PROFESSIONAL STANDARDS DIVISION
MANAGEMENT INQUIRY TEAM

U.S. Border Patrol, San Diego Sector, 2411 Boswell Road, Chula Vista, CA 91914

REPORT OF INQUIRY

FILE I.D. NUMBER: (b) (2) **INCIDENT DATE:** See Narrative
TYPE OF REPORT: Management Inquiry **DATE RECEIVED:** 1/3/2011 *(CRCL Received)*
TOPIC: Allegation of Physical Abuse
STATION/DEPT: Unknown (*Murrieta Station*)
INCIDENT Murrieta, CA
CASE AGENT'S NAME AND TITLE: SBPA (b)(6) (b)(7)(C)
MANAGEMENT INQUIRY COORDINATOR: FOS (b)(6) (b)(7)(C)
COMPLAINANT'S NAME (S): (b)(6) (b)(7)(C)
SUBJECT (S) OF INQUIRY: Unknown *(BPA* (b)(6) (b)(7)(C) *BPA* (b)(6) (b)(7)(C) *BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C)
WITNESS(S): N/A
RELATED CASE(S): None
DETAILS OF INQUIRY:

INFORMATION CONTAINED IN THIS REPORT IS BASED ON THE FOLLOWING:

- El Latino Newspaper Article, RE: Abuse Continues….
- Memorandum of Investigation, RE (b)(6) (b)(7)(C)
- Letter from the (b)(6) (b)(7)(C) RE: Complaint Against U.S. Border Patrol by (b)(6) (b)(7)(C)
- Memorandum Submitted by Border Patrol Agent (BPA) (b)(6) (b)(7)(C)
- Memorandum Submitted by Border Patrol Agent (BPA)
- Memorandum Submitted by Border Patrol Agent (BPA)
- Memorandum Submitted by Border Patrol Agent (BPA)
- E-mail From Assistant Patrol Agent in Charge (b)(6) (b)(7)(C) RE: Case# (b) (2)
- Record Checks (b) (7)(E) RE: (b)(6) (b)(7)(C)
- Dispatch Tapes, Murrieta Station for July 2, 2010

OVERVIEW:

On or about August 17, 2010, a member of San Diego Sector Professional Standards Division (SDC/PSD) was contacted by a reporter from "El Latino Newspaper," concerning an allegation levied against Border Patrol agents by an individual identified as (b)(6) (b)(7)(C) According to the "El Latino Newspaper," (b)(6) (b)(7)(C) was questioned by Border Patrol agent regarding his citizenship on July 2, 2010 (b)(6) (b)(7)(C) alleged that during the encounter, Border Patrol agents "abused their authority and mistreated him" in a parking lot near the Food 4 Less, 644 N. Broadway, Escondido, CA.

On August 18, 2010, (b)(6) (b)(7)(C) provided the San Diego Sector Investigations Unit with a statement concerning his (b)(6) (b)(7)(C) allegation. This information, along with corresponding documents was forwarded to the Joint Intake Center.

Subsequently, the case *(Case #* (b) (2) was forwarded to the United States Border Patrol San Diego Sector for resolution.

On October 12, 2010, Assistant Patrol Agent in Charge (APAIC) (b)(6) (b)(7)(C) *(Murrieta Station)* reviewed (b)(6) (b)(7)(C) allegation and determined the "agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation." APAIC (b)(6) (b)(7)(C) recommended the case be closed without further action. On October 13, 2010, Acting Division Chief (b)(6) (b)(7)(C) concurred with APAIC (b)(6) (b)(7)(C) recommendation and the case was closed

On January 3, 2011, the Joint Intake Center received a subsequent referral regarding Case # (b) (2) from the DHS Office for Civil Rights & Civil Liberties (DHS CRCL). After review, it was requested that San Diego Sector conduct an administrative inquiry into (b)(6) (b)(7)(C) allegations and provide investigative response to specific information requested by DHS CRCL.

SUMMARY OF EL LATINO NEWSPAPER ARTICLE, RE: ABUSE CONTINUES…

On August 18, 2010, El Latino Newspaper, a Spanish language news provider, published a news article titled: "Continuan abusos: Defensores de Derechos Humanos están documentando casos de tratos injustos de agentes federales" (Translation: Abuse Continues Human rights defenders are documenting cases of unfair treatment by federal agents). The article was translated by Supervisory Border Patrol Agent (SBPA) (b)(6) (b)(7)(C) *of San Diego Sector Professional Standards Division. According to the news article,* (b)(6) (b)(7)(C) *alleged an incident took place on "the morning" of July 2, 2010. Below is a synopsis of the relevant information contained in the article.*

(b)(6) (b)(7)(C) stated that as he was taking water bottles out of the trunk of his car to fill them with water, two Border Patrol agents approached him. (b)(6) (b)(7)(C) stated the agents asked for his "papers for no reason," and when they (*Border Patrol agents*) saw his Matricular Consular Identificar Targeta" (*Mexican Consular Identification Card)* they "demanded" to see that "credential."

(b)(6) (b)(7)(C) stated that he told the agents he was a "citizen," however the agents told him to "lift his hands immediately" so he (b)(6) (b)(7)(C) could be "searched." (b)(6) (b)(7)(C) stated that he told the "officers" that he was "disabled" and he was unable to "move" his arm. (b)(6) (b)(7)(C) stated that the "officers" did not believe him and responded, "You are not disabled do not resist." (b)(6) (b)(7)(C) stated that "he (*the "officer")* tried to "move" his "arm back to handcuff," however it was "impossible" to move the arm. (b)(6) (b)(7)(C) stated that "with these movements" he "fell to the ground."

While on the ground, the agents "continued to search him and treating him with rudeness." (b)(6) (b)(7)(C) stated that while he was on the ground, two female agents arrived and "screamed" at him not to resist "or I'll spray you." (b)(6) (b)(7)(C) stated that he was not "resisting" and was so afraid he could not speak.

"A few minutes after the rough inspection," (b)(6) (b)(7)(C) was told to stand. The agent verified (b)(6) (b)(7)(C) identity by "telephone" and returned his "papers." (b)(6) (b)(7)(C) stated that as the agents were leaving, he asked them for their names. (b)(6) (b)(7)(C) stated that the agents told him, "aquí en el informe* están lee" (*Literal translation: "read it here in the report." Idiomatic translation: "You can read the information here" possibly referring to a name tag. *The word "informe" may have also been used in the article as the result of a typographical error. The phrase "en el uniforme" is literally translated as "on the uniform").*

SUMMARY OF MEMORANDUM OF INVESTIGATION, RE (b)(6) (b)(7)(C)

On August 19, 2010, SDC/PSD SBPA (b)(6) (b)(7)(C) telephonically interviewed (b)(6) (b)(7)(C) regarding his allegation. Additionally, on August 25, 2010, SBPA (b)(6) (b)(7)(C) made a formal request to Ralph's Grocery Store (Parent company for Food 4 Less, subsidiary of the Kroger Company) for the surveillance video at the Food 4 Less in Escondido, CA. To date, no video has been obtained.

(b)(6) (b)(7)(C) stated that on July 2, 2010, two male and two female Border Patrol agents abused him in the parking lot of the Food 4 Less in Escondido, CA. (b)(6) (b)(7)(C) stated he is disabled, displays a disabled placard on his vehicle, and was parked in a disabled parking spot at the time of the incident.

(b)(6) (b)(7)(C) stated that while he was next to his vehicle, he was approached by two Border Patrol agents and questioned as to his citizenship. (b)(6) (b)(7)(C) stated that he told the agents he was a U.S. citizen and showed them his driver's license. According to (b)(6) (b)(7)(C) when he pulled out his driver's license, the agents saw his "consular matricular identification card" and "grabbed both cards."

(b)(6) (b)(7)(C) stated that the agents asked how he obtained U.S. citizenship and the "Hispanic" agent was on a phone talking to someone regarding his (b)(6) (b)(7)(C) "I.D." (b)(6) (b)(7)(C) stated the "white agent" asked him to turn around and "forced" his feet apart to search him. According to (b)(6) (b)(7)(C) when the agent asked him to raise his arms, he told the agent that he could not (b)(6) (b)(7)(C) stated that he was "disabled" and his right arm was "paralyzed." (b)(6) (b)(7)(C) stated that he "guessed the agent" didn't believe him, and once again he (b)(6) (b)(7)(C) was told to raise both arms. (b)(6) (b)(7)(C) stated that while the agent was "trying" to search him, he (b)(6) (b)(7)(C) was "pushed" to the ground.

(b)(6) (b)(7)(C) stated that while he was on the ground a female agent "came up" and told him to stop resisting or she would "spray" him. (b)(6) (b)(7)(C) stated he replied, "How can I resist, I'm disabled." (b)(6) (b)(7)(C) stated that the agents told him to get up and when they "realized" he was a U.S. citizen, they left. (b)(6) (b)(7)(C) stated that as they were leaving, he asked for their names but "nobody said anything." (b)(6) (b)(7)(C) stated he saw the name (b)(6) (b)(7)(C) on the Hispanic agent's shirt and the "white agent's" name was '(b)(6) (b)(7)(C)

SUMMARY OF LETTER FROM THE (b)(6) (b)(7)(C) **:**

On August 18, 2010, the (b)(6) (b)(7)(C) *sent an e-mail message to DHS CRCL advising of* (b)(6) (b)(7)(C) *complaint. According to the e-mail, the* (b)(6) (b)(7)(C) *received a complaint from* (b)(6) (b)(7)(C) *on July 14, 2010. Additionally, the e-mail contained an attachment which consisted of a "testimony"* (b)(6) (b)(7)(C) *provided in regard to his complaint. The "testimony," which was typed in the Spanish language, reiterated the information* (b)(6) (b)(7)(C) *had previously provided to SBPA* (b)(6) (b)(7)(C) *and the El Latino newspaper with the exception of the following:*

(b)(6) (b)(7)(C) stated the alleged incident occurred at approximately 8:00 AM on July 2, 2010. (b)(6) (b)(7)(C) stated when the two agents arrived, he (b)(6) (b)(7)(C) was standing next to the trunk of his vehicle. (b)(6) (b)(7)(C) identified two agents by name: (b)(6) (b)(7)(C) and (b)(6) (b)(7)(C)

(b)(6) (b)(7)(C) stated that he asked "them" for their names and the "Latin official" responded, "It is on my shirt."

(Investigators note: The geographical area (b)(6) (b)(7)(C) *described in his complaint is located in the Murrieta Border Patrol Station's area of operations (AOR). A review of the Daily Assignment Log* (b) (7)(E) *for July 2, 2010, showed BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C) *were assigned* (b) (7)(E) *"* (b) (7)(E) *in the Murrieta Station's AOR. Additionally, BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C) *were assigned* (b) (7)(E) (b) (7)(E) *to the '* (b) (7)(E) *in the Murrieta Station's AOR.)*

SUMMARY OF MEMORANDUM SUBMITTED BY BPA (b)(6) (b)(7)(C)

On January 24, 2011, at the request of SDC/PSD, BPA (b)(6) (b)(7)(C) provided a memorandum concerning his encounter with (b)(6) (b)(7)(C) on July 2, 2010. BPA (b)(6) (b)(7)(C) referred to (b)(6) (b)(7)(C) as the "individual" in his memorandum. For the purpose of this summary, (b)(6) (b)(7)(C) has been identified by name.

On July 2, 2010, BPA (b)(6) (b)(7)(C) was conducting "routing" patrol with BPA (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) stated that while driving on "Broadway near a Food for Less store," he and BPA (b)(6) (b)(7)(C) "noticed" (b)(6) (b)(7)(C) at the trunk of 'his' (b)(6) (b)(7)(C) car. BPA (b)(6) (b)(7)(C) stated that once (b)(6) (b)(7)(C) noticed their (*BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C)) "presence," he turned away "as if he did not acknowledge" that they (*BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C)) were in the "shopping center area." According to BPA (b)(6) (b)(7)(C) that is a "common tactic used by individuals" attempting to "avoid detection." BPA (b)(6) (b)(7)(C) stated that he then told BPA (b)(6) (b)(7)(C) that they should "question" (b)(6) (b)(7)(C)

BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) approached (b)(6) (b)(7)(C) and "repeatedly" asked him to "state his citizenship." BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) asked approximately five times, however, (b)(6) (b)(7)(C) did not answer. BPA (b)(6) (b)(7)(C) stated that that while BPA (b)(6) (b)(7)(C) was attempting to question (b)(6) he (b)(6) (b)(7)(C) "kept digging around in his trunk as if to grab something."

