exécution et le renseignement ainsi que sur les résultats des examens.
INTELLIGENCE	RENSEIGNEMENT
Intelligence data forewarns of activities that are likely to occur. Intelligence is evaluated and analyzed information; information that has been studied, correlated, interpreted, and confirmed.	Toute donnée qui avertit qu'un fait pourrait se produire. Le renseignement est l'évaluation et l'analyse d'informations, c'est-à-dire de l'information qui a été étudiée, mise en corrélation, et interprétée et confirmée.
The purpose of intelligence is to provide the user with a knowledge of events that are likely to occur which are counter to the user's aim. Intelligence serves a proactive function in the CBSA enforcement environment.	Le renseignement vise à faire connaître à l'utilisateur les événements qui pourraient se produire et qui vont à l'encontre de ses objectifs. Le renseignement a une fonction proactive dans le milieu de l'exécution de l'ASFC.
"Watch Fors", "Alerts", "Bulletins", "Profiles", and "Lookouts" are all products of Intelligence Operations containing reliable <u>confirmed</u> information usually relevant for a specified or limited duration. These products are used to disseminate intelligence information to intended users in the field.	Les listes de surveillance, les alertes, les communiqués, les profils et les avis de surveillance sont des produits des opérations du renseignement qui contiennent des renseignements <u>confirmés</u> fiables qui sont, en règle générale, valables pour une durée précise ou limitée. Ces produits sont utilisés afin de diffuser des renseignements aux utilisateurs visés à l'échelle locale.
For CBSA purposes, intelligence concerns potential or actual risk situations of a tactical, operational, or strategic nature. For example, intelligence can forewarn of contraband concealment methods, conveyance routes, and modes of transportation, as well as the subjects involved in contraband smuggling.	Aux fins de l'ASFC, le renseignement touche des situations pouvant présenter ou présentant des risques de nature tactique, opérationnelle ou stratégique. Par exemple, le renseignement peut servir à donner des informations sur des méthodes de dissimulation de la contrebande, sur les itinéraires de certains moyens de transport et sur les modes de transport, ainsi que sur les personnes impliquées dans des activités de

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	contrebande.
There are three types of intelligence:	Il existe trois types de renseignement :
a) Tactical – Intelligence that has a bearing upon an existing enforcement condition, current operation, or is of only local interest, usually immediately applicable to the user.	a) Tactique – Renseignement qui a des répercussions sur une condition d'exécution existante, sur une opération courante ou qui est d'un intérêt local uniquement, et qui est applicable sur-le-champ à l'utilisateur.
b) Operational – Intelligence that, although related to a specific case, has direct application to overall enforcement efforts.	b) Opérationnel – Renseignement qui a une application directe sur les efforts d'exécution généraux même s'il se rapporte à un cas précis.
c) Strategic – Intelligence that can be national or international in scope, is the result of in-depth analysis of data collected over a period of time, and involves comprehensive research material.	c) Stratégique – Renseignement qui peut être de portée nationale ou internationale, qui est le résultat d'une analyse approfondie des données recueillies au cours d'une certaine période et qui comprend une somme importante de matériel de recherche.
INTENSIVE EXAMINATION	EXAMEN EXHAUSTIF
Goods or evidence discovered in the course of a selective examination may serve as reasonable grounds to progress to a more intensive search. As the intensity increases, the officer is required to state more precisely the reasonable grounds, which are noted in the Customs Notebook.	Des marchandises ou des preuves découvertes au cours d'un examen sélectif peuvent servir de motifs raisonnables pour procéder à une recherche plus approfondie. Lorsque l'intensité augmente, l'agent est tenu de préciser davantage les motifs raisonnables qui figurent dans le carnet douanier.
In addition to undeclared or prohibited goods found during selective examinations, comments made by the traveller, observations by the officer of unusual behaviour on the part of the traveller, or specific Intelligence information (such as a clear identification of the vehicle or traveller) may contribute to the establishment of reasonable grounds to proceed to a more intensive level. This level of examination may include disassembly of a conveyance.	En plus des marchandises non déclarées ou prohibées découvertes au cours des examens sélectifs, des commentaires formulés par le voyageur, des observations visuelles de l'agent sur un comportement inhabituel de la part du voyageur ou des renseignements précis (comme une identification claire du véhicule ou du voyageur) peuvent contribuer à établir des motifs raisonnables afin de procéder à un niveau d'examen plus intensif. Ce niveau d'examen peut comprendre le démontage

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	d'un moyen de transport.
INTERDICTION	INTERDICTION
Interdiction is defined as enforcement activity specifically aimed at identifying and intercepting the illegal movement of goods and substances across international borders. A key objective of interdiction is the apprehension of persons responsible for such illegal movements.	L'interdiction est une activité d'exécution qui vise tout particulièrement à identifier et à intercepter la circulation illégale de marchandises et de substances à une frontière internationale. L'un des objectifs clés de l'interdiction consiste à arrêter les personnes responsables des activités illégales en question.
INTERNAL CARRIER	PASSEUR PAR VOIE INTERNE
A person who has ingested and/or utilized body cavities to smuggle contraband into Canada, is an internal carrier.	Toute personne qui introduit de la contrebande au Canada par ingestion ou par insertion dans les orifices du corps.
INTERNAL CONSPIRACY	COMPLÔ INTERNE
This term refers to the illegal entry of goods facilitated by persons employed in an official capacity in the transportation or allied industry, for example: airline personnel, brokers, cargo handlers and other transportation company employees.	L'introduction illégale de marchandises facilitée par des personnes occupant un emploi à caractère officiel dans une entreprise de l'industrie des transports ou d'une industrie connexe, comme le personnel navigant, les courtiers, les manutentionnaires du fret et les autres employés des compagnies de transport.
INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL)	ORGANISATION INTERNATIONALE DE POLICE CRIMINELLE (INTERPOL)
INTERPOL is an international crime database system that maintains information in the following areas:	INTERPOL est un système de base de données du crime international qui contient des renseignements dans les domaines suivants :
a) Offences against persons and property; murder, kidnapping, hostage-taking, interference with civil aviation, terrorism, firearms and explosives, theft and dealings in stolen property, in particular, works of art and cultural property.	a) Les atteintes aux personnes et aux biens; les meurtres, les kidnappings, les prises d'otages, les mesures d'obstruction dans l'aviation civile, le terrorisme, les armes à feu et les explosifs, les vols et le traitement d'objets volés, plus particulièrement les œuvres d'art et la propriété intellectuelle.
b) Economic and financial crime such as currency and document	b) Les crimes économiques et financiers comme le faux-

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counterfeiting and forgery, fraud of maritime insurance and computer crime.	monneyage et la contrefaçon de documents, les fraudes à l'égard des assurances maritimes et le crime informatique.
c) Drug trafficking such as illicit cultivation, manufacture, transport, and sale.	c) Les activités liées au trafic des stupéfiants comme la culture illégale, la fabrication, le transport et la vente.
They can also assist in the following areas: criminal history, missing persons, driver's licence, licence plates, vehicles, registered owners, guns, boats, boat registrations, and motors.	Il peut également être utile dans les domaines suivants : passé criminel, personnes disparues, permis de conduire, plaques d'immatriculation, véhicules, propriétaires enregistrés, armes, embarcations, immatriculation des embarcations et moteurs.
The system can be accessed through CPIC.	On peut accéder au système au moyen du CIPC.
INTERROGATION	INTERROGATOIRE
Interrogation is a process designed to develop an admission of guilt. It should be reserved for those situations when a subject's guilt has been established from the investigation as reasonably certain.	Un interrogatoire est un processus qui a été conçu afin d'entraîner un aveu de culpabilité. Il doit se limiter aux situations au cours desquelles la culpabilité d'une personne a été reconnue comme étant raisonnablement certaine à partir d'une enquête.
INTERVIEW	ENTREVUE
An interview is a non-accusatory process in which an officer asks questions designed to develop factual information, such as who, what, when, where and how.	Une entrevue est un processus non accusatoire au cours duquel un agent pose des questions destinées à recueillir des renseignements factuels comme qui, quoi, quand, où et comment.
JOINT FORCES OPERATION (JFO)	OPÉRATION POLICIÈRE CONJOINTE (OPC)
A JFO is an undertaking or agreement between the CBSA and another agency/agencies to investigate the contravention of federal legislation dealing with drugs, fraud, weapons, and any other <i>Customs Act</i> or <i>Customs Tariff</i> infractions. Generally, it will have a specified duration, identified targets, and an anticipated outcome.	Toute entreprise conjointe ou accord conclu entre l'ASFC et d'autres organismes pour enquêter sur des infractions à la législation fédérale concernant des stupéfiants, de la fraude ou des armes ou sur d'autres infractions à la <i>Loi sur les douanes</i> ou au <i>Tarif des douanes</i> . En règle générale, une OPC est d'une durée précise, les cibles sont identifiées et les résultats sont prévus.

JURISPRUDENCE	JURISPRUDENCE
The science or theory of law in which certain rules and/or precedents are applied in similar cases in an attempt to provide equitable judgments.	Science ou théorie du droit dans le cadre de laquelle certaines règles et(ou) certains précédents sont appliqués dans des cas similaires en vue de rendre des décisions équitables.
JUSTICE	JUGE
A justice of the peace or a provincial court judge.	Juge de paix ou juge de la cour provinciale.
KIDNAPPING	KIDNAPPING
As defined in section 279 (1) of the <i>Criminal Code</i> , a person who kidnaps a person with intent to confine or imprison them against their will, to cause them to be sent or transported out of Canada against their will, or to hold them for ransom or for service against their will, is guilty of an indictable offence.	Au sens du paragraphe 279(1) du Code criminel, commet un acte criminel quiconque enlève une personne dans l'intention de la faire séquestrer ou emprisonner contre son gré, de la faire illégalement envoyer ou transporter à l'étranger contre son gré, de la détenir en vue de rançon ou de service contre son gré.
LOOKOUT	AVIS DE SURVEILLANCE
The subject of a lookout is a person, conveyance, or a good that has been reliably identified through confirmed information, as someone or something that is likely to or has been, involved in the commission of an offence. A Lookout is the product of Intelligence Operations, based on confirmed information being placed through the 5-step intelligence process.	L'objet d'un avis de surveillance est une personne, un moyen de transport ou des marchandises qui ont été identifiés de façon fiable au moyen d'informations confirmées comme pouvant servir, ou ayant servi, à commettre une infraction. Les avis de surveillance sont produits par les opérations du renseignement, qui se fondent sur des renseignements confirmés qui sont mis en place au moyen du processus du renseignement en cinq étapes.
A similar alert created by a CBSA officer involving specific goods, people, or conveyances is called a target or watch-for.	Une alerte semblable créée par un agent de l'ASFC et visant des marchandises, des personnes ou des moyens de transport précis s'appelle cible ou avis de signalement.
MENS REA	MENS REA
A guilty mind, a wrongful purpose or a criminal intent. With actus reus , one of the two constant elements of an offence that	Intention criminelle ou coupable. Elle constitue, avec l' actus reus , l'un des deux éléments essentiels d'une infraction qui

