1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. Customs and Border Protection

Released via FOIAonline account.

December 12, 2019 CBP-2019-027893

Austin Evers
American Oversight
1030 15th Street NW Suite B255
Washington, DC 20005

Dear Mr. Evers:

In response to *American Oversight v. Department of Homeland Security et al.*, Case No. 19-cv-01901-EGS, this is the second interim response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP), on behalf of American Oversight, in which you are seeking policy, directives, and training provided to Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) in regard to the processing of, medical evaluation and care for, and safety measures to be taken for transgender detainees.

A search of CBP databases has identified records responsive to your request, 22 pages of which are now being produced**.**

CBP has determined that 20 pages of records are fully releasable and no redactions have been applied, and two pages of the records are partially releasable, pursuant to Title 5 U.S.C. § 552 (b)(6), (b)(7)(C) and (b)(7)(E).

FOIA Exemption (b)(6) exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld are names and contact information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

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FOIA Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

FOIA Exemption (b)(7)(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. CBP has determined that disclosure could reasonably be expected to risk circumvention of the law.

This completes CBP's second interim response to your request. If you have questions or concerns regarding this interim response, you may contact Assistant United States Attorney Diana V. Valdiva at diana.valdivia@usdoj.gov, or phone number (202) 252-2545.

Please notate file number CBP-2019-027893 on any future correspondence to CBP related to this request.

Sincerely,

Jodi Drengson
FOIA Analyst, FOIA Division
U.S. Customs and Border Protection

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20 Minute Muster Message

U.S. Customs and Border Protection
U.S. Border Patrol Training
National Standards on:
Transport, Escort, Detention, and Search
TEDS

U.S. Customs and Border Protection

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Background and requirements

- October 1, 2015 – Memorandum of Understanding (MOU) between U.S. Customs and Border Protection (CBP) and the National Border Patrol Council (NBPC).
  - The MOU designates an annual TEDS training requirement.

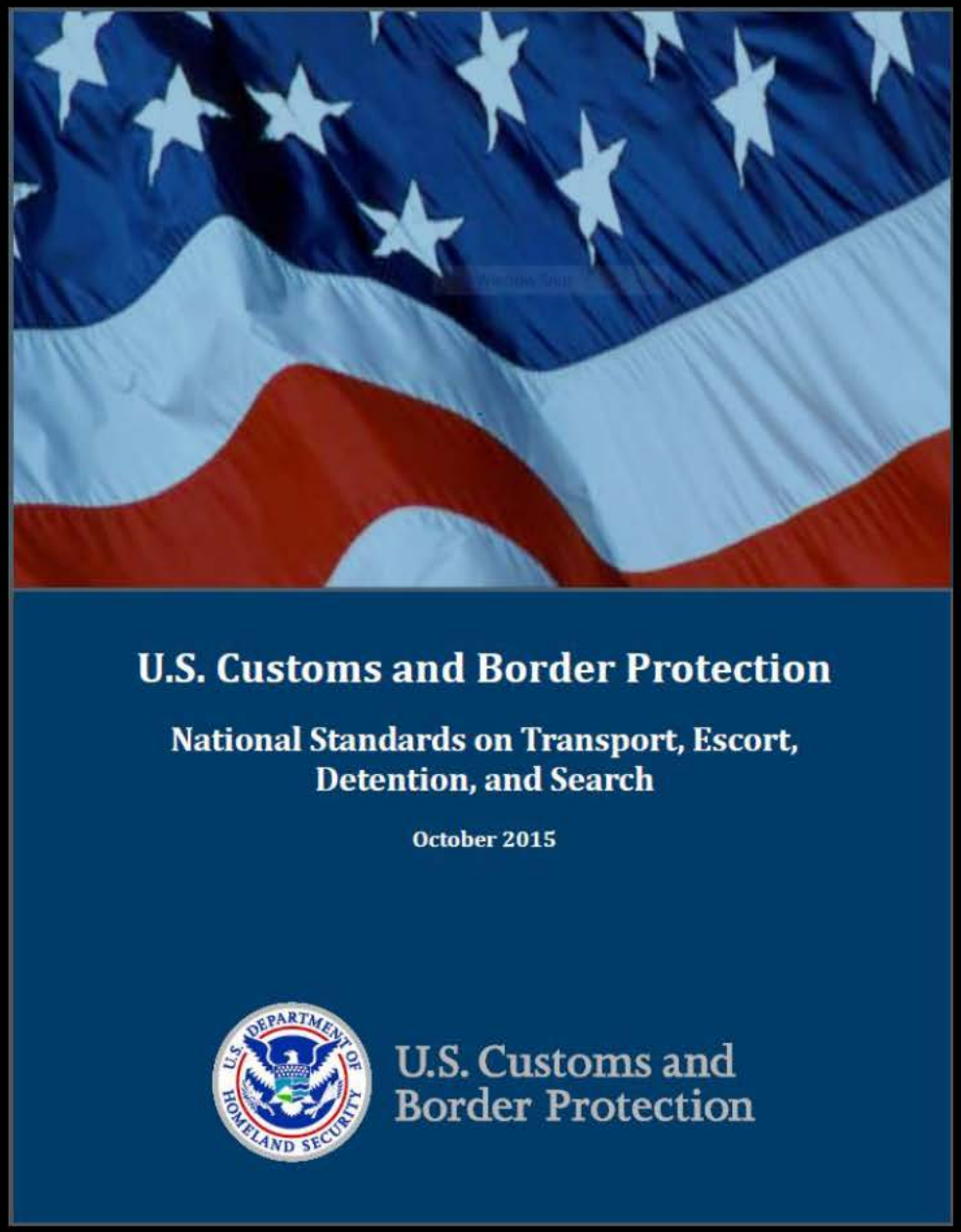
- February 1, 2016 – Chief Vitiello issued a follow-up memorandum: *Policy Reminder Regarding CBP's National Standards on TEDS.*
  - The memo reiterates the TEDS training requirement.