BPA (b)(6) (b)(7)(C) stated that he told BPA (b)(6) (b)(7)(C) to be "cautious just in case the individual (b)(6) (b)(7)(C) grabbed a tire iron from his trunk." BPA (b)(6) (b)(7)(C) stated that when BPA (b)(6) (b)(7)(C) placed his hand on (b)(6) (b)(7)(C) left shoulder, he (b)(6) (b)(7)(C) became "combative." BPA (b)(6) (b)(7)(C) stated the "struggling continued as the individual (b)(6) (b)(7)(C) did not want to comply with the verbal commands he was given to remove his hands from the trunk."

BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) "managed" to take hold of (b)(6) (b)(7)(C) and sat him on the ground. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) was not thrown or pushed. BPA (b)(6) (b)(7)(C) stated that once (b)(6) (b)(7)(C) was "on the ground," he claimed that he was handicapped. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) was questioned "once again" as to his name and (b)(6) (b)(7)(C) was "still being elusive." BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) said he wanted to go to his vehicle; however, he needed help to stand. According to BPA (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) immediately assisted (b)(6) (b)(7)(C) to his feet and (b)(6) (b)(7)(C) walked to his (b)(6) (b)(7)(C) vehicle. BPA (b)(6) (b)(7)(C) stated that he asked (b)(6) (b)(7)(C) "what was his handicap" and (b)(6) (b)(7)(C) responded that it was his right arm, which he "immediately pulled close to his side."

BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) then retrieved, a recording device from his vehicle with his right hand and "immediately switched it to his left hand," stating he was going to record the conversation. BPA (b)(6) (b)(7)(C) stated that when he "reminded" (b)(6) (b)(7)(C) that he reached for the recording device with his right hand, (b)(6) (b)(7)(C) "seemed to sneer" at his (BPA (b)(6) (b)(7)(C)) comment.

BPA (b)(6) (b)(7)(C) stated that he then "reminded" (b)(6) (b)(7)(C) he still needed to show some identification to verify his identity. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) was claiming to be a U.S. citizen. When (b)(6) (b)(7)(C) was attempting to remove his driver's license from his wallet, BPA (b)(6) (b)(7)(C) noticed an "immigration document." BPA (b)(6) (b)(7)(C) stated when he questioned (b)(6) (b)(7)(C) about the document; (b)(6) (b)(7)(C) said it was his "Resident Alien Card." BPA (b)(6) (b)(7)(C) stated that he "reminded" (b)(6) (b)(7)(C) that he was a "Resident Alien," not a U.S. citizen. BPA (b)(6) (b)(7)(C) stated record checks were conducted on (b)(6) (b)(7)(C) and his identity was "verified."

BPA (b)(6) (b)(7)(C) stated that he "reminded" (b)(6) (b)(7)(C) that his "actions determined the outcome of events" and that it seemed that (b)(6) (b)(7)(C) "baited the situation" when he retrieved the recording device. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) asked for his (BPA (b)(6) (b)(7)(C)) name, which he provided. BPA (b)(6) (b)(7)(C) and "also reminded" (b)(6) (b)(7)(C) to "include how he (b)(6) (b)(7)(C) was being combative and deceptive about his answers."

SUMMARY OF MEMORANDUM SUBMITTED BY BPA (b)(6) (b)(7)(C):

On January 25, 2011, at the request of SDC/PSD, BPA (b)(6) (b)(7)(C) provided a memorandum concerning his encounter with (b)(6) (b)(7)(C) on July 2, 2010. BPA (b)(6) (b)(7)(C) referred to (b)(6) (b)(7)(C) as the "individual" in his memorandum. For the purpose of this summary, (b)(6) (b)(7)(C) has been identified by name.

At approximately 8:00 AM, BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) observed (b)(6) (b)(7)(C) next to an open trunk of a vehicle in the parking lot of a "Food for Less," located on Broadway Street in Escondido, CA. BPA (b)(6) (b)(7)(C) stated that (b) (7)(E) [redacted] (b) (7)(E) [redacted]

BPA (b)(6) (b)(7)(C) stated that when they passed (b)(6) (b)(7)(C) he "turned his body away from our marked Border Patrol sedan in an evasive manner." According to BPA (b)(6) (b)(7)(C) also avoided eye contact by "turning his face away" when they (BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C)) "completed a circle in the parking lot." BPA (b)(6) (b)(7)(C) stated he and BPA (b)(6) (b)(7)(C) had encountered this type of behavior in the past as it is a "common tactic used by individual that are nervous in the presence of law enforcement." BPA (b)(6) (b)(7)(C) stated that at that point they "conducted a consensual encounter" with (b)(6) (b)(7)(C)

BPA (b)(6) (b)(7)(C) stated that he identified himself as a Border Patrol agent and "greeted" (b)(6) (b)(7)(C) in the English language. According to BPA (b)(6) (b)(7)(C) responded in broken English and "did not look up from the trunk." BPA (b)(6) (b)(7)(C) stated he then questioned (b)(6) (b)(7)(C) "several times" as to his citizenship in the Spanish language. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) looked up as if he understood, however he continued to "dig around in the open trunk."

BPA (b)(6) (b)(7)(C) observed there were many different items in the trunk including a variety of tools. Additionally, BPA (b)(6) (b)(7)(C) observed (b)(6) (b)(7)(C) was "sweating profusely and his hands were shaking as if he was nervous." BPA (b)(6) (b)(7)(C) stated that for officer safety purposes, he asked (b)(6) (b)(7)(C) "three times" to remove his hands from the trunk, however, (b)(6) (b)(7)(C) did not comply and "continued to stay in the trunk as if he was looking to grab something." According to BPA (b)(6) (b)(7)(C) all of the commands he gave to (b)(6) (b)(7)(C) and the remainder of the "interview/conversation" were in the Spanish language.

BPA (b)(6) (b)(7)(C) stated that since (b)(6) (b)(7)(C) was not compliant and continued "fidgeting around in the trunk," he placed his hand on (b)(6) (b)(7)(C) left shoulder. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) then became "actively resistant" and attempted to "shrug" him (BPA (b)(6) (b)(7)(C)) "off" and "jerk his (b)(6) (b)(7)(C) arm away." BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) continued to struggle as he (BPA (b)(6) (b)(7)(C)) attempted to control his (b)(6) (b)(7)(C) left arm. Once BPA (b)(6) (b)(7)(C) was able to control (b)(6) (b)(7)(C) he told (b)(6) (b)(7)(C) he was going to conduct a "pat-down" search of his outer clothing for weapons.

After the search, BPA (b)(6) (b)(7)(C) instructed (b)(6) (b)(7)(C) to sit down on the curb; however, (b)(6) (b)(7)(C) refused to comply. According to BPA (b)(6) (b)(7)(C) he asked (b)(6) (b)(7)(C) two more times to sit on the curb; however, (b)(6) (b)(7)(C) still would not comply. BPA (b)(6) (b)(7)(C) stated that since (b)(6) (b)(7)(C) was refusing his verbal commands to sit, he

(BPA (b)(6) (b)(7)(C)) applied "slight pressure on his (b)(6) (b)(7)(C) shoulder" with his knuckle. BPA (b)(6) (b)(7)(C) stated that this was a (b) (7)(E)

BPA (b)(6) (b)(7)(C) stated that as he "struggled" to control (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) who had arrived on the scene to assist, told (b)(6) (b)(7)(C) she was going to "spray him (b)(6) (b)(7)(C) with pepper spray if he did not comply."

BPA (b)(6) (b)(7)(C) stated that once (b)(6) (b)(7)(C) was sitting, he (b)(6) (b)(7)(C) claimed in the Spanish language to have a disability. BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) asked (b)(6) (b)(7)(C) "where his handicap was," and (b)(6) (b)(7)(C) responded that it was his right arm. BPA (b)(6) (b)(7)(C) stated he then assisted (b)(6) (b)(7)(C) to his feet and told him "not to go near the trunk of the vehicle because it was an officer safety issue."

BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) claimed to be a U.S. citizen but did not speak English and claimed to be born in Mexico. When BPA (b)(6) (b)(7)(C) asked for (b)(6) (b)(7)(C) identification, he (b)(6) (b)(7)(C) produced a "Resident Alien card." BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) explained to (b)(6) (b)(7)(C) the difference between U.S. citizenship and resident alien status, and he (BPA (b)(6) (b)(7)(C)) conducted checks on the validity of the *Resident Alien* "card" via "radio communications." BPA (b)(6) (b)(7)(C) stated that once record checks were completed, he told (b)(6) (b)(7)(C) he was no longer "being detained." BPA (b)(6) (b)(7)(C) stated that he also told (b)(6) (b)(7)(C) he "should not ignore verbal commands and be combative with law enforcement." BPA (b)(6) (b)(7)(C) estimated that the total time of (b)(6) (b)(7)(C) detainment was approximately 20 to 30 minutes.

According to BPA (b)(6) (b)(7)(C) once (b)(6) (b)(7)(C) was informed he was free to go, he reached into his vehicle and produced a recording device and "demanded" their names. BPA (b)(6) (b)(7)(C) stated he and BPA (b)(6) (b)(7)(C) provided (b)(6) (b)(7)(C) with their names and "titles," and then departed the area.

BPA (b)(6) (b)(7)(C) noted that (b)(6) (b)(7)(C) did not "at any time state" that they "had injured him in any way nor did he request medical attention."

BPA (b)(6) (b)(7)(C) stated that once he arrived at the station, he completed a memorandum documenting (b)(6) (b)(7)(C) encounter and informed SBPA (b)(6) (b)(7)(C) According to BPA (b)(6) (b)(7)(C) he asked SBPA (b)(6) (b)(7)(C) if she wanted the memorandum, and she said, "No."

Investigator's Notes: A copy of that memorandum, dated July 2, 2010, (unsigned) has been included in the case file, however it was never officially submitted by BPA (b)(6) (b)(7)(C) and it was not accompanied with documentation of Article 31B notification. It should be noted that the memorandum reiterated the information that he provided in his memorandum dated January 25, 2011, and, with the exception of the license plate of (b)(6) (b)(7)(C) vehicle, provided no 'new' relevant information regarding (b)(6) (b)(7)(C) allegation.

Records Checks indicated that the license plate (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) documented in the memorandum dated July 2, 2010, is a 1995 Nissan 4 door sedan, registered to (b)(6) (b)(7)(C) However, that plate was not registered as a "Disabled plate."

Further checks revealed that (b)(6) (b)(7)(C) was, however, issued a "Disabled plate" (b)(6) (b)(7)(C) for that vehicle on September 9, 2010.

SUMMARY OF MEMORANDUM SUBMITTED BY BPA (b)(6) (b)(7)(C)

On February 2, 2011, at the request of SDC/PSD, BPA (b)(6) (b)(7)(C) provided a memorandum concerning her encounter with (b)(6) (b)(7)(C) on July 2, 2010.

BPA (b)(6) (b)(7)(C) stated that to the best of her "recollection, she and BPA (b)(6) (b)(7)(C) were assigned traffic check duties on July 2, 2010. BPA (b)(6) (b)(7)(C) stated that she "remembered" providing "back up" to BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) at the Food 4 Less parking lot in Escondido, CA.

BPA (b)(6) (b)(7)(C) stated that when they (*BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C)) made contact with BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) was noncompliant to BPA (b)(6) (b)(7)(C) verbal commands. According to BPA (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) commands were "clearly given" in both the English and Spanish language. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) was asked to stop searching through the trunk of his car and "to keep his hands in plain view numerous times." According to BPA (b)(6) (b)(7)(C) "deliberately ignored" BPA (b)(6) (b)(7)(C) verbal commands and continued to "dig through the objects in the trunk, as if looking for a weapon." BPA (b)(6) (b)(7)(C) stated that she "remembered" that BPA (b)(6) (b)(7)(C) made physical contact with (b)(6) (b)(7)(C) and directed him sit on the ground because he (b)(6) (b)(7)(C) was refusing to comply.

BPA (b)(6) (b)(7)(C) stated that at no time did BPA (b)(6) (b)(7)(C) abuse or use "more than the necessary force" while "handling" (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) stated that she "remembered standing close by on the opposite side of Agent (b)(6) (b)(7)(C) attentive to Mr. (b)(6) (b)(7)(C) due to his aggressive behavior as (b)(6) (b)(7)(C) displayed intentions to physically challenging Agent (b)(6) (b)(7)(C)." BPA (b)(6) (b)(7)(C) stated that she recognized this behavior as a "threat against Agent (b)(6) (b)(7)(C)" and was "standing by to assist should the situation escalate..."

According to BPA (b)(6) (b)(7)(C), after a "few minutes," (b)(6) (b)(7)(C) calmed down and asked to stand because he was "uncomfortable" sitting on the curb. BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) assisted (b)(6) (b)(7)(C) to his feet, and that (b)(6) (b)(7)(C) did not mention any health issues or complaints at that time.

BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) was not detained longer than the amount of time required for record checks. BPA (b)(6) (b)(7)(C) stated the (b)(6) (b)(7)(C) claimed to be a U.S. citizen, but record checks revealed he was "Permanent Resident card holder." Additionally, BPA (b)(6) (b)(7)(C) stated that she recalled BPA (b)(6) (b)(7)(C) stating his name to (b)(6) (b)(7)(C) and that (b)(6) (b)(7)(C) "threatened to sue the service."

SUMMARY OF MEMORANDUM SUBMITTED BY BPA (b)(6) (b)(7)(C)

On January 31, 2011, at the request of SDC/PSD, BPA (b)(6) (b)(7)(C) provided a memorandum concerning her encounter with (b)(6) (b)(7)(C) on July 2, 2010. In her memorandum, BPA (b)(6) (b)(7)(C) referred to (b)(6) (b)(7)(C) as "a man" and "the subject." For the purpose of this summary, (b)(6) (b)(7)(C) has been identified by name.

BPA (b)(6) (b)(7)(C) stated that due to the amount of time that has past, she could not recall every detail regarding (b)(6) (b)(7)(C) encounter. BPA (b)(6) (b)(7)(C) stated that on July, 2, 2010, she and BPA (b)(6) (b)(7)(C) were working in a marked sedan in Escondido, CA. BPA (b)(6) (b)(7)(C) stated that she remembered (b)(6) (b)(7)(C) was "very uncooperative" with BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C). BPA (b)(6) (b)(7)(C) stated that due to (b)(6) (b)(7)(C) "continued non-compliance and for officer safety reasons," BPA (b)(6) (b)(7)(C) "felt it necessary to help" (b)(6) (b)(7)(C) to the ground. According BPA (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) was able to do so by "using very little force."

BPA (b)(6) (b)(7)(C) stated that from her point of view, BPA (b)(6) (b)(7)(C) put his hand on (b)(6) (b)(7)(C)'s shoulder and pushed down, however, "not so hard as to make" (b)(6) (b)(7)(C) fall. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) sat on a curb and "did not appear to be in any kind of pain or duress."

BPA (b)(6) (b)(7)(C) stated that she did in fact tell (b)(6) (b)(7)(C) she "would spray him."

(Investigator's Note: BPA (b)(6) (b)(7)(C) has been certified to carry Oleoresin Capsicum spray (OC Spray) as an intermediate force device. A review of (b) (7)(E) records indicated that, at the time of the incident, BPA (b)(6) (b)(7)(C) last recertification in OC Spray occurred on June 16, 2009. Additionally, review indicated that BPA (b)(6) (b)(7)(C) most recent recertification occurred on August 19, 2010.)

However, BPA (b)(6) (b)(7)(C) stated she could not remember if she made that statement when (b)(6) (b)(7)(C) was "struggling" with BPA (b)(6) (b)(7)(C) or when (b)(6) (b)(7)(C) was on the ground. BPA (b)(6) (b)(7)(C) stated that when she told (b)(6) (b)(7)(C) she "would spray him," it was not intended to be a threat; rather "it was a statement of fact." BPA (b)(6) (b)(7)(C) stated that she was warning (b)(6) (b)(7)(C) of the possible consequences of his actions, not much different than if she were to tell someone to "drop the gun, or I'll shoot."

When (b)(6) (b)(7)(C) asked why she would "spray" him, BPA (b)(6) (b)(7)(C) responded that as long as he (b)(6) (b)(7)(C) continued to resist, there would be "repercussions." BPA (b)(6) (b)(7)(C) stated that she held her "pepper spray" in her hand, down at her side. BPA (b)(6) (b)(7)(C) stated that once (b)(6) (b)(7)(C) "deescalated," she re-holstered her "spray."

BPA (b)(6) (b)(7)(C) stated that she could not "recall exactly" why (b)(6) (b)(7)(C) was encountered, but when she arrived on the scene he (b)(6) (b)(7)(C) was being detained to verify his immigration status. According to BPA (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) was "evasive in his answers and it appeared as though he was looking for an argument or a fight." BPA (b)(6) (b)(7)(C) stated that she believed (b)(6) (b)(7)(C) "was not detained for longer than 20 minutes" and was released when record checks revealed he (b)(6) (b)(7)(C) was not deportable. According to BPA (b)(6) (b)(7)(C) when (b)(6) (b)(7)(C) was released he produced an audio recorder and demanded their names. BPA (b)(6) (b)(7)(C) stated that she believed BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) provided their names, and that she and BPA (b)(6) (b)(7)(C) left the scene.

BPA (b)(6) (b)(7)(C) stated that at "some point" during the encounter, (b)(6) (b)(7)(C) stated he was disabled. BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) did not "appear" to be physically disabled, as he "did not walk with a limp." According to BPA (b)(6) (b)(7)(C) when she arrived on the scene, (b)(6) (b)(7)(C) was using all of his limbs without any noticeable problem. However, BPA (b)(6) (b)(7)(C) noted that it was only towards the end of the encounter, that (b)(6) (b)(7)(C) was "holding his arm as if he were in pain." BPA (b)(6) (b)(7)(C) stated that (b)(6) (b)(7)(C) did not blame anyone for his "injury," nor did he request medical attention.

BPA (b)(6) (b)(7)(C) stated that she has been employed as a Border Patrol agent for 11 years and considered the "incident" with (b)(6) (b)(7)(C) as "not that uncommon." BPA (b)(6) (b)(7)(C) stated she had encountered "countless" individuals who were "verbally aggressive," who have threatened to sue her, and who have a grudge against the U.S. Border Patrol and were "looking for a reason to complain." According to BPA (b)(6) (b)(7)(C) "100% of these individuals turn out to be either United States citizens or legal aliens" and BPA (b)(6) (b)(7)(C) considers people like (b)(6) (b)(7)(C) to be a "part of doing business." BPA (b)(6) (b)(7)(C) stated she did not report the incident with (b)(6) (b)(7)(C) because she "did not feel there was anything to report."

BPA (b)(6) (b)(7)(C) stated that at no time did she witness any agent being rude, abusive, or unprofessional. Additionally, BPA (b)(6) (b)(7)(C) stated that she believed BPA (b)(6) (b)(7)(C) actions were justified.

SUMMARY OF E-MAIL MESSAGE FROM APAIC (b)(6) (b)(7)(C) RE: CASE# (b) (2) :

On October 12, 2010, SDC/PSD provided the Command Staff of the Murrieta Station (Patrol Agent in Charge (b)(6) (b)(7)(C) and Assistant Patrol Agent in Charge (b)(6) (b)(7)(C) with the available documents associated with (b)(6) (b)(7)(C) allegation for their review. At the time of his writing, the only agents identified by APAIC (b)(6) (b)(7)(C) as being associated with the allegation were BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) The following is a verbatim copy of the e-mail message as it was received. No Spelling or grammatical changes were made.

> I have reviewed all written documentation and interviewed all agents involved in this incident. I recommend that Case# (b) (2) be closed with no further action initiated at this time.
>
> I find that the agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation. Agent (b)(6) (b)(7)(C) and his partner Agent (b)(6) (b)(7)(C) had engaged in an immigration inspection of Mr. (b)(6) (b)(7)(C) whose hands were concealed within the trunk of his vehicle. The agents repeatedly asked Mr. (b)(6) (b)(7)(C) to remove his hands and he refused. For their safety agent (b)(6) (b)(7)(C) verbally instructed Mr. (b)(6) (b)(7)(C) to back away from the vehicle and sit on the curb. Mr. (b)(6) (b)(7)(C) became angry and refused. BPA (b)(6) (b)(7)(C) placed one hand on Mr. (b)(6) (b)(7)(C) shoulder and took two steps back sitting Mr. (b)(6) (b)(7)(C) down on the street curb. No other hands were placed on Mr. (b)(6) (b)(7)(C)
>
> Mr. (b)(6) (b)(7)(C) demanded their names and the agents provided them. The agents conducted their inspection and after being satisfied of Mr. (b)(6) (b)(7)(C) answers, departed the area.
>
> The additional allegation that the agents threatened to spray the individual with "Pepper Spray" is unfounded as neither agent is certified or carries OC Spray. Mr. (b)(6) (b)(7)(C) only stated that he was handicapped as the agents were departing; he furthermore was holding a hand held tape recording device as he stated it. The agents did not respond.
>
> I again recommend closure.

SUMMARY OF RECORD CHECKS (b) (7)(E) RE: (b)(6) (b)(7)(C) :

Records indicate that (b)(6) (b)(7)(C) entered the United States illegally on or about July 22, 1988. On October 12, 1988, (b)(6) (b)(7)(C) adjusted status as a TS2 (Temporary Special Agricultural Worker) and received employment authorization. On December 1, 1990, (b)(6) (b)(7)(C) adjusted status to a lawful permanent resident and was issued Alien Registration number (b)(6) (b)(7)(C)

On June 18, 1999, (b)(6) (b)(7)(C) submitted an N-400 (Application for Naturalization). On that application, the Immigration Examiner noted that (b)(6) (b)(7)(C) had "partial paralysis" from his right shoulder to his right foot. On September 10, 1999, (b)(6) (b)(7)(C) became a naturalized United States citizen. Additional record checks in (b) (7)(E) revealed no derogatory information concerning (b)(6) (b)(7)(C)

The (b) (7)(E) showed (b)(6) (b)(7)(C) Lawful Permanent Resident Card (I-551) was "Recovered/Destroyed;" however, no action date was provided.

SUMMARY OF DISPATCH TAPES, MURRIETA STATION FOR JULY 2, 2010:

On January 25, 2011, the San Diego Sector Professional Standards Division obtained the Murrieta Station dispatch tapes for July 2, 2010. The tapes received did not contain any radio traffic regarding (b)(6) (b)(7)(C) encounter and subsequent record checks.

CONSIDERATIONS:

- On August 18, 2010 (b)(6) (b)(7)(C) alleged via the El Latino newspaper that Border Patrol agents had "abused their authority and mistreated him" on July 2, 2010. (b)(6) (b)(7)(C) made that claim approximately 48 days after the alleged incident.
- Specifically (b)(6) (b)(7)(C) alleged:
  - On July 2, 2010, he was parked in a disabled parking spot and was standing next to the trunk of his vehicle retrieving water bottles to be filled.
  - Border Patrol agents approached him asked for his "papers for no reason."
  - He told the agents he was a "citizen," however the agents told him to "lift his hands immediately" so he (b)(6) (b)(7)(C) could be "searched."
  - He told the "officers" that he was "disabled" and he was unable to "move" his arm.
  - An agent tried to "move" his (b)(6) (b)(7)(C) "arm back to handcuff" him; however, it was "impossible" to move the arm (*due to alleged paralysis to his right arm*) and "with these movements" he (b)(6) (b)(7)(C) "fell to the ground."
    - *According to the statement (b)(6) (b)(7)(C) provided to SBPA (b)(6) (b)(7)(C) an agent told him to "lift his hands immediately" and when he (b)(6) (b)(7)(C) told the agents that he could not as he was "disabled," the agent did not believe him.*
    - *While the agent was "trying" to search him, he (b)(6) (b)(7)(C) was "pushed" to the ground.*
  - A female agent "threatened" to "spray" him.
  - (b)(6) (b)(7)(C) stated that he asked "them" for their names and the "Latin official" responded, "It is on my shirt."
    - *According to the statement (b)(6) (b)(7)(C) provided to SBPA (b)(6) (b)(7)(C) when he (b)(6) (b)(7)(C) asked for the agent's names, "nobody said anything."*
- On June 18, 1999, an Immigration Examiner documented on (b)(6) (b)(7)(C) N-400 that he (b)(6) (b)(7)(C) had "partial paralysis" from his right shoulder to his right foot.
- BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) documented in their memorandums why they initially approached (b)(6) (b)(7)(C)
  - The area they were patrolling (b) (7)(E) (b) (7)(E) (b) (7)(E)
  - When (b)(6) (b)(7)(C) noticed their (*BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C) "presence;" he turned away "as if he did not acknowledge "that they (*BPA* (b)(6) (b)(7)(C) *and BPA* (b)(6) (b)(7)(C) were in the "shopping center area."

- When they drove past [redacted] he "turned his body away from" their "marked Border Patrol sedan in an evasive manner" and avoided eye contact by "turning his face away"
- BPA [redacted] stated this was a "common tactic used by individuals" attempting to "avoid detection."
- BPA [redacted] stated he has encountered those types of behaviors in the past as it is a "common tactic used by individual that are nervous in the presence of law enforcement."