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must be proved.	doivent être étayés par la preuve.
MINISTER	MINISTÈRE
"Minister" means, the Minister of Public Safety and Emergency Preparedness.	Le terme « ministre » fait référence au ministre de la Sécurité publique et de la protection civile.
MISDESCRIPTION	FAUSSE DÉSIGNATION
Misdescription is a contravention of the <i>Customs Act</i> that occurs when goods are declared at the CBSA, but are purposely described incorrectly to introduce the goods into Canada or to enable the goods to be imported at a lower or preferred rate of duty.	Infraction à la <i>Loi sur les douanes</i> qui consiste à donner délibérément une description inexacte des marchandises déclarées à l'ASFC pour pouvoir les introduire au Canada ou les importer à un taux de droit réduit ou préférentiel.
MISSING CHILD	ENFANTS DISPARUS
Any person under 18 years of age whose whereabouts are unknown to their legal guardian and where the circumstances surrounding the disappearance suggest the child was removed without the guardian's consent, or the child's safety is at risk.	Toute personne âgée de moins de 18 ans dont le lieu où elle se trouve est inconnu de son tuteur légal, et où les circonstances entourant sa disparition suggèrent que l'enfant ait été enlevé sans le consentement du tuteur ou que la sécurité de l'enfant est à risque
MODUS OPERANDI	MODUS OPERANDI
In law enforcement, the term is used to describe the particular method of a criminal's activity.	Dans le cadre de l'exécution de la loi, ce terme sert à décrire une méthode précise utilisée par un criminel pour ses activités.
MONETARY INSTRUMENTS	INSTRUMENTS MONÉTAIRES
"Monetary Instruments" means	Les « effets » s'entend de
a) securities, including stocks, bonds, debentures and treasury bills, in bearer form or in such other form as title to them passes upon delivery; and	a) titres, y compris d'actions, de bons, d'obligations, de bons du Trésor, au porteur ou sous toute autre forme qui fait que le titre appartient à une personne sur livraison; et de
b) negotiable instruments in bearer form, including banker's drafts, cheques, traveller's cheques and money orders, other than:	b) instruments négociables au porteur, y compris les traites bancaires, les chèques, les chèques de voyage, les mandats, autres que :
i) warehouse receipts or bills of lading, and	i) des récépissés d'entrepôts ou des connaissances;

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ii) negotiable instruments that bear restrictive endorsements or a stamp for the purposes of clearing or are made payable to a named person and have not been endorsed.	ii) des instruments négociables à endossement restrictif ou estampillés aux fins d'affranchissement, ou payables à une personne nommée et qui n'ont pas été endossés.
iii) Government of Canada issued cheques (considered to be a warrant that financial institutions must honour and may not be seized under the PCMLTFA).	iii) Chèques émis par le gouvernement du Canada (considérés à titre de garantie que les institutions financières doivent honorer et ne peut être saisie en vertu de la LRPCFAT)
MONEY LAUNDERING	RECYCLAGE D'ARGENT (Blanchissement)
Money gained from illicit activities is transacted through banks or fake businesses to hide its original illegal source and make detection difficult.	L'argent gagné à partir d'activités illicites qui est transigé par les banques ou par de fausses activités afin de camoufler sa source illégale originale et d'en rendre la détection difficile.
MONEY LAUNDERING OFFENCE	INFRACTION EN MATIÈRE DE RECYCLAGE D'ARGENT
"Money laundering offence" means an offence under subsection 462.31(1) of the <i>Criminal Code</i> , section 9 of the <i>CDSA</i> , section 126.2 of the <i>Excise Act</i> , section 163.2 of the <i>Customs Act</i> , section 5 of the <i>Corruption of Foreign Public Officials Act</i> or section 28 of the <i>Crimes Against Humanity and War Crimes Act</i> .	Une « infraction en matière de recyclage d'argent » signifie une infraction commise en vertu du paragraphe 462.31(1) du <i>Code criminel</i> , de l'article 9 de la <i>LRDAS</i> , de l'article 126.2 de la <i>Loi sur l'accise</i> , de l'article 163.2 de la <i>Loi sur les douanes</i> , de l'article 5 de la <i>Loi sur la corruption d'agents publics étrangers</i> ou de l'article 28 de la <i>Loi sur les crimes contre l'humanité et les crimes de guerre</i> .
MONITORING	SURVEILLANCE
Controlling activities, through observation and unscheduled inspections of areas containing in-bond goods and/or conveyances permitted in Canada under prescribed conditions is termed monitoring.	La surveillance se définit par toute activité de contrôle, au moyen de l'observation et d'inspections imprévues de marchandises sous douane et(ou) de moyens de transport permis au Canada en vertu de conditions réglementaires.
MOTOR VEHICLE	VÉHICULES MOTEURS
A vehicle that is drawn, propelled or driven by any means other than muscular power, but does not include railway equipment.	Véhicule qui est tiré, propulsé ou conduit par tout moyen autre que la force musculaire, mais qui exclut le matériel ferroviaire.

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NARCOTIC	STUPÉFIANTS
Narcotics are a group of drugs with potent analgesic effects, associated with alteration of mood and behaviour.	Les stupéfiants sont un groupe de drogues qui ont des effets analgésiques qui peuvent modifier l'humeur et le comportement.
The chief narcotic drugs are opium, its constituent's morphine and codeine, and the morphine derivative heroin.	Les principales drogues sont l'opium, ses composantes la morphine et la codéine et l'héroïne, qui est un dérivé de la morphine.
Narcotics are thought to act by mimicking and/or enhancing the activity of endorphins; proteins produced by the brain and believed to modulate pain and other nervous system functions. Narcotics are effective for numbing the senses, alleviating pain, inducing sleep, and relieving diarrhoea. Common side effects include constipation, nausea, and allergic reactions. They are respiratory depressants and in large doses can cause coma and death. All narcotics are addictive; synthetic narcotics such as meperidine and methadone tend to be less addicting and possess fewer side effects.	On croit que les stupéfiants agissent en masquant ou en augmentant l'activité des endorphines, les protéines produites par le cerveau et en atténuant la douleur ainsi que d'autres fonctions du système nerveux. Les stupéfiants sont efficaces pour engourdir les sens, pour atténuer la douleur, pour provoquer le sommeil et pour soulager la diarrhée. Les effets secondaires courants comprennent la constipation, la nausée et des réactions allergiques. Ils sont des dépressifs respiratoires et, lorsqu'ils sont pris en grande quantité, ils peuvent entraîner le coma ou la mort. Tous les stupéfiants peuvent entraîner une dépendance; les stupéfiants synthétiques comme la mépéridine et la méthadone semblent entraîner une moins grande dépendance et ils ont moins d'effets secondaires.
For customs enforcement purposes, the term 'drugs' includes narcotics.	Aux fins de l'exécution des douanes, le terme « drogues » comprend les stupéfiants.
NATIONAL CRIME INFORMATION CENTRE (NCIC)	NATIONAL CRIME INFORMATION CENTRE (NCIC)
NCIC is the U.S. equivalent to the Canadian Police Information Centre (CPIC).	Le NCIC est l'équivalent américain du Centre d'information de la police canadienne (CIPC).
NATIONAL SECURITY	SÉCURITÉ NATIONALE
National security is defined as the territorial integrity, sovereignty, and international freedom of action of Canada. Intelligence activities relating to national security encompass all the military, economic, political, scientific, and technological and other aspects of foreign	L'intégrité territoriale, la souveraineté et la liberté internationale d'action au Canada représentent la sécurité nationale. Les activités du renseignement qui se rapportent à la sécurité nationale comprennent toutes les activités militaires, économiques, politiques, scientifiques et

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developments that pose actual or potential threats to Canada's national interests.	technologiques ainsi que les autres aspects du développement étranger qui représentent des menaces réelles ou possibles à l'égard des intérêts nationaux du Canada.
NON-DESIGNATED OFFICER	AGENT NON DÉSIGNÉ
A Border Services Officer who is not designated by the Minister under the authority of subsection 163.4 of the <i>Customs Act</i> .	Un agent des services frontaliers qui n'est pas désigné par le ministre en vertu de l'article 163.4 de la <i>Loi sur les douanes</i> .
NON-RESIDENT	NON-RESIDENT
A person, who, in the settled routine of their life, makes their home, resides and is ordinarily present in a place outside Canada, is a non-resident.	Toute personne qui, dans son cadre de vie habituel, établit son domicile, réside et est ordinairement présente ailleurs qu'au Canada.
OBSCENE MATERIAL	MATÉRIEL OBSCÈNE
Pursuant to subsection 163(8) of the <i>Criminal Code</i> , obscene material is defined as "any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty, and violence."	En vertu du paragraphe 163(8) du <i>Code criminel</i> , est réputée obscène toute publication dont une caractéristique dominante est l'exploitation indue des choses sexuelles, ou de choses sexuelles et de l'un ou plusieurs des sujets suivants, à savoir : le crime, l'horreur, la cruauté et la violence.
OFFICER	AGENT
"Officer" has the same meaning as in subsection 2(1) of the <i>Customs Act</i> .	Le terme « agent » a la même signification que la définition donnée au paragraphe 2(1) de la <i>Loi sur les douanes</i> .
OFFICER IN CHARGE	FONCTIONNAIRE RESPONSABLE
This definition only applies to police officers and not Border Services Officers (BSO's). It is the officer for the time being in command of the police force responsible for the lock-up or other place to which an accused is taken after arrest or a peace officer designated by him for the purposes Part XVI of the <i>Criminal Code</i> who is in charge of that place at the time an accused is taken to that place to be detained in custody.	Cette définition s'applique à un policier et non pas les agents des services frontaliers. Fonctionnaire qui, au moment considéré, commande les policiers chargés du poste de police ou autre lieu où un prévenu est conduit après son arrestation ou tout agent de la paix désigné par lui pour l'application de la partie XVI du <i>Code criminel</i> et qui est responsable de ce lieu au moment où un prévenu y est conduit pour être détenu