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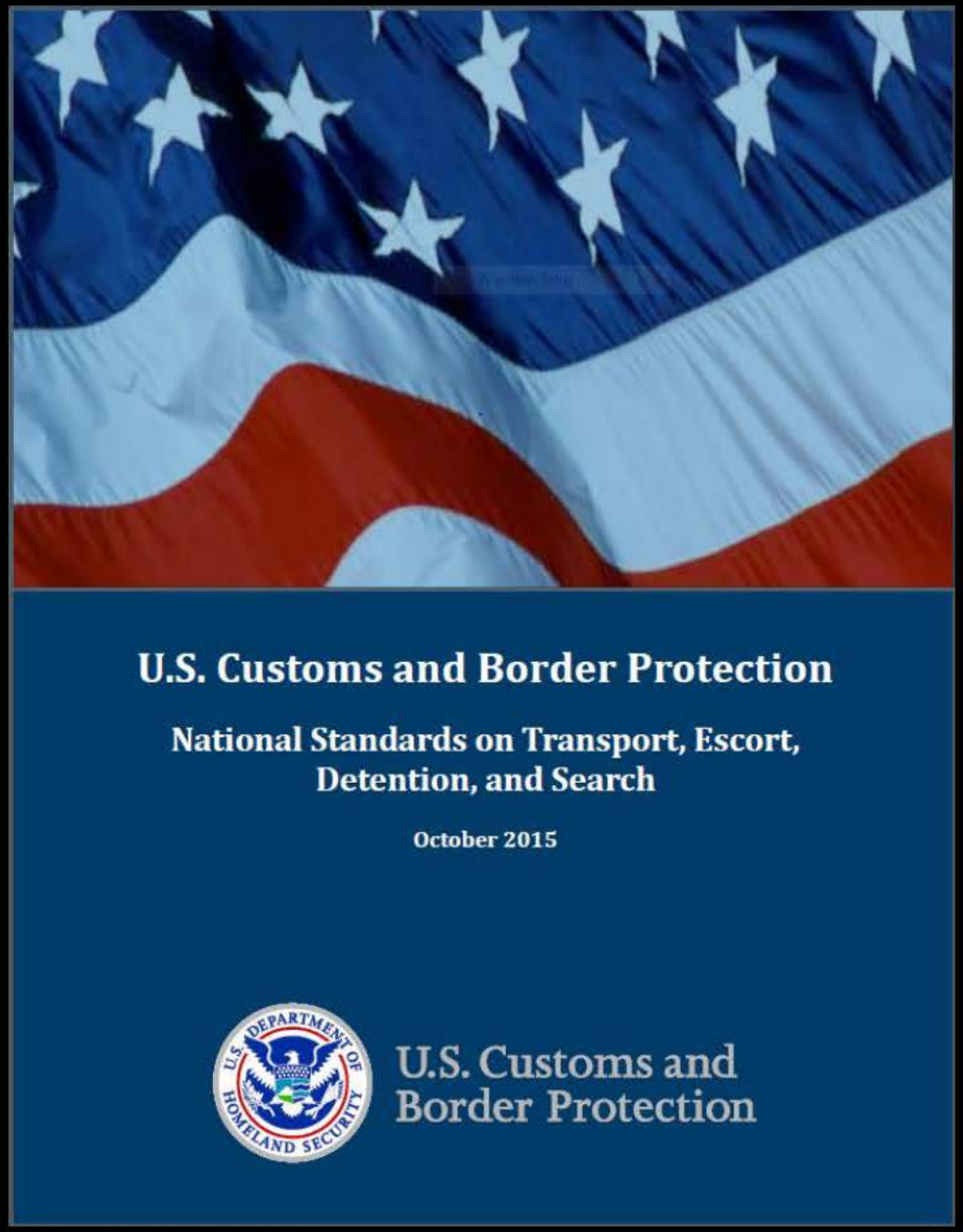
The National Standards on TEDS is 31 pages organized into 8 Sections.