- BPA [redacted] and BPA [redacted] documented in their memorandums why they detained [redacted] for additional investigation:
  - When BPA [redacted] "greeted [redacted] in the English language, [redacted] responded in broken English and "did not look up from the trunk."
  - [redacted] was "sweating profusely and his hands were shaking as if he was nervous."
  - BPA [redacted] stated he then questioned [redacted] "several times" as to his citizenship in the Spanish language; however [redacted] did not respond and continued to "dig around in the trunk."
  - BPA [redacted] stated that BPA [redacted] asked [redacted] to "state his citizenship" approximately five times; however [redacted] did not answer.
- BPA [redacted] stated that that while BPA [redacted] was attempting to question [redacted] he [redacted] "kept digging around in his trunk as if to grab something."
- BPA [redacted] stated there were many different items in the trunk including a variety of tools.
- BPA [redacted] stated that for officer safety purposes, he asked [redacted] "three times" to remove his hands from the trunk; however, [redacted] did not comply and "continued to stay in the trunk as if he was looking to grab something."
- According to BPA [redacted]
  - Since [redacted] was not compliant and continued "fidgeting around in the trunk," he placed his hand on [redacted] left shoulder.
  - [redacted] then became "actively resistant" and attempted to "shrug" him (BPA [redacted] "off" and "jerk his [redacted] arm away."
  - Once [redacted] was under control, BPA [redacted] asked [redacted] to sit on the curb approximately three times; however, [redacted] would not comply.
  - Since [redacted] refused to sit, he applied "slight pressure on [redacted] shoulder" with his knuckle, a tactic taught to him at the U.S. Border Patrol Academy.
  - Once [redacted] was seated, he [redacted] claimed in the Spanish language to have a disability.
  - He then assisted [redacted] to his feet and told him "not to go near the trunk of the vehicle because it was an officer safety issue."
  - Once [redacted] was informed he was free to go, [redacted] reached into his vehicle and produced a recording device and "demanded" their names.
  - He and BPA [redacted] provided their names to [redacted]

- According to BPA (b)(6) (b)(7)(C)
  - (b)(6) (b)(7)(C) "did not want to comply with the verbal commands he was given to remove his hands from the trunk."
  - When BPA (b)(6) (b)(7)(C) placed his hand on the (b)(6) (b)(7)(C) left shoulder, he became "combative."
  - The "struggling continued as the individual (b)(6) (b)(7)(C) did not want to comply with the verbal commands he was given to remove his hands from the trunk."
  - (b)(6) (b)(7)(C) was not thrown or pushed to the ground.
  - was "on the ground" when he claimed that he was "handicapped."
  - BPA (b)(6) (b)(7)(C) stated that BPA (b)(6) (b)(7)(C) assisted (b)(6) (b)(7)(C) to his feet and (b)(6) (b)(7)(C) walked to his vehicle and retrieved a recording device.
  - (b)(6) (b)(7)(C) requested his (*BPA* (b)(6) (b)(7)(C)) name and he provided it.
- According to BPA (b)(6) (b)(7)(C)
  - (b)(6) (b)(7)(C) was "very uncooperative," "evasive in his answers and appeared he was looking for an argument or a fight."
  - Due to (b)(6) (b)(7)(C) "continued non-compliance and for officer safety reasons," BPA (b)(6) (b)(7)(C) "felt it necessary to help" (b)(6) (b)(7)(C) to the ground.
  - BPA (b)(6) (b)(7)(C) was able to do so by "using very little force."
  - She did in fact tell (b)(6) (b)(7)(C) she would "spray him;" however, she could not remember if she made that statement when (b)(6) (b)(7)(C) was "struggling" with BPA (b)(6) (b)(7)(C) or when (b)(6) (b)(7)(C) was on the ground.
  - When she told (b)(6) (b)(7)(C) she "would spray him," it was not intended as a threat; rather "it was a statement of fact."
  - She made that statement to warn (b)(6) (b)(7)(C) of the possible consequences of his actions" and if (b)(6) (b)(7)(C) continued to resist, there would be "repercussions."
  - At "some point" during the encounter, (b)(6) (b)(7)(C) stated he had a disability.
  - When BPA (b)(6) (b)(7)(C) first arrived on scene, (b)(6) (b)(7)(C) was using all of his limbs without any noticeable problems." It was not until towards the end of the encounter, when (b)(6) (b)(7)(C) was holding his arm as if he were in pain; however (b)(6) (b)(7)(C) did not blame anyone for his "injury," nor did he request medical attention.
  - At no time did she witness any agent being rude, abusive, or unprofessional and she believed that BPA (b)(6) (b)(7)(C) actions were justified.
  - When (b)(6) (b)(7)(C) was released, he produced a recording device and demanded their names.
  - BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) provided (b)(6) (b)(7)(C) with their names.

- According to BPA (b)(6) (b)(7)(C)
  - (b)(6) (b)(7)(C) was noncompliant to BPA (b)(6) (b)(7)(C) verbal commands and BPA (b)(6) (b)(7)(C) commands were "clearly given" in both the Spanish and English language.
  - (b)(6) (b)(7)(C) "deliberately ignored" BPA (b)(6) (b)(7)(C) verbal commands and continued to "dig through the objects in the trunk, as if looking for a weapon."
  - Because he was refusing to comply, BPA (b)(6) (b)(7)(C) made physical contact with (b)(6) (b)(7)(C) and directed him to sit on the ground.
  - After a "few minutes," (b)(6) (b)(7)(C) calmed down and asked to stand because he was "uncomfortable" sitting on the curb.
  - BPA (b)(6) (b)(7)(C) assisted (b)(6) (b)(7)(C) to his feet and (b)(6) (b)(7)(C) did not mention any health issues or complaints at that time.
  - BPA (b)(6) (b)(7)(C) stated his name to (b)(6) (b)(7)(C) and noted that (b)(6) (b)(7)(C) "threatened to sue the service."
- Both BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) stated they did not learn of (b)(6) (b)(7)(C) disability until he was on the ground.
- BPA (b)(6) (b)(7)(C) BPA (b)(6) (b)(7)(C) and BPA (b)(6) (b)(7)(C) stated in their memorandums that (b)(6) (b)(7)(C) produced a Resident Alien card and record checks confirmed that he was a "Resident Alien," not a U.S. citizen.
  - According to (b)(6) (b)(7)(C) when he pulled out his driver's license, the agents saw his "consular matricular identification card," not an I-551.
  - (b) (7)(E) showed (b)(6) (b)(7)(C) I-551 was "Recovered/Destroyed," however no action date was provided.
  - (b)(6)(b)(7)(C)(b)(7)(E) record documents that he naturalized as a United States citizen on September 10, 1999.
  - It should be noted that the agents documented their encounter with (b)(6) (b)(7)(C) in memoranda approximately 4 ½ months after the alleged incident.
- From the information contained in the agent' memorandums, there is no evidence to indicate that a U.S. Border Patrol policy, procedure, or regulation was violated during (b)(6) (b)(7)(C) encounter.
- On October 12, 2010, APAIC (b)(6) (b)(7)(C) (Murrieta Station) reviewed "all written documentation and interviewed all agents involved" in (b)(6) (b)(7)(C) allegation and determined the "agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation."

ADDITIONAL INFORMATION:

Investigative findings have been provided in response to the following information request:

- *Whether Border Patrol Agents used an appropriate amount of force, given* (b)(6) (b)(7)(C) *stated disability, during their questioning of* (b)(6) (b)(7)(C) *citizenship.*
  - At the time of this incident, the U.S. Border Patrol was operating under the legacy Immigration and Naturalization Service policy titled: National Policy on the Enforcement Standard, Use of Non-deadly Force, dated September 21, 1998. This policy stated:
    - (b) (7)(E)
    - [redacted]
  - The U.S. Customs and Border Protection Use of Force Policy Handbook (HB 4500-01B, October 2010) is CBP's current steward for use of force and threat management policy. The Use of Force Handbook does not delineate the amount of force an agent can/cannot use with regard to "a disabled person."
  - The CBP Use of Force Continuum (Appendix V of HB 4500-01B) is a force model used to illustrate the levels of force an authorized agent may need to utilize to gain control over a subject.
    - From the documentation available, BPA [redacted] adhered to the CBP Use of Force Continuum.
    - BPA [redacted] utilized Cooperative Controls when initially encountering [redacted]
      - Cooperative Controls: This is the first and lowest level of officer/agent response. The primary features of this level are officer presence, verbalization and application of appropriate restraints.
    - BPA [redacted] utilized Contact Controls when [redacted] did not comply with the verbal commands.
      - Contact Controls: Contact Controls are physical measures taken when verbal commands and officer presence are not effective in gaining compliance. The subject is offering the lowest level of resistance. In addition to effective communication the officer/agent may use other measures such as strategic positioning, escort holds, joint manipulation or immobilization or touch pressure point stimulation.

- Additionally, BPA (b)(6) (b)(7)(C) used "effective communication" and "strategic positioning" when she told (b)(6) (b)(7)(C) to stop resisting or she would utilize her Oleoresin Capsicum spray.

- *Any policies or procedures for CBP agents interacting with disabled persons.*
  - With the exception of existing Federal law, no specific CBP policy or procedure could be found which directly addresses "CBP agents interacting with disabled persons."

End of Report

Facts have been derived from the information available to the case agent at the time of the completion of this report. If further information becomes available it should be taken into account by the deciding official.

PREPARED BY: (b)(6) (b)(7)(C) **DATE:** March 11, 2011

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

This document has been electronically forwarded upon completion with signature for review and dissemination to Professional Standards Division Program Manager, FOS (b)(6) (b)(7)(C)

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PROFESSIONAL STANDARDS DIVISION
MANAGEMENT INQUIRY TEAM

U.S. Border Patrol, San Diego Sector, 2411 Boswell Road, Chula Vista, CA 91914

RE: CASE # (b) (2) **– ALLEGATION OF PHYSICAL ABUSE -** (b)(6) (b)(7)(C)

The following documents serve as a totality of the information available to the Management Inquiry Team (MIT) case agent at this time. These documents have been organized/consolidated by MIT into one document to assist you with review. ***(Documents are hyperlinked; press the "Home" key to return to page one.)***

- El Latino Newspaper Article, RE: Abuse Continues….
- Memorandum of Investigation (SDC/INV), RE (b)(6) (b)(7)(C)
- Letter from the (b)(6) (b)(7)(C) RE: Complaint Against U.S. Border Patrol by (b)(6) (b)(7)(C)
- Memorandum Submitted by Border Patrol Agent (BPA) (b)(6) (b)(7)(C)
- Memorandum Submitted by Border Patrol Agent (BPA)
  - Memorandum Provided by Border Patrol Agent (BPA) (b)(6) (b)(7)(C) dated July 2, 2010 *(unsigned, absent Article 31B notification)*
- Memorandum Submitted by Border Patrol Agent (BPA) (b)(6) (b)(7)(C)
- Memorandum Submitted by Border Patrol Agent (BPA)
- E-mail From Assistant Patrol Agent in Charge (b)(6) (b)(7)(C) RE: Case# (b) (2)
- Record Checks:

(b)(6)(b)(7)(C)(b)(7)(E)

- Daily Assignment Log (G-481), Murrieta Station: July 2, 2010
- Video Request, RE: Ralph's Grocery Store

ADDITIONAL DOCUMENTS:

- Joint Intake Center (JIC) Report of Investigation
- JIC E-Mail Notification
- CRCL Referral Memorandum, RE: Complaint No. (b) (2) (b)(6) (b)(7)(C)
- National Policy on the Enforcement Standard, Use of Non-deadly Force, dated September 21, 1998
- The U.S. Customs and Border Protection Use of Force Policy Handbook (HB 4500-01B, October 2010)

~~FOR OFFICIAL USE ONLY~~

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El Latino SD
Publicado el 08-19-2010

Continuan abusos

Defensores de Derechos Humanos están documentando casos de tratos injustos de agentes federales