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	sous garde.
OFFICER POWERS	POUVOIRS CONFÉRÉS AUX AGENTS
Term describing the authorities that Bill C-18, <i>An Act to Amend the Customs Act and the Criminal Code</i> , accorded Designated Officers that:	Terme décrivant les pouvoirs suivants qui ont été conférés aux agents désignés en vertu du projet de loi C-18, <i>Loi modifiant la Loi sur les douanes et le Code criminel</i> :
a) expanded their powers of arrest and detention; b) bridged the enforcement gap; c) authorized them to act when they uncover evidence of a criminal offence, and assisted them in preventing criminals from further entering Canada.	a) élargir leurs pouvoirs d'arrestation et de détention; b) combler une lacune dans notre mandat d'exécution; c) autoriser les agents des douanes à intervenir lorsqu'ils découvrent des preuves d'infraction criminelle et les aider à empêcher les criminels d'entrer au Canada.
ORIGINATING AGENCY	ORGANISME D'ORIGINE
The agency that is the original source of information or intelligence or has input information into an enforcement database and holds hard copies of the information is the originating agency.	Organisme qui est la source initiale de l'information ou qui a entré cette information dans une base de données destinée à l'application de la loi et qui détient les sorties sur papier de cette information
ORS REPORT	RAPPORT DU SRO
The Occurrence Reporting System (ORS) is an integral part of the Intelligence Management System (IMS). CBSA officers use the ORS to provide an Occurrence Report relating to incidents/occurrences involving, or suspected of involving, illegal cross border activity. These reports are electronically submitted to designated regional intelligence offices for review, verification and action.	Le Système de rapport des occurrences (SRO) fait partie intégrante du Système de gestion du renseignement (SGR). Les agents de l'ASFC utilisent le SRO pour produire des rapports d'occurrence sur des incidents ou des événements relatifs à des activités transfrontalières illégales, réelles ou présumées. Ces rapports sont transmis par voie électronique à des bureaux régionaux du renseignement désignés à des fins d'examen et de vérification et afin que des mesures soient prises.
OUR MISSING CHILDREN PROGRAM (OMC)	PROGRAMME NOS ENFANTS DISPARUS (OMC)
A joint initiative among CBSA, the RCMP, and the Department of Foreign Affairs and International Trade to help return abducted children and runaways to their homes.	Il s'agit d'une initiative conjointe entre l'ASFC, la GRC et le ministère des Affaires étrangères et du Commerce international qui sert à aider à ramener les enfants

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(see also Missing Child, Parental/Familial Abductions, Recovery, Runaways, Stranger Abductions and Throwaways)	enlevés et les fugueurs dans leur foyer. (Voir aussi Enfants Disparus, Les enlèvements par l'un des parents, Enfant Retrouvé, Les fugueurs, Les enlèvements par un étranger et Les laissés-pour-compte)
PARENTAL/FAMILIAL ABDUCTIONS	LES ENLÈVEMENTS PAR L'UN DES PARENTS
Children who are taken from their legal custodian by a parent or family member without consent or in violation of a custody agreement.	Les enfants qui sont enlevés de leur tuteur légal par un parent ou un membre de la famille sans le consentement ou en contrevenant aux arrangements visant la garde.
PARTIAL OFFLOAD	DÉCHARGEMENT PARTIEL
A partial offload occurs where 26 to 75% of the goods are removed from a conveyance, container, or truck to allow total access for an examination. Partial off-loads may be used for contraband shipments classified as a medium-low risk.	Un déchargement partiel se produit lorsqu'un pourcentage entre 26 et 75 % des marchandises sont déchargées d'un moyen de transport, d'un conteneur ou d'un camion afin de permettre un accès total à des fins d'examen. Les déchargements partiels peuvent être effectués pour les expéditions classées à titre de risque de contrebande moyen ou faible.
PASSENGER NAME RECORD (PNR)	DOSSIER PASSAGER (DP)
Passenger Name Record (PNR) is data regarding a persons' travel itinerary, contained within a commercial carrier's reservation system, created once a person makes a reservation. Depersonalized PNR is a record on which data elements that identify the person are not viewable. <i>No-name PNR</i> is a record on which the full name of the person is blocked from the PNR and is not viewable.	Le Dossier passager (DP) se compose de données concernant l'itinéraire de voyage d'une personne qui figurent dans un système de réservations d'un transporteur commercial et il est créé lorsqu'une personne fait des réservations. Le DP dépersonnalisé est un registre dans lequel les éléments de données qui identifient une personne ne peuvent être visualisés. Le <i>DP sans nom</i> est un registre dans lequel le nom complet d'une personne est bloqué du DP et ne peut être visualisé.
PASSENGER INFORMATION SYSTEM (PAXIS)	SYSTÈME D'INFORMATION SUR LES VOYAGEURS (SIPAX)
Passenger Information System (PAXIS) is a secure system owned and used by the CBSA to review and analyze API/PNR	Le Système d'information sur les voyageurs (SIPAX) est un système sécuritaire qui appartient à l'ASFC et que

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data on persons scheduled to arrive in Canada.	cette dernière utilise afin d'examiner et d'analyser les données de l'IPV/DP portant sur les personnes devant arriver au Canada.
PAT DOWN	PALPAGE
See FRISK.	Voir FOUILLE PALPATION.
PEACE OFFICER	AGENT DE LA PAIX
A person listed in the definition of “peace officer” found in section 2 of the <i>Criminal Code</i> .	Toute personne énumérée dans la définition « agent de la paix » qui se trouve à la partie 2 du <i>Code criminel</i> .
PERSON IN AUTHORITY	PERSONNE EN AUTORITÉ
This refers to anyone who has, or the accused believes has, the authority to exercise control over him/her or over the proceedings or prosecution against him/her.	Toute personne qui peut exercer un contrôle sur l'accusé ou sur la procédure ou la poursuite engagée contre l'accusé ou qui est perçue par ce dernier comme ayant ce pouvoir.
PERSONAL EXEMPTION	EXEMPTION PERSONNELLE
This is the benefit of free rates of customs duty given to goods that are classifiable under heading No. 98.04 of the <i>Customs Tariff</i> .	Il s'agit de l'avantage du régime de franchise accordé aux marchandises qui peuvent être classées sous la position 98.04 du <i>Tarif des douanes</i> .
PERSONAL GOODS	EFFETS PERSONNELS
Personal goods are intended for sole use by a traveller or other persons of their immediate family and are not intended for resale, distribution or commercial use of any kind. Also referred to as casual goods.	Marchandises destinées à l'usage exclusif d'un voyageur ou des membres de sa famille immédiate et non à la revente, à la distribution ou à un usage commercial quelconque. Ces marchandises sont aussi appelées «marchandises occasionnelles».
PERSONAL SEARCH	FOUILLE PERSONNELLE
A personal search is a frisk for officer safety followed by the full or partial disrobing of a person to detect unreported, prohibited, controlled, or regulated goods that they may have secreted on or about their person, so that officers can make a visual inspection (also referred to as a “strip search”). When a personal search is done for contraband,	Une fouille personnelle est une palpation suivie du déshabillage intégral ou partiel d'une personne visant à faciliter la recherche des marchandises non déclarées, prohibées, contrôlées ou réglementées que cette personne aurait pu dissimuler sur elle ou près d'elle, qui est effectuée afin que les agents puissent procéder à une inspection visuelle (aussi

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the individual must completely disrobe if so requested.	appelée « fouille à nu »). Lorsqu'une fouille personnelle est effectuée pour des fins de contrebande, l'individu doit se dévêtir entièrement, si demandé.
POINT OF FINALITY	POINT D'IRRÉVOCABILITÉ
Arrivals to Canada	Arrivées au Canada
The point of finality respecting a report or accounting is the point in time at which a transporter, importer, agent or traveller, having been given every reasonable opportunity to make a true and complete report or accounting, makes a report or accounting effectively asserting it to be true and complete. The same holds true for goods that are prohibited, controlled, or regulated by an Act of Parliament.	Le point d'irrévocabilité pour une déclaration initiale ou une déclaration en détail est réputé avoir été atteint lorsque le transporteur, l'importateur, le mandataire ou le voyageur, après avoir eu un délai raisonnable pour produire une première déclaration ou une déclaration en détail vérifique et complète, produit effectivement une telle déclaration en affirmant qu'elle est vérifiable et complète. Il en va de même pour les marchandises dont l'importation est prohibée, contrôlée ou réglementée en vertu d'une loi fédérale.
Exports from Canada	Exportations du Canada
As with goods and travellers arriving in Canada, the exporter of goods has legal obligations to fulfill and must be given the opportunity to do so. In the case of exports, the point of finality is reached when either of the following occurs:	Pour les marchandises et les voyageurs qui arrivent au Canada, l'exportateur des marchandises a des obligations juridiques à respecter et on doit lui permettre de le faire. Dans le cas des exportations, le point d'irrévocabilité est atteint lorsque l'une des situations suivantes se présente :
a) The exporter, his agent or the carrier has presented CBSA with an export report which is conclusive and the officer believes that all information forthcoming on a voluntary basis has been received; or	a) L'exportateur, son mandataire ou le transporteur a présenté à l'ASFC une déclaration d'exportation qui est concluante et l'agent croit que tous les renseignements devant être fournis volontairement ont été reçus;
b) The conveyance aboard which the goods are laden begins its continuous journey out of Canada before a report is made to CBSA.	b) Le moyen de transport à bord duquel les marchandises ont été chargées débute son périple continu à partir du Canada avant qu'une déclaration soit présentée à l'ASFC.
In most circumstances, if the point of finality has not been reached, a Border Services officer should not seize the goods	Dans la plupart des cas, si le point d'irrévocabilité n'a pas été atteint, un agent des services frontaliers ne doit pas saisir