The final section contains definitions of terms used in the policy.



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In this Muster Module we will review the operational sections (1-7) of the policy to ensure USBP is aware of, and in compliance with TEDS principles.



https://www.cbp.gov/sites/default/files/documents/cbp-teds-policy-20151005_1.pdf

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TABLE OF CONTENTS

1.0 GENERAL STANDARDS 4

1. Safety During CBP Operations 4
2. Integrity and Professionalism 4
3. Zero Tolerance Policy Related to Sexual Abuse 4
4. Non-Discrimination Policy 4
5. Religious Sensitivity 4
6. Treatment of Juveniles 4
7. Reasonable Accommodations and Language Access 4
8. Duration of Detention 4
9. Family Unity 4

2.0 TRANSPORT AND ESCORT STANDARDS 5

1. Vehicle Standards 5
2. Use of Restraints 5
3. Transport Communication 5
4. Transport and Escort Assessment 5
5. Transporting and Escorting Officer/Agent Responsibilities 5
6. Ground Transportation and Escort Standards 6
7. Commercial Air Transportation 6
8. Medical Precautions 6
9. Emergency Situations during Transport 7
10. Transfer of Detainee Documents and Medication 8

3.0 SEARCHES OF INDIVIDUALS 9

1. Requirements 9
2. Use of Restraints 9
3. Communication 9
4. Gender of Searching Officer/Agent 9
5. Medical Emergencies 9
6. Pat-Down Search 10
7. Strip Search 10
8. Body Cavity Search 11
9. Medical X-Rays 11
10. Monitored Bowel Movement (MBM) Search 12
11. Medical Treatment and Authority at a Medical Facility

4.0 SECURE DETENTION STANDARDS 14

1. Duration of Detention 14
2. At-Risk Detainee Determination Process 14
3. General Detention Procedures 14
4. Restraints Procedures 15
5. Electronic System(s) of Record 15
6. Hold Room Monitoring 16
7. Hold Room Standards 16
8. Consular Contact and List of Legal Service Providers 16
9. Telephones 16
10. Medical 17
11. Hygiene 17
12. Bedding 17
13. Food and Beverage 18
14. Drinking Water 18
15. Restroom Facilities 18
16. Open Area Security 18

5.0 AT-RISK POPULATIONS 19

1. General 19
2. UAC Screenings 19
3. Documentation 19
4. Transport 20
5. Search 20
6. Detention 22
7. Use of Restraints 23

6.0 SEXUAL ABUSE VICTIMIZATION 24

7.0 PERSONAL PROPERTY 26

1. General 26
2. Processing and Storage of Detainees' Personal Property 26
3. Notice to Detainees 27
4. Possessions Kept on the Detainee 27
5. Medications 27
6. Identification Documents 27