América Barceló

(b)(6) (b)(7)(C) nunca pensó que al ir al supermercado sería un motivo de sufrir maltratos e injusticias, pero la mañana del 2 de julio se convirtió en una pesadilla para él después que agentes de la Patrulla Fronteriza se aproximaron a él para pedirle sus documentos de legalidad en el país. "Yo estaba en el estacionamiento iba a sacar unas botellas de la cajuela para llenarlas con agua, cuando dos agentes se acercaron a mi y me pidieron mis papeles sin ninguna razón, yo les di mi licencia de manejo pero cuando la saqué también vieron la matricular consular mexicana y en tono de mandato también me exigieron ver esa credencial, yo les di todo sin decirles nada pero luego vinieron los maltratos", narró. (b)(6) (b)(7)(C) tiene 11 años de ser ciudadano americano y 25 años de residir en este país, desde hace 20 años sufre una incapacidad debido a un fuerte golpe que recibió en la cabeza. Cuando llegaron los agentes (b)(6) (b)(7)(C) les dijo que era ciudadano pero aun así le pidieron papeles y además uno de los agentes le dijo en voz de mando que le levantara las manos de inmediato para que lo revisará, aunque hubiera querido moverse rápido (b)(6) (b)(7)(C) no pudo porque su discapacidad imposibilita sus movimientos del lado derecho. "Yo me puse nervioso por la manera como me estaban tratando, estaban abusando de su poder, entonces ya no pude mover mi brazo, le dije al oficial que soy discapacitado, pero no me creyó me dijo 'tu no eres discapacitado no te resistas' y me trato de mover con fuerza el brazo hacia atrás para esposarme, pero mi brazo es imposible de moverlo, así que con esos movimientos me caí al piso", contó (b)(6) (b)(7)(C) estaba estacionado en el lugar asignado para discapacitados y cuenta con la placa para ello, los agentes no le creyeron y siguieron revisándolo y tratándolo con rudeza en el piso. "Cuando estaba en el piso vi llegar otra patrulla blanca con letras verdes, venían dos agentes mujeres, una se bajo rápido y me gritaba no te resistas o te echo spray, pero yo no estaba haciendo nada no me estaba resistiendo, me quede sin hablar del miedo, no sé porque me trataron así", comentó. Pocos minutos después de la ruda inspección, los agentes le dijeron que se levantará, (b)(6) (b)(7)(C) se paró ayudándose de su brazo izquierdo, los agentes solo lo veían sin decir nada, él camino a su carro y el agente que estaba verificando por teléfono su identidad le regresó sus papeles. (b)(6) (b)(7) se dio cuenta con impotencia que eran cuatro agentes que lo estaban rodeándo sin ningún motivo, aunque el primer oficial que se le acercó, era de origen hispano, todo el tiempo que (b)(6) (b)(7)(C) fue maltratado estuvo haciendo llamadas. "Los dos agentes, el que no me creyó y la mujer que llegó gritando fueron los que me trataron mal y eran americanos, ya después de que me levanté el agente hispano solo me dio mis identificaciones. Antes de irse les pedí que me dijeran sus nombres, los dos agentes hombres me dijeron 'aquí en el informe están lee', y se fueron rápido; cuando se iban las mujeres solo les dije 'que dios las acompañe y hagan su trabajo, pero no así porque esto está mal', ellas no dijeron nada", explicó. Varias personas que pasaron a la tienda vieron como lo maltrataron los agentes, un hombre se acercó para preguntarle como estaba, pues vio quehabía sido muy mala la manera que lo trataron, por lo que cuenta con testigos de los hechos. (b)(6) (b)(7)(C) logró obtener los nombres de los dos agentes que primero lo abordaron, y como se sintió abusado y humillado pensó que este tipo de actos no se pueden quedar así, y acudió a la agencia (b)(6) (b)(7)(C) a buscar ayuda, ellos le ayudaron a comunicarse a las oficinas en Washington DC, donde le dijeron que tenía que mandar una carta con su queja. También le recomendaron llamar al (b)(6) (b)(7)(C) quienes comenzaron a asesorarlo para ayudarlo a mandar su queja al Departamentote Seguridad Nacional, y dijeron que éste no es un caso aislado. "Todos los casos de maltrato y abuso los estamos documentando, hacemos entrevistas a las víctimas y si podemos obtenemos

evidencias y testigos, nombres de agentes y de esta manera los ayudamos a redactar la carta-queja que se manda a Washington. Los casos más severos incluso los mandamos con un abogado y con el consulado de sus países", dijo (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) quien está llevando el caso de (b)(6) (b)(7)(C) De acuerdo a esta agrupación este tipo de casos han ido en aumento este último año, actualmente están documentando e investigando por lo menos 20 casos, de los cuales 10 son relacionados a la Patrulla Fronteriza, y otros a los agentes aduanales en las puertas de entrada al país. "Tenemos varios casos, incluido el de (b)(6) (b)(7)(C) que murió a manos de oficiales fronterizos, además otros en Laredo y otros estados del país, el problema con este tipo de situaciones es que el gobierno federal no tiene una sola instancia que lleve un control o registro o se haga responsable de resolver los abusos de agentes federales, y se cae en la impunidad, pero nosotros estamos trabajando en esto, el próximo mes vamos a reunirnos con el gobierno federal para poder determinar como parar estos abusos", mencionó (b)(6) (b)(7)(C) directivo nacional de (b)(6) (b)(7)(C) . Por su parte, al ser cuestionado por El Latino sobre este caso la oficina de la Patrulla Fronteriza dijo no tener aún una queja formal, pero dijeron que existe un departamento de Control Interno llamada Professional Standard Division el cual se dedica a investigar las acciones de sus agentes. "Toda persona que tenga una queja sobre un mal procedimiento de algún agente de la Patrulla Fronteriza puede llamarnos directamente para que iniciemos una investigación, nuestro trabajo es vigilar que los agentes actúen de acuerdo a la ley, invitamos a que el señor (b)(6) (b)(7)(C) nos llame y nos de su queja", dijo (b)(6) (b)(7)(C) de la División de Control Interno. Las quejas sobre agentes de la Patrulla Fronteriza deben hacerse por la víctima de abusos no otras personas y deben de reportarse al 619-498-9897 o al 619-216-4169, hay agentes que hablan español. (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) ya se puso en contacto con esta oficina y esta en proceso de enviar la carta donde explica la manera en como fue tratado. Tambien incluye los nombres de los agentes y de los testigos que tiene. En tanto que dirigentes de (b)(6) (b)(7)(C) dijeron que continúan documentando casos de abusos de agentes de inmigración de todas las divisiones de Aduanas(CBP), Patrulla Fronteriza y ICE porque están preparando un informe nacional que será presentado en breve ante el gobierno federal. Para reportar abusos de poder de agentes federales comuníquese al (b)(6) (b)(7)(C)

Quick Rough Computer/Visual Translation into English:

Abuse Continues Human rights defenders are documenting cases of unfair treatment by federal agents

America Barceló america.barcelo@ellatino.net hidden –

(b)(6) (b)(7)(C) never thought it would be a reason to suffer mistreatment and injustices by going to the supermarket, but the morning of July 2 became a nightmare for him after Border Patrol agents approached him to ask for his documents of legality in the country. "I was going to take out bottles from my trunk to fill them with water, when two agents approached me and asked me for my papers for no reason, I gave them my driver's license but when I got it out they also saw my "Matricular Consular Identificar Targeta' (Mexican Consular Identification Card) and also demanded to see this credential, I gave them all without telling them anything but then came the mistreatment", narrated. (b)(6) (b)(7)(C) has 11 years of being an American citizen and 25 years of residence in this country, since 20 years ago he suffers from a disability due to a strong blow to the head. When agents arrived (b)(6) (b)(7)(C) told them that he was a citizen but nevertheless requested papers and also one of the agents told in voice command to lift his hands immediately so that they could search him, though he would have liked to move

fast, (b)(6) (b)(7)(C) was unable to because his disability makes it impossible for movement on the right side. "I became nervous because of the manner I was being treated, they were abusing their power, then I was not able to move my arm, I told the officer that I am disabled, but he did not believe me, "you are not disabled do not resist" and he tried to move my arm with force back to handcuff me, but it is impossible to move my arm, so with these movements I fell to the ground", told (b)(6) (b)(7) Although (b)(6) (b)(7)(C) was parked in a disabled parking space and relies on a placard to do so, agents did not believe him and continued searching him and treating him with rudeness while on the ground. "When he was on the ground he saw come another white patrol vehicle with green letters, two female agents arrived, one got out fast and screamed at me not to resist "or I'll spray you", but I wasn't doing anything, I was not resisting, I was so afraid I couldn't speak, I do not know why they treated me so", he commented. A few minutes after the rough inspection agents told him to get up. (b)(6) (b)(7)(C) stood up, assisting himself with his left arm. The officers would only watch him without saying anything. *The path to his car* and the agent that was verifying his identity by telephone returned his papers. (b)(6) (b)(7)(C) helplessly recounted that there were four agents who surrounded him for no reason, although the first officer who approached him, Hispanic, the whole (b)(6) (b)(7)(C) was manhandled he was making *phone*calls. "The two agents who did not believe me and the female that arrived screaming were those who treated me badly and were Americans, after I got up the Hispanic agent just gave me my IDs." "Before they left I asked them to tell me their names, the two male agents told me ' here in the report are reads ', and they left quickly; when they were leaving, I only told the women 'may God be with you and do your job, but not like this because this is wrong ', they said nothing", he explained.

As several people walked by the store they saw how I was mistreated by the agents, a man approached to ask how I was, because he saw that I was treated, and the manner I was treated badly, so there are witnesses to the facts. (b)(6) (b)(7)(C) was able to get the names of two agents that addressed him first, and as he was abused and humiliated he thought that such acts could not be, and came to the (b)(6) (b)(7)(C) to seek help, they helped him communicate with offices in Washington, D.C., where he was told that he had to send a letter with his complaint. They also recommended that he call the (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) who began to advise him and to help him send his complaint to the Department of Homeland Security, and said that this is not an isolated case. "We are documenting all cases of ill-treatment and abuse, we conduct interviews of victims, and if we can, we obtain" evidence and witnesses, names of agents and thus help write the complaint letter which is sent to Washington. "For the most severe cases we will even send them to a lawyer and the Consulate of your country", said (b)(6) (b)(7)(C) who is taking the case of (b)(6) (b)(7)(C) According to this group such cases have been growing this past year, currently they are documenting and researching a minimum of 20 other cases, of which 10 are related to the Border Patrol, Customs Agents at the port of entry. "We have several cases, including (b)(6) (b)(7)(C) who died at the hands of border officers, and others in Laredo and other States in the country, the problem with this type of situation is that the Federal Government doesn't have a single instance which bears a control or record or becomes responsible for resolving abuse of federal agents, and falls in impunity, (there isn't one sole entity responsible to resolve these issues) but we are

working on this, next month we will meet with the Federal Government to be able to determine how to stop these abuses", mentioned (b)(6) (b)(7)(C) senior national (b)(6) (b)(7)(C) Furthermore, upon being questioned by the Latino on this case of the Border Patrol Office said they did not have a formal complaint regarding this case, but said that there is a Department of internal control called "Professional Standard Division" which is dedicated to investigate the actions of their agents. " Anyone who has a complaint about a bad procedure of a Border Patrol Agent can call us directly so we can begin an inquiry, our job is to monitor agents to act according to the law, we invite (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) to call us and give us his complaint", said (b)(6) (b)(7)(C) Division of internal control. Complaints about the Border Patrol agents should be made by the victim of abuse rather than other people and should be reported to 619-498-9897 or 619-216-4169, there are agents who speak Spanish. (b)(6) (b)(7)(C) already made contact with this Office and is in process of sending the letter which explains the way he was treated. Also included are agents' and witnesses' names. Leaders of (b)(6) (b)(7)(C) said they continue documenting abuses of all immigration divisions of Customs (CBP), Border Patrol agents and ICE because they are preparing a national report to be submitted shortly to the Federal Government. To report abuse of power by federal agents call the (b)(6) (b)(7)(C)

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U.S. Department of Homeland Security
Bureau of Customs and Border Protection
U.S. Border Patrol
San Diego Sector/Sector Investigations Unit

Memorandum of Investigation

SDC/INV Case Number: RE: (b)(6) (b)(7)(C)	Reporting Office: Sector Investigations

On August 18, 2010, at about 11:00 a.m., I received a call from (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) regarding his complaint against four Border Patrol agents. (b)(6) (b)(7)(C) advised that he didn't have much time to talk, provided me with his cell phone number and agreed to speak again the following day at 2:00 p.m.

On August 19, 2010, I called (b)(6) (b)(7)(C) who advised me of his complaint (b)(6) (b)(7)(C) said that on July 2, 2010, 2 male and 2 female Border Patrol agents abused him in the parking lot of "Food 4 Less in Escondido, California". (b)(6) (b)(7)(C) said he is disabled, displays a disabled placard on his vehicle and was parked in a disabled parking spot. He was next to his vehicle when approached by 2 male Border Patrol agents in uniform.

The agents asked him his citizenship. (b)(6) (b)(7)(C) said I told them I was a US citizen and took out my wallet to show them my driver's license. When I pulled out the license, the agent saw my consular matricular identification card and grabbed both cards. They asked me how I obtained my US citizenship and the Hispanic agent was on the phone talking to someone about my I.D. The white agent asked me to turn around and forced my feet apart to search me. When the agent asked me to raise my arms I told that I couldn't - "I disabled". My right arm is paralyzed and can't move the arm without the assistance of my left arm. I guess the agent didn't believe me and again he told me to raise both arms. While trying to search me the agent pushed me to the ground. While on the ground a female agent in uniform came up and told me to stop resisting or she would spray me. (b)(6) (b)(7)(C) said "how can I resist, I'm disabled". The agents told me to get up off the ground which I did and when the realized that I was a US Citizen they all left. As they were leaving I asked them for their names but nobody said anything. On the Hispanic agent I saw (b)(6) (b)(7)(C) on his shirt and the white agent's name was (b)(6) (b)(7)(C) I didn't see the name tags on the female agents.