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because the infraction has not yet occurred. In other words, the goods are still classified as domestic and the exporter still has the opportunity to present the documents, on a voluntary basis, prior to exportation. If there are irregularities, the officer will proceed to the next stage of the investigation such as examination of the goods or requests for further information.	les marchandises parce qu'aucune infraction n'a encore été commise. Autrement dit, les marchandises sont toujours classées à titre de marchandises nationales et l'exportateur a toujours l'occasion de présenter les documents nécessaires, volontairement, avant l'exportation. En cas d'anomalies, l'agent procédera à l'étape suivante de l'enquête comme l'examen des marchandises ou une demande de renseignements supplémentaires.
POLICE AGENCY OF JURISDICTION	SERVICE DE POLICE COMPÉTENT
For customs purposes, this refers to police agencies that have entered into agreements, usually Memorandums of Understanding (MOU), with the CBSA to be the first response police agency to local ports of entry. In cases of suspected <i>Criminal Code</i> offences discovered by Border Services Officers, the police agency of jurisdiction will ultimately determine if charges will be laid and whether they will attend and take the subject(s) into custody.	Aux fins des douanes, service de police qui a conclu une entente, normalement un protocole d'entente(PE), avec l'ASFC de manière à être le premier service de police d'intervention aux points d'entrée locaux. Lorsqu les agents des services frontaliers constate une infraction possible au Code criminel, c'est le service de police compétent qui déterminera si des accusations seront portées et si des policiers se présenteront au bureau de douane pour mettre l'accusé sous garde.
POLICE INFORMATION RETRIEVAL SYSTEM (P.I.R.S.)	SYSTÈME DE RÉCUPÉRATION DE RENSEIGNEMENTS JUDICIAIRES (S.R.R.J.)
An automated system for the storage and retrieval of intelligence information comprised of a central data bank located at RCMP Headquarters in Ottawa. It contains detailed information on individuals, companies, commodities, conveyances, methods of concealment, and the movement of goods linked to known or suspected customs infractions.	Un système automatisé pour enregistrer et recouvrer des renseignements à partir d'une unité centrale de données située au quartier général de la GRC à Ottawa. Le SRRJ contient des renseignements détaillés sur les personnes, les sociétés, les marchandises, les moyens de transport, les méthodes de dissimulation et le mouvement des marchandises qui ont été associés à des infractions douanières connues ou qui font l'objet de soupçons.
PORT OF ENTRY	BUREAU D'ENTRÉE
This refers to any location authorized by the Agency, as a reporting/clearance and release site for customs purposes including storage and/or document	Tout emplacement autorisé par l'Agence afin de servir de poste de déclaration et de dédouanement aux fins des douanes, et servant également à l'entreposage et(ou)

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processing.	au traitement des documents.
POSSESSION	POSSESSION
For the purposes of the <i>Criminal Code</i> ,	Aux fins du <i>Code criminel</i> ,
a) a person has anything in possession when he has it in his personal possession or knowingly	a) une personne a quelque chose en sa possession lorsque cette chose se trouve en sa possession personnelle ou qu'il l'a sciemment
i) has it in the actual possession or custody of another person,	i) placée en la possession effective ou sous la garde d'une autre personne
ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and	ii) placée en un lieu, que ce lieu lui appartienne ou non ou soit occupé par elle ou non, pour ses propres fins ou celles d'une autre personne.
b) where two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.	b) lorsque deux ou plusieurs personnes, avec la connaissance et le consentement des autres, ont quelque chose sous leur garde ou en leur possession, cette chose est jugée être sous la garde et en la possession de tous sans exception.
POSTAL IMPORT CONTROL SYSTEM (PICS)	SYSTÈME DE CONTRÔLE DES IMPORTATIONS POSTALES (SCIP)
PICS is an automated invoicing and accounting system used to process international mail items entering Canada.	Le Système de contrôle des importations postales (SCIP) est un système automatisé de facturation et de déclaration en détail qui sert à traiter les envois postaux internationaux arrivant au Canada.
PRECURSOR	PRÉCURSEUR
A chemical that, after undergoing minor chemical transformations, becomes the desired drug or product is a precursor. The chemicals in question can be used in drug production as precursors, reagents and solvents but for simplicity all are called precursors.	Un précurseur est un produit chimique qui, après avoir subi des transformations chimiques mineures, devient la drogue ou le produit souhaité. Les produits chimiques en question peuvent être utilisés dans la production de drogues à titre de précurseurs, de réactifs et de solvants, mais par mesure de simplification, ils sont tous appelés précurseurs.
PRESCRIBED	PRÉVU PAR RÈGLEMENT

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"Prescribed" means prescribed by regulations made by the Governor in Council.	« Prévu par règlement » signifie inscrit dans le règlement créé par le gouverneur en conseil.
PRESCRIBED SUBSTANCES	SUBSTANCES RÉGLEMENTÉES
See Radioactive Materials/Prescribed Substances.	Voir Matières radioactives /Substances réglementées.
PRESIDENTIAL DIRECTIVE	DIRECTIVE PRÉSIDENTIELLE
A directive that provides the authority to seize or ascertained the forfeiture of commercial goods and conveyances Part 5 Chapter 1 of the Enforcement Manual.	Une directive qui donne le pouvoir de saisir à titre de confiscation compensatoire des marchandises et des moyens de transport commerciaux; Partie 5, Chapitre 1 du Manuel d'exécution.
PRIMA FACIE	PRIMA FACIE
This is Latin for "on its face." A prima facie case is one that at first glance presents sufficient evidence for the plaintiff to win. Such a case must be refuted in some way by the defendant for him to have a chance of prevailing at trial.	Il s'agit d'un mot latin qui signifie « à première vue ». Un cas <i>prima facie</i> est un cas qui, à première vue, présente des preuves suffisantes pour que le plaignant ait gain de cause. Un tel cas doit être réfuté d'une certaine façon par le défendeur pour que ce dernier ait une chance de l'emporter lors d'un procès.
PROCEEDS OF CRIME	PRODUITS DE LA CRIMINALITÉ
Proceeds of crime refers to any property, benefit or advantage, within or outside Canada, obtained or derived directly or indirectly as a result of "the commission in Canada of an enterprise crime offence or a designated substance offence, or an act or omission anywhere that, if it had occurred in Canada, would have constituted an enterprise crime offence or a designated substance offence."	Les produits de la criminalité sont des biens, des bénéfices ou des avantages qui sont obtenus au Canada ou à l'extérieur du Canada ou qui en proviennent, directement ou indirectement à la suite de la perpétration d'une infraction de criminalité organisée ou d'une infraction désignée en égard aux substances au Canada ou d'un acte ou d'une omission qui, au Canada, aurait constitué une infraction de criminalité organisée ou une infraction désignée en égard aux substances.
PROFILE	PROFIL
A profile refers to the compilation of multiple indicators that raise suspicion of an individual or companies activities due to knowledge of proven criminal activities that	Un profil représente la compilation de multiple indicateurs qui éveillent les soupçons à l'égard des activités d'une personne ou d'une entreprise à cause

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had the same or similar multiplicity of indicators.	d'activités criminelles prouvées qui possédaient les mêmes indicateurs ou des indicateurs semblables.
PROHIBITED GOODS	MARCHANDISES PROHIBÉES
This refers to goods that are prohibited importation into Canada under tariff items 9897.00.00, 9898.00.00, and 9899.00.00 of the <i>Customs Tariff</i> or under other legislation. For example, obscene publications, child pornography, and hate propaganda are prohibited importation under tariff item 9899.00.00. Certain types of agricultural goods are prohibited under legislation enforced by the Canadian Food Inspection Agency due to the risk of disease.	Marchandises dont l'importation au Canada est prohibée en vertu des numéros tarifaires 9897.00.00, 9898.00.00 et 9899.00.00 du <i>Tarif des douanes</i> ou en vertu de toute autre loi. Par exemple, le numéro tarifaire 9899.00.00 prohibe l'importation des publications obscènes, de la pornographie juvénile et de la propagande haineuse. Certains types de produits agricoles sont prohibés, en raison du risque de maladie, en vertu des dispositions législatives mises en vigueur par l'Agence canadienne d'inspection des aliments.
PROPERTY	BIENS OU PROPRIÉTÉ
<ul style="list-style-type: none"> a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods, b) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by the conversion or exchange, and c) any postal card, postal stamp or other stamp issued or prepared for issue under the authority of Parliament or the legislature of a province for the payment to the Crown or a corporate body of any fee, rate or duty, whether or not it is in the possession of the Crown or of any person. 	<ul style="list-style-type: none"> a) les biens meubles et immeubles de tous genres, ainsi que les actes et instruments concernant ou constatant le titre ou droit à des biens, ou conférant le droit de recouvrer ou de recevoir de l'argent ou des marchandises; b) des biens originairement en la possession ou sous le contrôle d'une personne, et tous biens en lesquels ou contre lesquels ils ont été convertis ou échangés et tout ce qui a été acquis au moyen de cette conversion ou de cet échange; c) toute carte postale, tout timbre postal ou autre timbre émis, ou préparé pour être émis, sous l'autorité du Parlement ou de la législature d'une province en vue du paiement, à la Couronne ou à une personne morale, d'honorables, de droits ou de taxes, que les susdits soient ou non en la possession de la Couronne ou de quelque personne.

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PROTECTED	PROTÉGÉ
Designated information lies outside the national interest, but is nevertheless sensitive and requires enhanced protection. Such information could reasonably be expected to be exempt or excluded under the <i>Access to Information Act</i> and the <i>Privacy Act</i> . There are three categories of designated information:	Les renseignements désignés ne sont pas classifiés comme étant d'intérêt national, mais sont jugés délicats et nécessitent quand même une protection rigoureuse. Ce type de renseignements pourraient vraisemblablement faire l'objet d'une exemption ou exception en vertu de la <i>Loi sur l'accès à l'information</i> et de la <i>Loi sur la protection des renseignements personnels</i> . Il y a trois catégories de renseignements désignés :
a) Protected A information would cause injury if released. This information includes sensitive or personal information of a routine nature, that if compromised could cause injury or embarrassment to a particular individual or organization.	a) La communication des renseignements Protégé A pourrait porter préjudice. Il s'agit de renseignements courants de nature délicate ou personnelle pouvant porter préjudice ou causer de l'embarras à quelqu'un ou à un organisme si l'intégrité des renseignements était compromise.
b) Protected B would cause serious injury. It is information considered particularly sensitive because the format in which it is held (e.g. microforms or computer tapes) creates a large volume of records with information on hundreds of individuals. Such information requires more stringent protection. Information can also be considered particularly sensitive because of its nature, for example: investigations into violations of law, solicitor-client privilege, and scientific material submitted to the CBSA.	b) La communication des renseignements Protégé B pourrait porter un préjudice grave. Il s'agit de renseignements particulièrement délicats parce que le support sur lequel ils sont conservés – microforme, bande pour ordinateur – contient un grand volume de renseignements sur des centaines de personnes. Ce genre de renseignements nécessitent davantage de protection. Des renseignements peuvent également être désignés « Protégé – nature particulièrement délicate » en raison de leur nature, par exemple : renseignements liés à des enquêtes sur des infractions à la loi, renseignements à protéger en raison du secret professionnel de l'avocat et documents scientifiques soumis à l'Agence.
c) Protected C would cause extremely serious injury. This	c) La communication des renseignements Protégé C