8.0 DEFINITIONS 28

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Section 1

1.0 GENERAL STANDARDS 4

1.1 Safety During CBP Operations 4

1.2 Integrity and Professionalism 4

1.3 Zero Tolerance Policy Related to Sexual Abuse 4

1.4 Non-Discrimination Policy 4

1.5 Religious Sensitivity 4

1.6 Treatment of Juveniles 4

1.7 Reasonable Accommodations and Language Access 4

1.8 Duration of Detention 4

1.9 Family Unity 4

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Section 1: GENERAL STANDARDS

Summary:

- Remain professional at all times.
- Your integrity is your shield.
- Report abuse, don't be an abuser.
- Respect for individual rights.
- Juveniles experience situations differently than adults.
- Communicate to detainees in a language or manner detainees can comprehend.
- Follow current hold room policy (June 02, 2008).
- Maintain family unity to the greatest extent operationally feasible.

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Section 2

2.0 TRANSPORT AND ESCORT STANDARDS 5

2.1 Vehicle Standards 5

2.2 Use of Restraints 5

2.3 Transport Communication 5

2.4 Transport and Escort Assessment 5

2.5 Transporting and Escorting Officer/Agent Responsibilities 5

2.6 Ground Transportation and Escort Standards 6

2.7 Commercial Air Transportation 6

2.8 Medical Precautions 6

2.9 Emergency Situations during Transport 7

2.10 Transfer of Detainee Documents and Medication 8

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Section 2: TRANSPORT AND ESCORT STANDARDS

Summary:

- Thoroughly search confinement areas of vehicles.
- Never use restraints, vehicle temperature, or driving effects in a punitive manner.
- When in doubt, use (b) (7)(E)
- Assess detainees for at-risk indicators and medical issues.
- For everyone's protection, complete a thorough search incident to arrest.
- Inspect your equipment, to include your mobile and portable radios.
- Adhere to USBP standard procedures for personal property and record keeping.

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Section 3

3.0 SEARCHES OF INDIVIDUALS 9

3.1 Requirements 9

3.2 Use of Restraints 9

3.3 Communication 9

3.4 Gender of Searching Officer/Agent 9

3.5 Medical Emergencies 9

3.6 Pat-Down Search 10

3.7 Strip Search 10

3.8 Body Cavity Search 11

3.9 Medical X-Rays 11

3.10 Monitored Bowel Movement (MBM) Search 12

3.11 Medical Treatment and Authority at a Medical Facility 13

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Section 3: SEARCHES OF INDIVIDUALS

Summary:

- Respect the parameters and scope of the type of search you are currently doing.
- When operationally feasible maintain gender continuity between the agent and searched subject.
- Coordinate appropriate medical care if illness or injury is suspected or observed.
- Certain searches, for example, Body Cavity or X-ray require supervisory approval.
- Agents may only provide medical care within the scope of their training.

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Section 4

4.0 SECURE DETENTION STANDARDS 14

4.1 Duration of Detention 14
4.2 At-Risk Detainee Determination Process 14
4.3 General Detention Procedures 14
4.4 Restraints Procedures 15
4.5 Electronic System(s) of Record 15
4.6 Hold Room Monitoring 16
4.7 Hold Room Standards 16
4.8 Consular Contact and List of Legal Service Providers 16
4.9 Telephones 16
4.10 Medical 17
4.11 Hygiene 17
4.12 Bedding 17
4.13 Food and Beverage 18
4.14 Drinking Water 18
4.15 Restroom Facilities 18
4.16 Open Area Security 18

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Section 4: SECURE DETENTION STANDARDS

Summary:

- Current hold room policy (June 02, 2008) The PAIC or the senior shift supervisor will be notified of all detentions at the station level that reach or exceed 24 hours.
- At no time will restraints be used in a punitive manner.
- Agents shall assess the information before them to determine if the detainee may be considered an at-risk detainee, or at risk of posing a threat to others.
- Agents must closely supervise hold rooms when in use. Follow the Status Checks prompts in the e3 Detention Module.