(b)(6) (b)(7)(C) said that he had gone to (b)(6) (b)(7)(C) to file a formal complaint and was being assisted by (b)(6) (b)(7)(C) is helping me write a letter that I'll send you as soon as I can." I provided (b)(6) (b)(7)(C) with my contact information and fax number. (b)(6) (b)(7)(C) said he would fax me the letter as soon as he could. (b)(6) (b)(7)(C) said there was more details in the letter that he wasn't able to immediately recall because of his disability. Our conversation ended with (b)(6) (b)(7)(C) claiming he would fax the letter to me that afternoon or the following day.

Name of Investigative Agent/Title	Signature	Date	
(b)(6) (b)(7)(C) SBPA			pg____of____

25762 Madison Avenue
Murrieta, CA 92562

MUR 110/10.2

U.S. Customs and Border Protection

January 24, 2011

MEMORANDUM FOR: (b)(6) (b)(7)(C)
Assistant Patrol Agent In Charge
Murrieta Border Patrol Station

FROM: (b)(6) (b)(7)(C) (b)(6) (b)(7)(C)
Senior Patrol Agent
Murrieta Border Patrol Station

SUBJECT: Specific Allegations Rude and Abusive Behavior

On January 24, 2011 at approximately 9:00 am, I was ordered to make this statement by FOS (b)(6) (b)(7)(C) I submit this statement at his order as a condition of employment. In view of possible job forfeiture, I have no alternative but to abide by his order.

It is my belief and understanding that the agency required this statement solely and exclusively for internal purposes and will not release it to any other agency. It is my further belief that this statement will not and can not be used against me in any subsequent proceedings. I authorize the release of this statement to my attorney or designated union representative.

I retain the right to amend or change this statement, upon reflection, to correct any unintended mistake without subjecting myself to a charge of untruthfulness.

For any and all purposes, I hereby reserve my constitutional right to remain silent under the fifth and fourteenth amendments to the United States Constitution and any other rights preserved by law.

I also specifically rely on the protection afforded to me under the doctrines set forth in Garrity v. New Jersey, 385US 493 (1967) and in Spevack v. Klien, 385, US 551 (1956) should this statement be used for any other purpose of any kind or description.

On July 2, 2010, I was conducting routing patrol with Border Patrol Agent (b)(6) (b)(7)(C) During the course of the day we ended driving into Escondido, California. As we were driving on Broadway near a Food for Less store, Both of us noticed and individual at the trunk of his car. Once the individual noticed our presence he turned away as if he did not acknowledge that we

were there in the shopping center area. This is a common tactic used by individuals when they try to ignore our presence in order to avoid detection. I told agent (b)(6) (b)(7)(C) that we should go and question that individual. As Agent (b)(6) (b)(7)(C) approached the individual, Agent (b)(6) (b)(7)(C) repeatedly kept asking the individual to state his citizenship. Agent (b)(6) (b)(7)(C) asked about five times and the individual was not answering Agent (b)(6) (b)(7)(C) During this period the individual kept digging around in his trunk as if to grab something. I told agent (b)(6) (b)(7)(C) to be cautious just in case the individual grabbed a tire iron from his trunk. Agent (b)(6) (b)(7)(C) placed his hand on the individual's left shoulder and that's when the individual became combative. The struggling continued as the individual did not want to comply with verbal commands he was given to remove his hands from the trunk.

Agent (b)(6) (b)(7)(C) managed to take hold of the individual and sit him down on the ground. The individual was not thrown or pushed. Once the individual was on the ground, that's when he claimed that he was an handicapped. I told him that such a person would not have been combative and when questioned about his citizenship most all persons answer right away. When questioned once again abut his name he was still being elusive. He was claiming that he wanted to get to his vehicle and he said he could not get up and needed help. Agent (b)(6) (b)(7)(C) immediately helped him up to his feet. The individual walked to his vehicle and did not display any signs of being handicapped. I mentioned that what was his handicap and he said it his right arm, which he immediately pulled close to his side. Once he got to his car on the drivers side he reached in with his "right " hand and pulled out a tape recorder and the immediately switched it to his left hand and said that he was going to record the conversation. I reminded him that when he reached for the recorder he reached with his right hand. The individual just seemed to sneer at my comment.

I did remind the individual that he still needed to show some form of identification to verify his his identity. At this point he was claiming to be an American citizen. As questioning continued the individual was attempting to remove a drivers license from his wallet when I noticed a an immigration document. When I questioned what the document was then he said it was his Resident Alien Card. That's when I reminded him that he was a Resident Alien and not a United States Citizen. Record checks were conducted on (b)(6) (b)(7)(C) Once identity was verified, I reminded (b)(6) (b)(7)(C) that his actions determined the outcome of events. I also reminded (b)(6) (b)(7)(C) that by his action of retrieving a voice recorder that it seemed as if he baited the situation. said he wanted my name which I gave to him and I reminded him to also include how he was being combative and deceptive about his answers. At this point and time we departed the scene and resume regular duties.

25762 Madison Avenue
Murrieta, CA 92562

MUR 110/10.2

U.S. Customs and Border Protection

January 25, 2011

MEMORANDUM FOR: (b)(6) (b)(7)(C)
Assistant Patrol Agent in Charge
Murrieta Border Patrol Station

FROM: (b)(6) (b)(7)(C)
Border Patrol Agent (b)(6) (b)(7)(C)
Murrieta Border Patrol Station

SUBJECT: Specific Allegations of Rude and Abusive Behavior

On January 24, 2011, I, Border Patrol Agent (b)(6) (b)(7)(C) was ordered by Supervisory Border Patrol Agent (b)(6) (b)(7)(C) to submit a statement regarding the facts and events of an encounter with (b)(6) (b)(7)(C) on July 2, 2010. I was instructed to answer the following questions. Before issuing such statement, Supervisor (b)(6) (b)(7)(C) read and explained my right to union representation.

Question: What articulable facts did the agents observe/develop prior to approaching (b)(6) (b)(7)(C) and questioning him as to his citizenship?

Answer: At approximately 8 am, Agent (b)(6) (b)(7)(C) and I noticed an individual standing near an open trunk of a vehicle in the parking lot of a Food for Less grocery store on Broadway Street in Escondido, CA. (b) (7)(E) (b) (7)(E) (b) (7)(E) As we passed the individual, he turned his body away from our marked Border Patrol sedan in an evasive manner. The individual also avoided eye contact with the agents by turning his face away from them as they completed a circle in the parking lot. Agent (b)(6) (b)(7)(C) and I have encountered this type of behavior in the past as it is a common tactic used by individuals that are nervous in the presence of law enforcement. Agent (b)(6) (b)(7)(C) and I conducted a consensual encounter on an individual.

Question: After approaching (b)(6) (b)(7)(C) what additional facts did the agents observe/develop that led them to temporarily detain (b)(6) (b)(7)(C) for further investigation?

Answer: I approached the individual and identified myself as a United States Border Patrol Agent and greeted the individual in the English language. The individual returned my greeting in broken English but did not look up from the trunk of the vehicle. I began to question the man as to his citizenship several times in the Spanish language. The individual looked up at me for a moment as if he understood but then continued to dig around in the open trunk of the car he was standing next to. I noticed that the trunk was full of many different items including a variety of tools. I also noticed that the individual was sweating profusely and his hands were shaking as if he was nervous. I asked the individual three times to take his hands out of the vehicle's trunk for the safety of Agent (b)(6) (b)(7)(C) and me. The individual continued to ignore the commands and continued to stay in the trunk as if he was looking to grab something. All of my commands and the remainder of my interview/conversation with the individual were in the Spanish language.

Question: What techniques, if any, were used to control (b)(6) (b)(7)(C) during the field investigation?

Answer: After ignoring my commands to face me and stop fidgeting around in the trunk, I placed my hand on the individual's left shoulder and the individual became actively resistant, attempting to shrug me off and jerk his arm away. The individual continued to struggle as I attempted to control his left arm. I was able to control the arm and told the individual that I was going to conduct a pat-down of the outer clothing for weapons. I conducted a Terry Frisk pat-down of the individual for the safety of my partner and me.

Question: At any time during the encounter was (b)(6) (b)(7)(C) pushed to the ground?

Answer: After completing the pat-down, I asked the individual to sit down on a nearby curb because I did not want him to put his hands in the trunk. The individual refused and I asked him an additional two times. After continuing to refuse my verbal commands, I sat the individual down by using slight pressure on his shoulder with my knuckle (a pressure point tactic I was taught at the Border Patrol Academy).

Question: Did any agent "threaten" to "spray" (b)(6) (b)(7)(C) If so, why?

Answer: Agent (b)(6) (b)(7)(C) who had arrived on scene to assist, verbal informed the individual in the Spanish language, as I struggled to control him, that she was going to spray him with pepper spray if he did not comply. This was because he was being actively resistant to me.

Question: At any time during the encounter, were agents made aware that (b)(6) (b)(7)(C) had alleged disability?

Answer: Once the individual was sitting down, he then claimed in the Spanish language to have a disability. Agent (b)(6) (b)(7)(C) asked the individual where his handicap was and he

claimed it was his right arm. The individual claimed that he felt more comfortable standing. I helped him up but informed him not to go near the trunk of the vehicle because it was a safety issue. The individual did not at any time state that we had injured him in any way nor did he request medical attention.

Question: Approximately how long was (b)(6) (b)(7)(C) detained and what were the results of the field investigation?

Answer: The individual claimed to be a United States Citizen but did not speak English and claimed to be born in Mexico. Agent (b)(6) (b)(7)(C) asked for the individual's identification and he produced a Resident Alien card. Agent (b)(6) (b)(7)(C) explained to (b)(6) (b)(7)(C) that the card did not make him a citizen, and that there was a difference between a United States citizen and a resident alien. Agent (b)(6) (b)(7)(C) conducted checks on the validity of the card via radio communications. Record checks were completed on (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) Once (b)(6) (b)(7)(C) identity was confirmed we informed him that he was no longer being detained but in the future he should not ignore verbal commands and be combative with law enforcement. The total time for the detainment lasted from approximately 20-30 minutes.

Question: How did the agents document their encounter with (b)(6) (b)(7)(C)?

Answer: Once I returned to the station, I completed a Memorandum documenting the encounter and informed Supervisory Border Patrol Agent (b)(6) (b)(7)(C) I asked her if she needed the memorandum and she said, "No."

Question: Any additional information or documentation that you feel would be helpful for the accurate completion of the investigation?

Answer: Once (b)(6) (b)(7)(C) was instructed that he was free to go, that is when (b)(6) (b)(7)(C) reached into his vehicle and produced a tape recorder and demanded our names. Agent (b)(6) (b)(7)(C) and I provided (b)(6) (b)(7)(C) with our names and our titles. My partner and I then left the scene without any other contact with (b)(6) (b)(7)(C)

MUR 10/16.2

July 02, 2010

MEMORANDUM FOR: **********
Supervisory Border Patrol Agent
Murrieta Border Patrol Station

FROM: (b)(6) (b)(7)(C)
Border Patrol Agent
Murrieta Border Patrol Station

SUBJECT: Summary of Event

On Friday, July 2, 2010, I, Border Patrol Agent (b)(6) (b)(7)(C) and my partner, Agent (b)(6) (b)(7)(C) were assigned the 6 am to 2 pm shift. At approximately 8 am, we conducted a consensual encounter on an individual, (b)(6) (b)(7)(C) at the Food For Less Store on Broadway Street in Escondido, California.

(b)(6) (b)(7)(C) was standing next to an open trunk of a vehicle bearing (b)(6) (b)(7)(C) The trunk was full of many different items including a variety of tools. I identified myself as a United States Border Patrol Agent and conducted an immigration inspection on (b)(6) (b)(7)(C) while I stood at (b)(6) (b)(7)(C) side to watch his hands.

(b)(6) (b)(7)(C) seemed extremely nervous; sweating profusely and his hands were shaking. (b)(6) (b)(7)(C) did not speak much English but claimed to speak Spanish, so he was spoken to in the Spanish language. (b)(6) (b)(7)(C) claimed to be a United States Citizen but also claimed to be born in Mexico. (b)(6) (b)(7)(C) could only produce a Resident Alien card and Agent (b)(6) (b)(7)(C) explained to him that this did not make a United States Citizen but a resident.