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<p>extremely sensitive designation applies to a very limited amount of information concerning safety of individuals or law enforcement that if compromised, could cause extremely grave injury, such as loss of life.</p>	<p>pourrait porter un préjudice exceptionnellement grave. Cette désignation extrêmement délicate s'applique à un très faible volume de renseignements concernant la sécurité des personnes ou l'application de la loi; si l'intégrité de ces renseignements était compromise, il y aurait risque de préjudice extrêmement grave, voire, de perte de vie.</p>
<p>RADIOACTIVE MATERIALS/PRESCRIBED SUBSTANCES</p>	<p>MATIÈRES RADIOACTIVES / SUBSTANCES RÉGLEMENTÉES</p>
<p>These include: uranium, thorium, plutonium, neptunium, deuterium, their respective derivatives and compounds, and any other substances that the Canadian Nuclear Safety Commission may by regulation designate as being capable of releasing atomic energy, or as being required for its production, use or application of atomic energy. "Prescribed Substances" are also regulated under the <i>Nuclear Safety Control Act</i> (NSCA).</p>	<p>Les matières radioactives comprennent l'uranium, le thorium, le plutonium, le neptunium, le deutérium, ainsi que leurs dérivés et composés respectifs, et toutes autres substances que la Commission canadienne de sûreté nucléaire (CCSN) peut, par règlement, désigner comme propres à dégager de l'énergie atomique, ou comme requises pour la production, l'usage ou l'application de l'énergie atomique. Les « substances réglementées » sont également réglementées en vertu de la <i>Loi sur la sûreté et la réglementation nucléaires</i> (LSRN).</p>
<p>RANDOM REFERRAL</p>	<p>RENOVI AU HASARD</p>
<p>Referrals based on a system, sometimes computer generated, which selects shipments and persons for examination in an indefinite pattern are considered random referrals.</p>	<p>Renvoi fondé sur un système, parfois généré par ordinateur, qui choisit des expéditions à examiner au hasard.</p>
<p>REAGENT</p>	<p>RÉACTIF</p>
<p>See Precursor.</p>	<p>Voir Précurseur.</p>
<p>REASONABLE GROUNDS (to believe or suspect)</p>	<p>MOTIFS RAISONNABLES (de croire ou de soupçonner)</p>
<p>An officer must have reasonable grounds to believe there was a contravention of the <i>Customs Act</i> (or in some cases the</p>	<p>Un agent doit avoir des motifs raisonnables de croire qu'une infraction à l'égard de la <i>Loi sur les douanes</i> (ou,</p>

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<i>Criminal Code)</i> before arresting a person. This refers to the honest belief of the existence of a state of circumstances, which assuming them to be true, would reasonably lead any ordinary, prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was probably guilty of the crime imputed.	dans certains cas, à l'égard du <i>Code criminel</i>) a été commise avant d'arrêter une personne. Conviction que, dans les circonstances données (en présumant qu'elles soient vraies), un homme avisé en viendrait raisonnablement à la conclusion qu'une infraction criminelle a été commise et que la personne est probablement coupable.
An officer must have reasonable grounds to suspect a contravention before detaining a person for the purposes of conducting a personal search or before continuing beyond a routine customs examination. These are circumstances/events, and/or indicators that infer non-compliance on the part of a person, and that would lead an officer to suspect that a contravention of the <i>Customs Act</i> or other federal statute may have occurred. The threshold for suspicion is lower than that for believe.	Un agent doit avoir des motifs raisonnables de soupçonner qu'une infraction a été commise avant de détenir une personne en vue de procéder à une fouille personnelle ou avant d'approfondir un examen douanier de routine. Il existe des circonstances ou des événements et(ou) des indicateurs susceptibles de témoigner, de la part d'une personne, d'une inobservation qui mène un agent à soupçonner qu'il peut y avoir eu infraction à la <i>Loi sur les douanes</i> ou à une loi fédérale. Le seuil établi pour les motifs de soupçonner est moins élevé que celui qui est établi pour les motifs de croire.
RECOVERY	ENFANT RETROUVÉ
A confirmed case of child abduction or a runaway/throwaway (whether or not it was reported as such to a competent authority) that has been brought to a resolution through the intervention of one or more of the four agencies involved in the Our Missing Children program	Un cas confirmé d'enlèvement d'enfant ou d'un fugueur ou laissé-pour-compte (peu importe si le cas a été signalé ou non comme tel à une autorité compétente) qui a été résolu au moyen d'une intervention d'un ou plusieurs des quatre organismes impliqués dans le programme Nos enfants disparus.
REDRESS	RECOURS
This refers to the authority for a client to request from the Minister a review of any enforcement action.	Il s'agit de l'autorité d'un client de demander au ministre l'examen d'une mesure d'exécution.
REFERRAL	RENOVOI
A referral is the result of designating selected persons, conveyances, and/or goods for further customs processing; most commonly from primary to secondary for activities such as payment of duties and taxes, examination, etc.	Un renvoi résulte de la désignation de personnes, moyens de transport et(ou) marchandises sélectionnés à des fins de traitement douanier approfondi; le plus souvent, un renvoi est effectué de la ligne d'inspection primaire à l'inspection secondaire pour des activités comme le

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	paiement des droits et taxes, des examens, etc.
There are three key types of referrals:	Il existe trois principaux types de renvois :
a) Mandatory Referral – A referral that a Border Service Officer must make for further documentation or examination, whether it is for CBSA purposes or for that of other government departments. Mandatory referrals can be based on a specific lookout or target, an alert, a computer generated “hit”.	a) Renvoi obligatoire– Un renvoi auquel les agents des services frontaliers doivent procéder afin que des documents supplémentaires soient remplis ou que des examens plus approfondis soient effectués, aux fins de l'ASFC ou d'autres ministères du gouvernement. Les renvois obligatoires peuvent être fondés sur un avis de surveillance ou une cible, une alerte ou un avis d'interception établi par ordinateur, en particulier.
b) Random Referral – Referrals based on a system, sometimes computer generated, which selects shipments and persons for examination in an indefinite pattern.	b) Renvoi au hasard – Un renvoi fondé sur un système, parfois établi par ordinateur, qui sélectionne des expéditions et des personnes à des fins d'examen, selon un modèle non défini.
c) Selective Referral – A referral that a Border Services Officer makes to the secondary inspection area following the establishment of point of finality because they have reasonable grounds to suspect that additional examination or investigation is necessary to make a decision on release.	c) Renvoi sélectif – Un renvoi par un agent des services frontaliers vers la zone d'inspection secondaire des douanes à la suite de l'établissement d'un point d'irrévocabilité parce que l'agent a des motifs raisonnables de soupçonner qu'un examen ou une enquête supplémentaire est nécessaire avant de prendre une décision en ce qui a trait au dédouanement.
REMOTE LOCATION	LOCATION ÉLOIGNÉE
A remote location refers to any off-site location where the CBSA provides a service and has one or both of the following attributes.	Toute location extérieure au sein duquel les douanes fournissent un service et qui possède au moins l'une des deux caractéristiques suivantes:
a) the estimated emergency response time is greater than 15 minutes; or	a) le temps estimé pour répondre à une urgence est de plus de 15 minutes;
b) known interruptions in communication such as dead	b) des interruptions connues dans la communication surviennent (p.)

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zones with a supervisor or an emergency responder or a qualified third-party to provide incident management assistance.	ex. zones mortes) et un superviseur, un intervenant en cas d'urgence ou une tierce partie qualifiée fournit une assistance à la gestion de la situation.
REPEAT OFFENDER	RÉCIDIVISTE
This refers to any importer who has been subjected to previous seizure/enforcement action within six years of the current violation. The term importer includes a corporation, business entity, society or organization, as well as an individual. The term also includes a family member who has been noted as an accompanying person on a previous seizure/enforcement action.	Il s'agit d'un importateur qui a été assujetti à des mesures antérieures de saisie ou d'exécution au cours des six années précédant l'infraction en question. L'expression importateur comprend une personne morale, une personnalité de l'entité, une entreprise ou un organisme ainsi que des personnes. Elle comprend également un membre de la famille qui accompagnait la personne visée lors d'une mesure de saisie ou d'exécution antérieure.
REQUEST FOR DECISION	DEMANDE DE DÉCISION
This is a notice written by a person from whom goods have been seized, or by another person on their behalf, which states an objection to the seizure or to the terms of release, offered for seized goods. These terms can also apply to AMPS penalties.	Il s'agit d'un avis écrit par une personne dont les marchandises ont été saisies ou par une autre personne qui agit en son nom, qui présente une objection à l'égard de la saisie ou des conditions de mainlevée des marchandises saisies. Ces conditions peuvent également s'appliquer aux sanctions administratives pécuniaires.
RESERVATION SYSTEM	SYSTÈME DE RÉSERVATIONS
A Reservation system is any system, whether electronic or manual, that contains information relating to persons on board a commercial conveyance.	Un système de réservations est tout système, électronique ou manuel, qui contient des renseignements qui se rapportent aux personnes à bord d'un moyen de transport commercial.
RESIDENT	RESIDENT
A resident is a person who, in the settled routine of their life, makes their home, resides, and is normally present in Canada.	Toute personne qui, dans son cadre de vie habituel, établit son domicile, réside et est ordinairement présente au Canada.