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Section 5

5.0 AT-RISK POPULATIONS 19

5.1 General 19

5.2 UAC Screenings 19

5.3 Documentation 19

5.4 Transport 20

5.5 Search 20

5.6 Detention 22

5.7 Use of Restraints 23

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Section 5: AT-RISK POPULATIONS

Summary:

- At Risk Detainees may include: Juveniles; UAC; pregnant individuals; those known to be on life-sustaining or life-saving medical treatment; those at higher risk of sexual abuse (including but not limited to gender nonconforming, intersex, and transgender); reported victims of sexual abuse; those who have identified mental, physical or developmental disabilities; those of advanced age; or family units.
- Complete CBP Form 93 when applicable.
  - Unaccompanied Alien Child Screening Addendum
- Document timeline of interactions/communications with Office of Refugee Resettlement – ORR.

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Section 6

6.0 SEXUAL ABUSE VICTIMIZATION 24

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Section 6: SEXUAL ABUSE VICTIMIZATION

Summary:

- Sexual abuse includes; assault of a detainee by another detainee and, assault of a detainee by a staff member, contractor, or volunteer.
- You are a mandated reporter of sexual abuse.
  - Practice privacy discretion.
- Prohibition against retaliation.
- Unimpeded access to medical treatment and crisis intervention services in accordance with professionally accepted standards of care.

Section 7

7.0 PERSONAL PROPERTY 26

7.1 General 26

7.2 Processing and Storage of Detainees' Personal Property 26

7.3 Notice to Detainees 27

7.4 Possessions Kept on the Detainee 27

7.5 Medications 27

7.6 Identification Documents 27

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Section 7: PERSONAL PROPERTY

Summary:

- Property discovered during apprehension or processing and not deemed to be contraband will be safeguarded.
- Follow local Detainee Property Processing procedures.
- Documentation may include:
  - I-77
  - 6051D/A
  - Property log book.

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Section 8 and conclusion

Summary:

8.0 DEFINITIONS.....28

- 4 pages, defining terms used in the policy.

U.S. Customs and Border Protection (CBP)
National Standards on Transport, Escort, Detention, and Search (TEDS)
is agency-wide policy that sets forth the first nationwide standards which govern CBP's interaction with detained individuals.

U.S. Border Patrol standard operating procedures are in compliance with TEDS policy.

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Washington, DC 20229

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U.S. Customs and Border Protection

OCT 0 8 2015

MEMORANDUM FOR: All Chief Patrol Agents
All Directorate Chiefs
All Directorate Executive Directors

FROM: Michael J. Fisher
Chief
U.S. Border Patrol

SUBJECT: Implementation of the CBP National Standards on TEDS

As a result of an agency-wide effort to create a unified policy related to safety, security, and care of those in our custody, the following on Transport, Escort, Detention, and Search (TEDS) standards will be used by all U.S. Border Patrol (USBP) personnel as outlined in Commissioner R. Gil Kerlikowske's memorandum, *Implementation of the CBP National Standards on Transport, Escort, Detention, and Search (TEDS)*.

The USBP Hold Rooms and Short Term Custody policy, dated January 31, 2008, is still applicable. It addresses detention standards for the short-term custody of persons arrested or detained by Border Patrol agents and detained in hold rooms at Border Patrol stations, checkpoints, processing facilities, and other facilities that are under CBP control. In addition to transport, escort, detention, and search provisions, TEDS incorporates requirements related to sexual abuse and assault prevention and response, care of at-risk individuals in custody, and personal property.

The TEDS document is a CBP overarching policy that reinforces current practices and working conditions. Moreover, in the absence of more prescriptive policies issued by the U.S. Border Patrol, the TEDS standards apply. These standards were developed with current policies and procedures from CBP's Office of Field Operations and the U.S. Border Patrol, as well as several other CBP-wide documents, current guidance to the field, best practices, and requirements found in applicable Federal law and regulation.

Management and agents are responsible for ensuring compliance with TEDS requirements when conducting their duties. TEDS is available at *http://www.cbp.gov/sites/default/files/documents/cbp-teds-policy-20151005_1.pdf*. My staff is in the process of developing training that will be sent to all sectors upon its completion. Please ensure that this memorandum is disseminated to all employees under your purview.

Staff should refer any questions regarding the TEDS standards to the Policy Division's Acting Associate Chief (b)(6);(b)(7)(C) in the Strategic Planning and Analysis Directorate, (b)(6);(b)(7)(C)

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