While Agent (b)(6) (b)(7)(C) was checking (b)(6) (b)(7)(C) immigration status with record checks via radio, (b)(6) (b)(7)(C) continued to reach inside the open trunk. I asked (b)(6) (b)(7)(C) in the Spanish language to keep his hands out of the vehicle for the safety of the officers and (b)(6) (b)(7)(C) ignored me. I twice more asked (b)(6) (b)(7)(C) to take his hands away from the vehicle. (b)(6) (b)(7)(C) continued to move around items in the trunk. All request made by me were in the Spanish language. The conversation and commands were witnessed by Agent (b)(6) (b)(7)(C) and Agents (b)(6) (b)(7)(C) and (b)(6) (b)(7)(C) who were also on scene.

Out of fear for the safety of the agents present and for [redacted] I placed my hand on his left shoulder and [redacted] immediately jerked away and struggled to pull his arm away from me and continued to dig around inside the trunk of the vehicle. I asked [redacted] to comply and he continued to resist. I was able to control [redacted] hands to conduct an outer-body pat down on [redacted]

I then asked [redacted] to take a seat on a nearby curb. [redacted] refused to sit and I asked him to sit down two additional times. [redacted] continued to stand near the open trunk of the vehicle. I was able to place [redacted] on his bottom on the curb by using a pressure point technique to enforce compliance. Once he was sitting on the curb, [redacted] claimed in Spanish to have a handicap on his right arm. He also stated that it was more comfortable to stand. I helped him up but reminded him to stay away from the vehicle for our safety.

Once the encounter was over and he was found to be a Lawfully Admitted Permanent Resident through record checks, [redacted] took out a tape recorder and requested the names of myself and my partner because he wanted to make a complaint. We gave him our names and titles and then left the scene without further contact.

25762 Madison Avenue
Murrieta, CA 92562

U.S. Customs and Border Protection

SDC 110/10.2

February 02, 2011

MEMORANDUM FOR: (b)(6) (b)(7)(C)
Patrol Agent In Charge
Murrieta Border Patrol Station

FROM: (b)(6) (b)(7)(C)
Border Patrol Agent
Murrieta Border Patrol Station

SUBJECT: Specific Allegation of Rude and Abrasive Behavior

On February 02, 2011 at approximately 9:30 am at the Murrieta Border Patrol Station, I was ordered to make this statement by FOS (b)(6) (b)(7)(C) I submit this statement at his order as a condition of employment. In view of possible discipline for insubordination, I have no alternative but to abide by this order.

It is my belief and understanding that the agency requires this statement solely and exclusively for internal purposes and will not release it to any other agency. It is also my understanding that this statement, since compelled, will not and can not be used against me in any criminal proceeding. I authorize the release of this statement to my attorney or designated union representative.

I may amend or correct any portion of this statement upon reflection to correct any unintended mistake without subjecting myself to a charge of untruthfulness.

For any and all purposes, I hereby reserve my constitutional right to remain silent under the fifth and fourteenth amendments to the United States Constitution and any other rights prescribed by law.

I specifically rely on the protection afforded to me under the doctrines set forth in Garrity v. New Jersey, 385 U.S. 493 (1967) and in Spevack v. Klien, 385 U.S. 511 (1967) in submitting this statement.

To the best of my knowledge and recollection on July 02, 2010 Agent (b)(6) (b)(7)(C) and I, Agent (b)(6) (b)(7)(C) were assigned traffic check duties along the Escondido corridor in a marked sedan. I remember Agent (b)(6) (b)(7)(C) and I responding to provide back up to Agents (b)(6) (b)(7)(C) during the encounter that took place with (b)(6) (b)(7)(C) at the parking lot of the Food 4 Less super market located on Broadway St. in Escondido, California.

As we made contact with Agents (b)(6) (b)(7)(C) I remember (b)(6) (b)(7)(C) not being compliant to Agent (b)(6) (b)(7)(C) commands that were clearly given in the English and Spanish language. (b)(6) (b)(7)(C) was asked to stop searching through his vehicle's trunk and to keep his hand in plain view numerous times, for our safety, and the safety of the public. (b)(6) (b)(7)(C) deliberately ignored Agent (b)(6) (b)(7)(C) commands and continued to toss things around and dig through the objects in the trunk, as if looking for a weapon. Again Agent (b)(6) (b)(7)(C) instructed (b)(6) (b)(7)(C) to step away from the vehicle to create some distance between (b)(6) (b)(7)(C) and the trunk of his vehicle. This would keep (b)(6) (b)(7)(C) from reaching in the trunk and grabbing any item which could be used as a weapon. Due to (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) failure to comply, I do recall Agent (b)(6) (b)(7)(C) making physical contact with (b)(6) (b)(7)(C) and directing him to sit on the curb. At no time was Agent (b)(6) (b)(7)(C) abusive or used more than the necessary force while handling (b)(6) (b)(7)(C) as the subject was combative all the while. I remember standing close by on the opposite side of Agent (b)(6) (b)(7)(C) attentive to (b)(6) (b)(7)(C) due to his aggressive behavior as (b)(6) (b)(7)(C) displayed intentions to physically challenging Agent (b)(6) (b)(7)(C). I recognized this behavior as a threat against Agent (b)(6) (b)(7)(C) and was standing by to assist should the situation escalate to a more physical level.

After a few minutes, (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) calmed down and asked to stand as he was uncomfortable sitting on the curb. Agent [redacted] helped (b)(6) (b)(7)(C) get up to his feet as (b)(6) (b)(7)(C) asked for assistance. No complaints or health issues were mentioned by (b)(6) (b)(7)(C) at that time.

(b)(6) (b)(7)(C) was not detained more than the time required for the record checks being conducted on his claimed United States Citizen status. Record checks revealed that he was a Permanent Resident card holder. I do recall Agent (b)(6) (b)(7)(C) stating his name to (b)(6) (b)(7)(C) as per (b)(6) (b)(7)(C) request as he threatened to sue the service.

All agents cleared the scene without further confrontation with (b)(6) (b)(7)(C)

25762 Madison Avenue
Murrieta, CA 92562

SDC 110/10.2

U.S. Customs and Border Protection

January 31, 2011

MEMORANDUM FOR: (b)(6) (b)(7)(C)
Assistant Patrol Agent in Charge
Murrieta Border Patrol Station

FROM: (b)(6) (b)(7)(C)
Border Patrol Agent
Murrieta Border Patrol Station

SUBJECT: Specific Allegations of Rude and Abusive Behavior

On January 31, 2011 at approximately 11:15 am I was ordered to make this statement by FOS (b)(6) (b)(7)(C) I submit this statement at his order as a condition of employment. Supervisory Border Patrol Agent (b)(6) (b)(7)(C) witnessed me receive the order. In view of possible discipline for insubordination, I have no alternative but to abide by this order.

It is my belief and understanding that the agency requires this statement solely and exclusively for internal purposes and will not release it to any other agency. It is also my understanding that this statement, since compelled, will not and can not be used against me in any criminal proceeding. I authorize the release of this statement to my attorney or designated union representative.

I may amend or correct any portion of this statement upon reflection to correct any unintended mistake without subjecting myself to a charge of untruthfulness.

For any and all purposes, I hereby reserve my constitutional right to remain silent under the fifth and fourteenth amendments to the United States Constitution and any other rights prescribed by law.

I specifically rely on the protection afforded to me under the doctrines set forth in Garrity v. New Jersey, 385 U.S. 493 (1967) and in Spevack v. Klien, 385 U.S. 511 (1967) in submitting this statement.

On July 2, 2010, according to the schedule, I was working with Agent (b)(6) (b)(7)(C) in Escondido, CA. We were in a marked Service sedan. Due to the amount of time that has passed I do not recall every detail of the incident in question. What I do remember is a man that was being very uncooperative with Agents (b)(6) (b)(7)(C) The subject was told repeatedly to sit down and he did not comply. Due to his continued non-compliance and for officer safety reasons, Agent (b)(6) (b)(7)(C) felt it necessary to help him to the ground and did so using very little force. From my point of view it appeared that Agent (b)(6) (b)(7)(C) put his hand on the subjects shoulder

and pushed down, but not so hard as to make him fall. The subject sat on a curb and did not appear to be in any kind of pain or duress. I don't remember if I told him while he was struggling with Agent [redacted] (b)(6) (b)(7)(C) or after he was on the ground that I would spray him with my pepper spray, but I do remember telling him that I would. My statement was not intended to be a threat: it was a statement of fact. I was warning him of the possible consequence of his actions, not much different than if I were to tell someone to "drop the gun or I'll shoot". He asked me why I would spray him and I told him that as long as he continued to resist there will be repercussions. I continued to hold my pepper spray in my hand, down at my side, until he stayed compliant. Once he deescalated I re-holstered my spray.

I don't recall exactly why he was encountered but when I arrived on scene he was being detained to verify his immigration status. He was evasive in his answers and it appeared as though he was looking for an argument or a fight. Records checks revealed that he was not deportable and he was informed that he was free to go about his business. From what I recall, he was not detained for longer than 20 minutes. He produced an audio recorder and demanded our names. I believe that Agents (b)(6) (b)(7)(C) gave him their names and Agent [redacted] (b)(6) (b)(7)(C) and I left the scene.

At some point during the encounter I remember the subject stating that he was disabled. From I recall he did not appear to be physically disabled. He did not walk with a limp. He was holding his arm as if he were in pain but only towards the end of the encounter. When I first arrived on scene he was using all of his limbs without any noticeable problems. He did not blame any of the Agents for his "injury" and he did not ask for any medical attention.

I did not report this incident because I did not feel that there was anything to report. I have been a Border Patrol Agent for 11 years and consider this incident to be not that uncommon. I have encountered countless individuals who are verbally aggressive, who have threatened to sue me for one thing or another and who have a grudge against the Border Patrol in general and are looking for a reason to complain. 100% of these individuals turn out to be either United States citizens or legal aliens. I consider people like him to be "a part of doing business".

At no time did I witness any Agent being rude, abusive or unprofessional. I believe that the actions taken by Agent [redacted] (b)(6) (b)(7)(C) were justified.

From: [redacted]
Sent: Wednesday, October 13, 2010 11:29 AM
To: [redacted]
Cc: [redacted]
Subject: Case# [redacted] – FINAL CLOSEOUT ACTION

Importance: High
Sensitivity: Confidential

Attachments: [redacted] Complaint Translation [redacted] PDF; [redacted] pdf; MOI [redacted] pdf
RE: Case# [redacted] – Allegation of Rude and Abusive Behavior -- NO ACTION

[redacted]

Per the recommendation of Assistant Patrol Agent In Charge [redacted] of the Newton-Azrak (Murrieta) Station and the concurrence of San Diego Sector Acting Division Chief [redacted] please close Case # [redacted] *The attached documents include the case that was forwarded by the Joint Intake Center and documents maintained on file in the San Diego Sector Professional Standards Division Investigations Unit.*

APAIC [redacted] advised that he reviewed all written documentation and interviewed all agents involved in the incident concerning case # [redacted] and recommended that it be closed without further action. Acting Division Chief [redacted] has concurred with the recommendation. *(See statements below.)*

APAIC [redacted] noted that it was his determination that the "agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation."

There will be no further action unless additional information develops that would warrant the case to be re-opened.
Thank you,
[redacted]

[redacted]

Please ensure that a copy of this message and all corresponding documents are included with the case file to verify management review/decision.
Thanks,
[redacted]

[redacted]
Field Operations Supervisor/Program Manager
Professional Standards Division
San Diego Sector
DHS/CBP/USBP
2411 Boswell Road, Chula Vista, CA 91914
[redacted]

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From: [redacted]
Sent: Wednesday, October 13, 2010 10:46 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Case# [redacted] – Closeout Concurrence Request -- ACTION REQUIRED

Sensitivity: Confidential

I concur with APAIC [redacted] Please close.

[redacted]
(A) Division Chief, Mission Support
San Diego Sector Headquarters
[redacted]

From: [redacted]
Sent: Wednesday, October 13, 2010 8:34 AM
To: [redacted]
Cc: [redacted]
Subject: Case# [redacted] – Closeout Concurrence Request -- ACTION REQUIRED
Importance: High
Sensitivity: Confidential

RE: Case# [redacted] – Allegation of Rude and Abusive Behavior -- NO ACTION

(A)Division Chief [redacted]

APAIC [redacted] advised that he reviewed all written documentation and interviewed all agents involved in the incident concerning case # [redacted] and recommended that it be closed without further action.

APAIC [redacted] noted that it was his determination that the "agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation." (*See statement below.)*

Please advise if you concur with this recommendation for case closeout. *(Corresponding documents are attached).*

Respectfully,
[redacted]

[redacted]
Field Operations Supervisor/Program Manager
Professional Standards Division
San Diego Sector
DHS/CBP/USBP
2411 Boswell Road, Chula Vista, CA 91914
[redacted]

~~[redacted]~~

From: [redacted]
Sent: Tuesday, October 12, 2010 3:22 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Case# [redacted] - PSD/MIT CASE RECIEVED
Importance: High
Sensitivity: Confidential

[redacted]

I have reviewed all written documentation and interviewed all agents involved in this incident. I recommend that Case# [redacted] be closed with no further action initiated at this time.