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RETENTION PERIOD	PÉRIODE DE CONSERVATION
For enforcement purposes, the retention period is the period of time a contravention remains on a client's file for the purpose of calculating an administrative monetary penalty (AMP).	Aux fins de l'exécution, la période de conservation est la période de temps pendant laquelle une infraction demeure dans le dossier d'un client pour le calcul d'une sanction administrative pécuniaire (SAP)
RISK	RISQUE
Risk is the chance of an event occurring that will adversely affect compliance with the CBSA mandate. Risk is measured in terms of probability, magnitude, and the significance of the loss or the injury. The level of risk is determined from the relationship between the likelihood of the event occurring and the consequences should the event occur, using both qualitative and quantitative factors.	Le risque est la possibilité que se produise un événement qui influera négativement sur le mandat de l'ASFC. Le risque se mesure en termes de probabilité, d'ampleur et d'importance de la perte ou du dommage. Le niveau de risque est déterminé à partir de la relation entre la possibilité qu'un événement se produise et les conséquences qui en découleraient, à l'aide de facteurs qualitatifs et quantitatifs.
RISK ASSESSMENT	ÉVALUATION DU RISQUE
This refers to the process used to determine the potential for or the existence of non-compliance and its effect on government objectives such as health, safety, security, and economy.	L'évaluation du risque est le processus servant à déterminer la possibilité ou l'existence de l'inobservation et de ses effets sur les objectifs du gouvernement, comme la santé, la sécurité et l'économie.
Risk assessment involves the identification, collection, and analysis of information pertaining to the risk, and the development of hypotheses on the nature of the threat. Judgments are made on the likelihood of non-compliance, the level of impact on Canadian society, and the relative degree of risk. A level of risk is assigned based on the degree of damage that could occur should non-compliance remain undetected and corrective measures not be taken.	L'évaluation du risque entraîne la détermination, la collecte et l'analyse des renseignements qui ont trait au risque, et l'élaboration d'hypothèses quant à la nature de la menace. Il est jugé de la probabilité de l'inobservation et du degré des répercussions sur la société canadienne, ainsi que du degré relatif du risque. Un niveau de risque est attribué selon le degré des dommages qui peuvent se produire lorsque l'inobservation n'est pas décelée et que les mesures correctives appropriées ne sont pas prises.
In the CBSA environment, there are three levels of risk:	Dans l'environnement de l'ASFC, il existe trois niveaux de risque :
High - Will cause serious social or economic damage to the well being of Canadians. Requires close management	Élevé – Entraînera des dommages sociaux ou économiques au bien-être des Canadiens. Nécessite une gestion étroite

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and the preparation of a formal plan to manage the risk.	et la préparation d'un plan officiel de gestion du risque.
Medium – Likely to cause some damage that will have an impact on socio-economic objectives. Requires some action such as formal and informal plans to address, control, and diminish the risk.	Moyen – Pourrait entraîner des dommages qui auraient des répercussions sur les objectifs socio-économiques. Nécessite certaines mesures comme des plans formels et informels afin de traiter, de contrôler et de réduire les risques.
Low– Unlikely to cause much damage or damage will not significantly impact on policy or objectives. This level of risk can be acceptable and additional action is not required; however, these risks should be monitored.	Faible – Il est peu probable que de tels risques entraînent des dommages ou alors les dommages causés n'auraient pas de répercussions importantes sur les politiques ou les objectifs. Le niveau de risque peut être acceptable et des mesures supplémentaires ne sont pas nécessaires; toutefois, les risques en question doivent être contrôlés.
RISK INDICATOR	INDICATEUR DE RISQUE
A risk indicator differs from an “indicator” as it is not for a specific good, commodity, or conveyance.	Un indicateur de risque diffère d'un « indicateur » étant donné qu'il ne concerne pas des marchandises ou des moyens de transport précis.
An example of a risk indicator is If a particular business number appears as a first time importer, a target for the person, goods, and/or conveyance could be input.	est un exemple d'indicateur de risque. Si un numéro d'entreprise en particulier figure à titre de nouvel importateur, une cible pour la personne, les marchandises et(ou) le moyen de transport pourrait être saisie.
RISK MANAGEMENT	GESTION DU RISQUE
This is a systematic method of identifying, evaluating, and controlling potential adverse events and consequences. Risk is measured in terms of probability, magnitude, and the significance of the loss or injury.	Il s'agit d'une méthode systématique servant à identifier, évaluer et contrôler les événements et les conséquences adverses possibles. Le risque est mesuré en termes de probabilité et d'importance des pertes ou des blessures.
In the customs environment, risk management is a multi-layered strategy to sort out suspicious persons, goods, or conveyances from the legitimate movement of people or goods. This strategy is focused on the use of good strategic and tactical intelligence but also relies heavily on the screening of advance pre-arrival information to select high-risk persons, goods, or conveyances for inspection.	Dans l'environnement des douanes, la gestion du risque est une stratégie à plusieurs niveaux visant à distinguer les personnes, les marchandises et les moyens de transport suspects des personnes et des marchandises légitimes. Cette stratégie vise surtout l'utilisation d'un bon renseignement stratégique et tactique et elle dépend également en grande partie du ciblage d'informations préalables afin de sélectionner les personnes, les

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	marchandises et les moyens de transport à risque élevé à des fins d'inspection.
It allows us to achieve compliance with legislative requirements through a blend of facilitation and enforcement. It also provides management with concrete information to make decisions on existing and emerging threats and to allocate resources to high-risk areas.	La gestion du risque nous permet d'assurer l'observation à l'égard des exigences législatives au moyen de la facilitation et de l'exécution. Elle fournit également à la direction des renseignements concrets afin de lui permettre de prendre des décisions en ce qui a trait aux menaces actuelles et nouvelles et d'affecter les ressources aux secteurs à risque élevé.
ROUTINE CUSTOMS PROCESSING	TRAITEMENT DOUANIER DE ROUTINE
This refers to all the reasonable delays that a traveller can expect to face at customs, from both primary and secondary processing, up to and including seizure action but excluding personal searches and arrests. It includes: questioning of persons arriving in Canada, the inspection of baggage, pockets, wallets, and purses, examination of the conveyance, and frisk or pat down of outer clothing.	Traitements douaniers de routine – Ensemble des formalités raisonnables qu'un voyageur peut s'attendre à subir aux douanes, tant à la ligne d'inspection primaire qu'à l'examen secondaire; ces formalités peuvent aller jusqu'à la saisie mais excluent la fouille personnelle et l'arrestation. Il s'agit notamment de l'interrogation des personnes qui arrivent au Canada, de l'inspection des bagages, des poches, des portefeuilles et des sacs à main, de l'examen des véhicules, de la fouille corporelle ou de la palpation des vêtements.
ROVING	MARAUDAGE
This refers to the act of observing and interviewing travellers in non-traditional CBSA controlled areas to identify possible non-compliance particularly pertaining to contraband. Roving may be conducted in any CBSA - customs controlled area (i.e. pre-PIL, post PIL, in the secondary examination area, around baggage carousels, etc.)	Cette méthode consiste à observer et à interroger des voyageurs qui se trouvent dans des zones de contrôle des douanes non traditionnelles afin d'identifier les cas possibles d'inobservation, plus particulièrement en matière de contrebande. Le maraudage peut s'effectuer dans toutes les zones de contrôle des douanes de l'ASFC (c.-à-d. la zone préalable à la LIP, la zone qui se trouve après la LIP, la zone d'inspection secondaire, la zone qui entoure le distributeur circulaire des bagages, etc.)

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RUNAWAYS	LES FUGUEURS
Children who leave home voluntarily without the knowledge or permission of the parent or guardian.	Les fugueurs sont les enfants qui quittent leur maison volontairement à l'insu ou sans la permission du parent ou du tuteur
RUNNING THE PORT	DÉFAUT DE S'ARRÊTER AU BUREAU DE DOUANE
This refers to a contravention involving the act of passing through, failing to remain or leaving the confines of a CBSA - customs office in defiance of an officer's instructions.	Il s'agit d'une infraction qui consiste à passer au bureau de douane sans s'arrêter, d'omettre d'y rester ou de quitter la zone d'un bureau de douane de l'ASFC en passant outre les directives d'un agent.
SANCTIONS	SANCTIONS
Sanctions are measures, which in the case of AMPS, are a warning or fine to enforce a law and deter future non-compliance.	Les sanctions sont des mesures qui, dans le cas du RSAP, représentent un avertissement ou une amende afin de respecter une loi et de prévenir tout cas ultérieur d'inobservation.
SEARCH	FOUILLE
When you believe on reasonable grounds that the <i>Customs Act</i> has been violated or that a person is attempting to circumvent the <i>Customs Act</i> , you may search any person: Who has arrived in Canada; Within a reasonable time after their arrival in Canada; About to leave Canada; or Who has had access to an area for use by persons about to leave Canada, and Who leaves that area but does not leave Canada, Within a reasonable time after they leave the area. Personal, baggage or conveyance searches under the Act may be performed.	Lorsque vous soupçonnez, pour des motifs raisonnables, que la <i>Loi sur les douanes</i> a été enfreint ou qu'une personne tente d'y contrevenir, vous pouvez fouiller toute personne : entrée au Canada, dans un délai justifiable suivant son arrivée; sur le point de sortir du Canada; ou qui a eu accès à une zone réservée aux personnes sur le point de sortir du Canada et qui quitte cette zone sans sortir du Canada, dans un délai justifiable après son départ de cette zone. Une fouille personnelle, une fouille des bagages et du moyen de transport peut être effectuée en application de la Loi.

SEARCH OF A PERSON	FOUILLE D'UNE PERSONNE
An officer may search a person when there are reasonable grounds to suspect that the person has secreted on or about his person any goods the importation or exportation of which is prohibited, controlled or regulated under the <i>Customs Act</i> or any other Act of Parliament. A search of a person may vary in intensity. The officer may search any person:	Un agent peut fouiller une personne lorsqu'il a des motifs raisonnables de soupçonner que la personne dissimule sur elle ou près d'elle tout objet dont l'importation ou l'exportation est prohibée, contrôlée ou réglementée en vertu de la <i>Loi sur les douanes</i> ou de toute autre loi du Parlement. La fouille d'une personne peut varier en intensité. Un agent peut fouiller :
a) who has arrived in Canada, within a reasonable time after their arrival in Canada;	a) toute personne qui est entrée au Canada dans un délai justifiable suivant son arrivée;
b) who is about to leave Canada; or	b) toute personne sur le point de sortir du Canada;
c) who has had access to an area for use by persons about to leave Canada, and who leaves that area but does not leave Canada, within a reasonable time after they leave the area.	c) toute personne qui a eu accès à une zone réservée aux personnes sur le point de sortir du Canada et qui quitte cette zone sans sortir du Canada, dans un délai justifiable après son départ de cette zone.
For examination of personal baggage or conveyances see "Examination".	Pour l'examen des bagages personnels ou d'un moyen de transport, voir « Examen ».
SECRET	SECRET
See Security Classification.	Voir Classification de sécurité.
SEDITIOUS NATURE	NATURE À FOMENTER LA SÉDITION
Goods that advocate the use of force, without the authority of law, as a means of accomplishing governmental change within Canada, are seditious. This definition comes from sections 59 and 60 of the <i>Criminal Code of Canada</i> . The importation of goods of a seditious nature is prohibited under tariff item 9899.00.00.	Les marchandises qui sont de nature à fomenter la sédition sont, par exemple, les marchandises qui préconisent l'usage, sans l'autorité des lois, de la force comme moyen d'opérer un changement de gouvernement au Canada. Cette définition provient des articles 59 et 60 du <i>Code criminel du Canada</i> . L'importation de marchandises de nature à fomenter la sédition est prohibée en vertu du numéro tarifaire 9899.00.00.

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SECURITY CLASSIFICATION	CLASSIFICATION DE SÉCURITÉ
This is a category to which national security information and material is assigned to denote the degree of damage that unauthorized disclosure would cause to the national defence or foreign relations of Canada and to denote the degree of protection required.	Il s'agit d'une catégorie attribuée aux renseignements et aux documents sur la sécurité nationale afin d'indiquer le niveau de dommages que la communication non autorisée pourrait entraîner à la défense nationale ou aux relations étrangères du Canada et d'indiquer le degré de protection nécessaire.
There are three levels of security classification:	Il existe trois niveaux de classification de sécurité :
a) Confidential - Information whose unauthorized disclosure, destruction, removal, modification, or interruption could reasonably be expected to cause injury to the national interest of Canada.	a) Confidential - Renseignements dont la divulgation, la destruction, l'élimination, la modification ou l'interruption de transmission sans autorisation pourrait raisonnablement porter un préjudice à l'intérêt national.
b) Secret - Information whose unauthorized disclosure, destruction, removal, modification, or interruption could reasonably be expected to cause <u>serious</u> injury to the national interest of Canada.	b) Secret - Renseignements dont la divulgation, la destruction, l'élimination, la modification ou l'interruption de transmission sans autorisation pourrait raisonnablement porter un préjudice <u>grave</u> à l'intérêt national.
c) Top Secret - Information whose unauthorized disclosure, destruction, removal, modification, or interruption could reasonably be expected to cause <u>grave</u> injury to the national interest of Canada.	c) Très secret - Renseignements dont la divulgation, la destruction, l'élimination, la modification ou l'interruption de transmission sans autorisation pourrait raisonnablement porter un préjudice <u>exceptionnellement grave</u> à l'intérêt national.
SEIZURE ACTION	SAISIE
An action whereby the Crown takes physical possession of goods that have become the property of the Crown (i.e. goods that have been forfeited).	Toute mesure par laquelle la Couronne prend physiquement possession de marchandises qui sont devenues sa propriété, par exemple des marchandises qui ont été confisquées

SELECTIVE EXAMINATION	EXAMEN SÉLECTIF
An inspection of limited intensity applied to baggage, conveyances, or commercial shipments. Such an examination includes all baggage or goods accompanying a traveller and all readily accessible areas of the vehicle.	Toute inspection d'intensité limitée s'appliquant à des bagages, des moyens de transport ou des expéditions commerciales. Cet examen comprend l'examen des bagages et des marchandises accompagnant le voyageur et l'examen de toutes les parties du véhicule facilement accessibles.
SELECTIVITY	SÉLECTIVITÉ
This refers to the process of selecting ranges/areas of potential risk in order to obtain information pertaining to compliance verification. Information obtained through the selectivity process may result in the development of a target.	Il s'agit du processus qui consiste à sélectionner les niveaux et les secteurs de risque possible afin d'obtenir des renseignements pour la vérification de l'observation. Les renseignements obtenus au moyen du processus de sélectivité peuvent entraîner l'élaboration d'une cible.
SENIOR OFFICER	AGENT PRINCIPAL
A senior officer is someone of a higher rank who is responsible for operations at the applicable office. The senior officer may be a superintendent, chief, duty manager, etc. The senior officer may designate another officer to act in his place, and this person becomes the senior officer. Where there is no higher-ranking officer at the local office, the officer must contact the designated senior officer who is responsible for the operation at that location. The term "a senior officer" is used in the Customs Act (e.g. section 98(3) – A senior officer before whom a person is taken....).	Un agent principal est une personne de rang supérieur qui est responsable des opérations dans un bureau applicable. Un agent principal peut être un surintendant, un chef, un directeur de service, etc. L'agent principal peut désigner un autre agent pour agir en son nom et cet autre agent devient alors l'agent principal. Lorsque aucun agent de rang supérieur n'est présent dans un bureau local, l'agent doit communiquer avec l'agent principal désigné qui est responsable des opérations à cet endroit. L'expression « agent principal » est utilisée dans la <i>Loi sur les douanes</i> (p. ex. article 98(3) – L'agent principal, selon qu'il estime....).
SERIOUS CRIME	INFRACTION GRAVE
“Serious Crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.	L'expression « infraction grave » désigne un acte constituant une infraction passible d'une peine privative de liberté dont le maximum ne doit pas être inférieure à quatre ans ou d'une peine plus lourde.

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STATE DRUGS	DROGUES D'ÉTAT
These drugs have either been legally produced by the state or have been forfeited to the crown for use in controlled deliveries. These may legally be imported into Canada if accompanied with the proper documentation.	Il s'agit de drogues qui ont été produites légalement par l'État ou qui ont été confisquées au profit de l'État à des fins d'utilisation dans des livraisons contrôlées. Ces drogues peuvent être importées légalement au Canada lorsqu'elles sont accompagnées des documents appropriés.
STATEMENT	DÉCLARATION
A statement is an oral or written declaration of matters of fact. A statement given to a person in authority is not admissible in evidence unless it is free and voluntary.	Une déclaration est un énoncé oral ou écrit de questions de fait. Une déclaration faite à une personne en position d'autorité n'est pas recevable en tant que preuve à moins d'avoir été libre et volontaire.
STATUTE	LOI
A statute is an Act of the federal Parliament or a provincial legislature adopted pursuant to constitutional authority.	Texte législatif du parlement fédéral ou d'une assemblée législative provinciale édicté en application d'une compétence constitutionnelle.
STRIP SEARCH	FOUILLE À NU
See Search.	Voir Fouille.
STRANGER ABDUCTIONS	LES ENLÈVEMENTS PAR UN ÉTRANGER
Children that are taken by a person who is not their parent or legal guardian and without the knowledge or against the wishes of the parent or legal guardian.	Les enfants qui sont enlevés par une personne qui n'est ni leur parent ni leur tuteur légal et à l'insu ou contre la volonté du parent ou du tuteur légal.
STRATEGIC GOODS	MARCHANDISES STRATÉGIQUES
Strategic goods and technologies are subject to export controls and include arms, ammunition, implements of war, weapons-related materials, or any goods or technologies whose unauthorized export might be contrary to Canadian security, political and international interests.	Les marchandises et les technologies stratégiques peuvent faire l'objet de contrôles à l'exportation et elles comprennent les armes, les munitions, le matériel de guerre, le matériel lié aux armes et toutes marchandises ou technologies dont l'exportation non autorisée pourrait être contraire aux

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	intérêts politiques, internationaux et en matière de sécurité du Canada.
STREET DRUGS	DROGUES ILLICITES
These are drugs that have been seized by another enforcement agency and are allowed to enter Canada as a controlled delivery for prosecution purposes. These may be carried by a foreign police/law enforcement officer.	Il s'agit des drogues qui ont été saisies par d'autres organismes d'exécution de la loi et dont l'entrée au Canada est autorisée à titre de livraison contrôlée à des fins de poursuite. Ces drogues peuvent être transportées par un agent d'exécution de la loi ou un policier étranger.
SUBPOENA	ASSIGNATION (SUBPOENA)
This is a command to appear at a certain time and place to give testimony upon a certain matter. It may also require the production of books, papers, etc.	Ordre donné à une personne de se présenter à une date et à une heure précise pour témoigner sur un certain sujet. Ce document peut aussi exiger la production de livres, de documents, etc.
SUMMARY CONVICTION OFFENCE	INFRACTION SUSCEPTIBLE DE DÉCLARATION DE CULPABILITÉ PAR PROCÉDURE SOMMAIRE
Where any piece of legislation creates an offence, it is automatically a summary conviction offence unless specifically stated to be otherwise, e.g., to be indictable. Summary conviction (criminal) offences are normally considered to be less serious offences.	Une infraction qui est poursuivie par procédure sommaire. Les infractions où il y a déclaration de culpabilité par procédure sommaire sont considérées comme des infractions moins graves.
SUMMONS	SOMMATION
A document to compel the attendance in court of a person charged with an offence. A summons in Form 6 issued by a justice or judge.	Document sommant une personne accusée d'une infraction de comparaître devant un tribunal. Citation selon la formule 9 délivrée par un juge de paix ou un juge.
SURVEILLANCE	SURVEILLANCE
This refers to concentrated observation of a pre-determined target (person or place) utilizing various systems and methodology. This may involve coordination with outside law enforcement agencies.	Toute observation intense d'une cible préétablie (personne ou lieu) au moyen de systèmes et de méthodes diverses, y compris les responsabilités conjointes avec des organismes de l'extérieur.

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TARGET	CIBLE
A specific person, conveyance, or goods, which has been identified through the screening of available raw data or information against established criteria as having indicators that require scrutiny as they are the most likely to be in imminent contravention of legislation or regulations, deemed to be the highest priority. A target may be the product of targeting operations created by a targeter or the result of a border services officers screening of available raw data or information as having indicators that require further scrutiny.	Une personne, un moyen de transport ou des marchandises en particulier considérés comme prioritaires parce qu'ils ont été identifiés au moyen du ciblage de données brutes ou de renseignements disponibles en fonction de critères établis comme possédant des indicateurs qui exigent un examen approfondi étant donné qu'ils pourraient très vraisemblablement avoir commis une infraction à l'égard d'une loi ou d'un règlement. Une cible peut être le produit des opérations du ciblage créées par un agent du ciblage ou elle peut être le résultat du ciblage, par des agents des services frontaliers, de données brutes ou de renseignements qui possèdent des indicateurs qui exigent un examen plus approfondi.
TARGETING	CIBLAGE
The process of identifying a specific importer, exporter, carrier, shipment, commodity, or person entering or leaving Canada in order to initiate examination, audit, investigation, or verification activities in response to a perceived or a calculated assessment of risk or to suggested national targets. For targeting purposes there are two risk levels, low and high.	Il s'agit du processus visant à identifier un importateur, un exportateur, un transporteur, une expédition, des marchandises ou une personne en particulier qui entre au Canada ou qui en sort afin de procéder à un examen, une vérification ou une enquête sur certaines activités à la suite d'une évaluation des risques perçus ou réels ou de cibles nationales suggérées. Aux fins du ciblage, il existe deux niveaux de risque, soit faible ou élevé.
Targeting is the day-to-day operation of screening cargo data for indications of risk. Targeting sometimes results in the referral of information to Intelligence Officers. Intelligence Officers work this “raw data” through a 5-step intelligence process. This information can then become “Intelligence Information.”	Le ciblage est une activité quotidienne qui consiste à examiner les données du fret afin d'y trouver des indices sur le risque. Le ciblage entraîne parfois la communication de renseignements aux agents du renseignement. Les agents du renseignement examinent alors les « données brutes » en question au moyen d'un processus du renseignement en cinq étapes. Cette information devient alors des « renseignements utiles »

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TERMS OF RELEASE	CONDITIONS DE MAINLEVÉE
This is the monetary amount required to be paid to the Agency to obtain release of a seized conveyance or goods and any terms or conditions affecting such release.	La somme qui doit être versée au Ministère pour obtenir la mainlevée d'un moyen de transport ou de marchandises saisies ainsi que toutes les conditions touchant les mainlevées en question.
TERRITORIAL JURISDICTION	RESSORT TERRITORIAL
Any province, county, union of counties, township, city, town, parish or the judicial division or place to which the context (in this case a Warrant to Arrest) applies.	Province, comté, regroupement de comtés, canton, cité, ville, paroisse ou circonscription judiciaire ou lieu auquel le contexte s'applique (dans le présent cas, un mandat d'arrestation)
TERRORISM	TERRORISME
Terrorism is the deliberate and systematic use or threat of violence against individuals, property and/or institutions, acting in opposition to the established authority, to create a climate of fear and alarm and further certain political/ideological objectives.	Le terrorisme est défini comme étant l'utilisation ou la menace de la violence délibérée et systématique contre des personnes, des biens ou des établissements, dans le but de s'opposer à l'autorité établie, de créer un climat de crainte et de panique, et de promouvoir certains objectifs politiques ou idéologiques.
TERRORIST ACTIVITY	ACTIVITÉS TERRORISTES
"Terrorist activity" has the same meaning as in subsection 83.01 (1) of the <i>Criminal Code</i> .	L'expression « activité terroriste » a la même signification que la définition donnée au paragraphe 83.01(1) du Code criminel.
THIRD PARTY CLAIM	REVENDICATION DES TIERS
A statement or assertion made by a person or persons, other than the person from whom goods have been seized, claiming that they have an interest in or the right of ownership to the goods which have been seized.	Déclaration ou affirmation d'une ou plusieurs personnes autres que la personne de qui les marchandises ont été saisies qui prétendent avoir un droit sur les marchandises saisies à titre de propriétaire ou à un autre.

THIRD PARTY RULE	RÈGLEMENT TOUCHANT UNE TIERCE PERSONNE
Information from one law enforcement agency cannot be passed to another without the expressed consent of the originator.	Les renseignements provenant d'un organisme d'exécution de la loi ne peuvent pas être communiqués à un autre organisme sans le consentement explicite de l'auteur.
THREAT ASSESSMENT	ÉVALUATION DES MENACES
See Risk Assessment.	Voir Évaluation du risque.
THROWAWAYS (CHILDREN)	LES LAISSÉS POUR COMPTE (ENFANTS)
Children whose whereabouts are both unknown and unsought by the parents or guardians and who are unable to return to the family home due to mostly irresolvable issues within the family	Les enfants pour qui le lieu où ils se trouvent est à la fois inconnu et non recherché par les parents ou les tuteurs et qui ne sont pas en mesure de revenir à la maison familiale principalement en raison de problèmes non résolus au sein de la famille.
TOP SECRET	TRÈS SECRET
See Security Classification.	Voir Classification de sécurité.
TREASONABLE NATURE	NATURE À FOMENTER LA TRAHISON
Goods that advocate the use of force or violence to overthrow the government of Canada or a province/territory or which communicates or makes available, without lawful authority, to an agent of a state other than Canada, military or scientific information that may be used by that state for a purpose prejudicial to the safety or defence of Canada. This definition comes from section 46 of the <i>Criminal Code of Canada</i> . The importation of goods of a treasonable nature is prohibited under tariff item 9899.00.00.	Les marchandises qui sont de nature à fomenter la trahison sont les marchandises qui préconisent le recours à la force ou à la violence en vue de renverser le gouvernement du Canada ou d'une province, ou qui communiquent à un agent d'un État autre que le Canada, ou met à la disposition d'un tel agent, sans autorisation légitime, des renseignements d'ordre militaire ou scientifique, lesquels peuvent servir à des fins préjudiciables à la sécurité ou à la défense du Canada. Cette définition provient de l'article 46 du <i>Code criminel du Canada</i> . L'importation de marchandises de nature à fomenter la trahison sont prohibées en vertu du numéro tarifaire 9899.00.00.

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TREND	TENDANCE
This refers to a statistically detectable line of direction or movement in a measurable period of time.	Une tendance se définit comme étant une orientation ou un mouvement statistiquement observable au cours d'une période mesurable.
In law enforcement, trend refers to a method of operation used in criminal activity that has been, is, and/or may be popular.	En matière d'exécution de la loi, une tendance se rapporte à une méthode d'opération utilisée dans des activités criminelles qui a été, qui est et(ou) qui pourrait s'avérer populaire.
TROIKA	TROIKA
A Contraband and Intelligence database that contains export control information.	Une base de données de la Contrebande et du Renseignement qui contient des renseignements sur le contrôle des exportations.
UNDERVALUATION	SOUS-ÉVALUATION
A contravention of section 32 of the <i>Customs Act</i> that occurs when goods are declared at a false value to CBSA, usually in writing, to evade duties lawfully payable.	Infraction à l'article 32 de la <i>Loi sur les douanes</i> qui consiste à déclarer des marchandises à l'ASFC, généralement par écrit, afin d'éviter le paiement des droits à payer.
UNTRUE STATEMENT	FAUSSE DÉCLARATION
A contravention of the <i>Customs Act</i> that occurs when goods are declared at CBSA, but an untrue written or oral statement is made regarding description, value, origin, or acquisition of goods to enable them to be entered without full payment of duties and taxes.	Infraction à la <i>Loi sur les douanes</i> qui consiste à déclarer des marchandises aux douanes en faisant une fausse déclaration verbale ou écrite afin de pouvoir importer les marchandises sans payer le plein montant des droits et des taxes exigibles.
VERBATIM	VERBATIM
Verbatim means word-for-word or in the exact words.	Verbatim signifie mot-à-mot ou textuellement.
VISUAL TAILGATE CHECK	CONTRÔLE VISUEL/DEPUIS LA PORTE ARRIÈRE
This occurs when the doors of a conveyance or container are opened and up to 25% of the load is examined. The shipment may be examined for contraband, tariff issues, or other	Ce contrôle est effectué lorsque les portes d'un moyen de transport ou d'un conteneur sont ouvertes et que le chargement est examiné dans un pourcentage maximum de 25 %.

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government department health and safety issues.	L'expédition peut être examinée pour des raisons de contrebande, de questions tarifaires ou de questions de santé ou de sécurité touchant les autres ministères.
VOIR DIRE	VOIR DIRE
This is a trial within a trial. A hearing to determine the admissibility of evidence. In a jury trial, jury members will be excluded from the courtroom. The judge will determine the admissibility of the evidence and determine whether the jury should hear it.	Procès à l'intérieur d'un procès. Une audience visant à déterminer l'admissibilité d'une preuve. Dans un procès devant jury, les membres du jury sont alors exclus de la salle d'audience, et le juge doit déterminer si la preuve est admissible et si elle devrait être entendue par le jury.
VOLUNTARY	VOLONTAIRE
With regard to statements made by an accused, voluntary means it has not been obtained from the accused either by fear of prejudice or hope of advantage exercised or held out by a person in authority.	En ce qui a trait aux déclarations verbales faites par un accusé, une déclaration volontaire signifie qu'elle a été obtenue de la part de l'accusé sans qu'il craigne de subir un préjudice ou ait l'espoir d'obtenir un avantage de la part d'une personne en position d'autorité.
VOLUNTARY DISCLOSURE	DIVULGATION VOLONTAIRE
This refers to a correction, made in good faith, by any commercial or non-commercial importer, of any errors or omissions in reporting obligations under the <i>Customs Act</i> . To promote voluntary disclosures with CBSA laws, the CBSA encourages all individuals and commercial importers to come forward and correct any deficiencies in their reporting to the Agency. In order to be considered voluntary, the disclosure must be made within the spirit and intent of the policy, and further, must be made before any audit, investigation, or other enforcement action is begun. No disclosure is considered voluntary until all the information is verified.	Il s'agit d'une correction effectuée de bonne foi, par un importateur commercial ou non commercial, de toute erreur ou omission en ce qui a trait aux obligations en matière de déclarations, en vertu de la <i>Loi sur les douanes</i> . Afin de favoriser les divulgations volontaires à l'égard des lois de l'ASFC, cette dernière encourage toutes les personnes et tous les importateurs commerciaux à corriger d'eux-mêmes tout manquement à leurs obligations de déclaration à l'Agence. Pour être considérée volontaire, une divulgation doit être effectuée dans l'esprit et l'intention des politiques, et, en outre, elle doit être effectuée avant qu'une vérification, une enquête ou toute autre mesure d'exécution ne soit mise en marche. Une divulgation est considérée volontaire avant que l'information soit vérifiée.

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WARRANT	MANDAT
A written authority empowering a person to do some act, particularly to execute an arrest or a search.	Autorisation écrite donnant à une personne le pouvoir d'effectuer une action, particulièrement une arrestation ou une fouille.
WATCH FOR	AVIS DE SIGNALLEMENT
This is a person, conveyance, or good that has been identified through the screening of available information as having indicators that require scrutiny.	Il s'agit d'une personne, d'un moyen de transport ou de marchandises qui ont été identifiés, grâce à l'examen des renseignements disponibles, comme disposant d'indicateurs qui nécessitent un examen plus approfondi.
WEAPON	ARME
See Firearms and weapons	Voir armes à feu et armes
YOUTH / YOUNG OFFENDER	ADOLESCENT / JEUNE CONTREVENANT
This refers to any person who is or in the absence of evidence to the contrary appears to be 12 years of age or more, but is under 18 years of age and is charged under the <i>Youth Criminal Justice Act</i> with having committed an offence while they were a young person or is found guilty of an offence under the <i>Youth Criminal Justice Act</i> .	Personne qui a ou qui paraît avoir, en l'absence d'une preuve contraire, 12 ans ou plus mais moins de 18 ans et qui est inculpée en vertu de la <i>Loi sur le système de justice pénale pour les adolescents</i> parce qu'elle a commis une infraction alors qu'elle était adolescente ou qui est déclarée coupable d'une infraction à cette loi.