I find that the agents were working within the scope of the authority and took the necessary steps to ensure a safe and prudent conclusion to the situation. Agent [redacted] and his partner Agent [redacted] had engaged in an immigration inspection of [redacted] whose hands were concealed within the trunk of his vehicle. The agents repeatedly asked [redacted] to remove his hands and he refused. For their safety agent [redacted] verbally instructed [redacted] to back away from the vehicle and sit on the curb. [redacted] became angry and refused. BPA [redacted] placed one hand on [redacted] shoulder and took two steps back sitting [redacted] down on the street curb. No other hands were placed on [redacted]

[redacted] demanded their names and the agents provided them. The agents conducted their inspection and after being satisfied of [redacted] answers, departed the area.

The additional allegation that the agents threatened to spray the individual with "Pepper Spray" is unfounded as neither agent is certified or carries OC Spray. [redacted] only stated that he was handicapped as the agents were departing; he furthermore was holding a hand held tape recording device as he stated it. The agents did not respond.

I again recommend closure.

Thank You,

[redacted]

Assistant Patrol Agent in Charge
NEWTON-AZRAK BORDER PATROL STATION
25762 MADISON AVENUE
MURRIETA, CA 92562
[redacted]

From: [redacted]
Sent: Tuesday, October 12, 2010 8:48 AM
To: [redacted]
Cc: [redacted]
Subject: Case# [redacted] – PSD/MIT CASE RECIEVED
Importance: High
Sensitivity: Confidential

PAIC [redacted] APAIC [redacted]

THIS E-MAIL MESSAGE IS BEING PROVIDED FOR SITUATIONAL AWARENESS AND TO ADVISE YOU THAT SDC PROFESSIONAL STANDARDS DIVISION (PSD) MANAGEMENT INQUIRY TEAM (MIT) INTENDS TO CONDUCT AN INQUIRY INTO THE FOLLOWING MATTER

Case# [redacted] has been forwarded to the San Diego Sector by the Joint Intake Center (JIC) as a management referral regarding ***an allegation of abuse***. A record corresponding to this referral has

been created in the (b) (7)(E) a national DHS case management system/database.

The attachments include the totality of all relevant information currently provided to the case agent. If your office has further relevant documentation, evidence, or information, please collect and forward that material to MIT as soon as possible. *Collection of evidence that may be lost (i.e., video) is of the utmost importance.* Also, please note that additional memoranda may be needed and/or requested to assist with the inquiry process.

MIT is prepared to complete a Report of Inquiry (ROI) based upon all gathered facts to assist you in reaching a determination for the proper method of closure of this matter.

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

If you would like to discuss this case please contact FOS (b)(6) (b)(7)(C) or the Management Inquiry Office at (b)(6) (b)(7)(C).

Thank you,

(b)(6) (b)(7)(C)
Professional Standards Division
San Diego Sector
(b)(6) (b)(7)(C)

[redacted]

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

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

[redacted]

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

CBP ROVING PATROL 00004823

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

[redacted]

(b) (7)(E)

(b) (7)(E)

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***  END OF HISTORY DISPLAY ***
CLEAR EXIT  PF1 PAGE AHEAD  PF2 PAGE BACK  PF4 RETURN PF5 HELP PF6 MAIN MENU
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(b) (7)(E)

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    ***  END OF EADS DISPLAY  ***
CLEAR EXIT  PF1 PAGE AHEAD  PF2 PAGE BACK  PF4 RETURN  PF5 HELP  PF6 MAIN MENU
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(b) (7)(E)

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***  END OF CARD HISTORY DISPLAY ***
 CLEAR EXIT  PF1 PAGE AHEAD  PF2 PAGE BACK  PF4 RETURN  PF5 HELP  PF6 MAIN MENU
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(b)(6) (b)(7)(C)

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

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

[redacted]

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

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

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

Please see additional information on the back.

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

[redacted]

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

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

[redacted]

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

[redacted]

Form I-696 (04/17/87)

29. **Applicants for status as Temporary Residents must establish that they are admissible to the United States. Except as otherwise provided by law, aliens within any of the following classes are not admissible to the United States and are therefore ineligible for status as Temporary Residents.**

A. Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations).

B. Aliens who have been engaged in or who intend to engage in any commercialized sexual activity.

C. Aliens who are or at any time have been anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof.

D. Aliens who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization:
   1) Opposition to organized government;
   2) The overthrow of government by force or violence;
   3) The assaulting or killing of government officials because of their official character;
   4) The unlawful destruction of property;
   5) Sabotage, or;
   6) The doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States.

E. Aliens who intend to engage in activities prejudicial to the national interests or unlawful activities of a subversive nature.

F. Aliens who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with:
   1) The Nazi government in Germany;
   2) Any government in any area occupied by the military forces of the Nazi government in Germany;
   3) Any government established with the assistance or cooperation of the Nazi government of Germany;
   4) Any government which was an ally of the Nazi government of Germany;

ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

G. Aliens who have been convicted of a violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana.

H. Aliens who have been involved in assisting any other aliens to enter the United States in violation of the law.

I. Aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.

J. Aliens who are mentally retarded, insane, or who have suffered one or more attacks of insanity.

K. Aliens afflicted with psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism or any dangerous contagious disease.

L. Aliens who have a physical defect, disease or disability affecting their ability to earn a living.

M. Aliens who are paupers, professional beggars or vagrants.

N. Aliens who are polygamists or advocate polygamy.

O. Aliens likely to become a public charge.

P. Aliens who have been excluded from the United States within the past year, or who at any time within 5 years have been deported from the United States.

Q. Aliens who have procured or have attempted to procure a visa by fraud or misrepresentation.

R. Aliens who are former exchange visitors who are subject to but have not complied with the two-year foreign residence requirement.

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

[redacted]

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

[redacted]

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

[redacted]

(b) (7)(E) Daily Unit Assignment Log, (b) (7)(E)

Office: SDC/MUR

Friday, July 02, 2010

(b) (7)(E)

Department of Homeland Security, Customs and Border Protection

~~Sensitive But Unclassified~~

Total Manpower is: (b) (7)(E)

Examined and Approved by: _____

U.S. Department of Homeland Security
Bureau of Customs and Border Protection
U.S. Border Patrol, San Diego Sector
Professional Standards Division

2411 Boswell Road
Chula Vista, CA 91914-3519

August 25, 2010

Ralph's Grocery Store
1100 West Artesia Blvd.
Compton, California 90220
Attention: Loss Prevention Manager (b)(6) (b)(7)(C)

Sir,

On August 18, 2010, the U.S. Border Patrol, San Diego Sector received a citizen's complaint alleging agent misconduct in the parking lot of the Food 4 Less, Store #345, 644 North Broadway, Escondido, California.

San Diego Sector's Professional Standards Division has been tasked to obtain any available information or documentation related to this matter. The complainant suggested that Food 4 Less store security cameras recorded the incident.

This office respectfully petitions copies of the store's video surveillance records for July 2, 2010, from 7:00 a.m. to 9:00 a.m. If you have any questions, please contact me at (b)(6) (b)(7)(C) or by email at (b)(6) (b)(7)(C)

Thank you for your assistance,

(b)(6) (b)(7)(C)
US Border Patrol, San Diego
Supervisory Border Patrol Agent
Professional Standards Division

Date 8/31/10

ROUTING AND TRANSMITTAL SLIP

TO: *(Name, office symbol, room number, building, Agency/Post)*	Initials	Date
1.ACPA (b)(6) (b)(7)(C) San Diego Sector		
2.		
3.		
4.		
5.		

☐	Action	☐	File	☐	Note and Return
☐	Approval	☐	For Clearance	☐	Per Conversation
☐	As Requested	☐	For Correction	☐	Prepare Reply
☐	Circulate	☐	For Your Information	☐	See Me
☐	Comment	☒	Investigate	☐	Signature
☐	Coordination	☐	Justify		

REMARKS

File # (b) (2)

Class (b) (7)(E)

Station SDC

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post	Room No. Bldg.
(b)(6) (b)(7)(C) Assistant Chief, OBP/IA	RRB Ste. 8.3D Phone No. (b)(6) (b)(7)(C)

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA

U.S. GOVERNMENT PRINTING OFFICE 1990-255-041

Joint Intake Center

Transmittal Form

Date August 31, 2010

- ☑ Border Patrol
- ☐ Field Operations
- ☐ Internal Affairs
- ☐ Human Resources Management
- ☐ Strategic Trade
- ☐ Congressional Affairs
- ☐ Chief Counsel
- ☐ Public Affairs
- ☐ Training and Development
- ☐ Information and Technology
- ☐ Regulations and Rulings
- ☐ Office of the Commissioner
- ☐ Finance
- ☐ International Affairs
- ☐ Air and Marine

(b) (7)(E)

Management Referral

☑ The attached file(s) are referred to your office for appropriate action. You have the following options:

- Assign a trained fact finder to complete an Administrative Inquiry Report (AIR);
- Conduct a local management inquiry;
- Initiate immediate management action; or
- Close – No Action.

Note: A record corresponding to this referral has been created in the Joint Integrity Case Management System (JICMS). The record must be updated by servicing LER to document processing activity and any corrective action(s) taken.

(b) (7)(E)

Information Only

☐ The attached file(s) have been closed, and are referred to your office for information only. No further action is required. You have the following options:

- Review for information only;
- Assign a trained fact finder to complete an Administrative Inquiry Report (AIR);
- Conduct a local management inquiry; or
- Initiate immediate management action.

Note: A record corresponding to this referral has been created in the JICMS. As an Information Only referral, no updates are required. However, if management elects to initiate action, servicing LER is responsible for documenting processing activity and any corrective action(s) taken.

DEPARTMENT OF HOMELAND SECURITY	1. CASE NUMBER
	(b) (2)
	PREPARED BY (b)(6) (b)(7)(C)
REPORT OF INVESTIGATION **Exhibit List** HB 4200-01 (37), Special Agent Handbook	2. REPORT NUMBER 001

None

From: (b)(6) (b)(7)(C)
To:
Cc:
Subject: Citizen complaint
Date: Friday, August 20, 2010 1:59:35 PM
Attachments: El Latino SD.htm
Tranlated article El Latino.doc

Duty Officer,

San Diego OIG Duty Agent notified.

In an article printed on 08/20/2010, by *El Latino Newspaper*, San Diego, California, (article attached) Complainant (b)(6) (b)(7)(C) alleged that on July 2, 2010, four Border Patrol agents abused their authority and mistreated him in the parking lot of a Food For Less, in Escondido, California. (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) contacted *El Latino* and interviewed by Reporter America Barselo. Excerpts from the article:

(b)(6) (b)(7)(C) said his right arm is disabled, displays a disabled placard on his vehicle and was parked in a disabled parking space. He was approached by two males and later by two female Border Patrol agents in uniform driving green and white vehicles. During questioning, the male agents did not believe I was a US Citizen. When the agent tried to search me, he wanted me to raise my disabled arm, (b)(6) (b)(7)(C) told the agents that he was disabled but they didn't believe me. When one of the females thought I was resisting, she threaten to spray me (OC Spray). During the encounter I fell to the ground while agents just watched. When agents realized I was a US Citizen, they left, despite my request that they identifying themselves.

If I can be of any further assistance please call,

(b)(6) (b)(7)(C)
Supervisory Border Patrol Agent
U.S. Border Patrol, San Diego Sector
Professional Standards Division
Sector Investigations Unit
(b)(6) (b)(7)(C)

~~WARNING: This document is LAW ENFORCEMENT SENSITIVE and is designated FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with Department of Homeland Security policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need to know" without prior approval from the appropriate management official. The information transmitted herewith is intended solely for the use of the individual(s) to which it is addressed. If the reader of this information is not the recipient or the employee or agent responsible for receiving and/or delivering the information to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the information is strictly prohibited. If you have received this information in error, please notify the sender immediately.~~

El Latino SD
Publicado el 08-19-2010

Continuan abusos

(b)(6) (b)(7)(C) están documentando casos de tratos injustos de agentes federales

América Barceló

ESCONDIDO-(b)(6) (b)(7)(C) nunca pensó que al ir al supermercado sería un motivo de sufrir maltratos e injusticias, pero la mañana del 2 de julio se convirtió en una pesadilla para él después que agentes de la Patrulla Fronteriza se aproximaron a él para pedirle sus documentos de legalidad en el país. "Yo estaba en el estacionamiento iba a sacar unas botellas de la cajuela para llenarlas con agua, cuando dos agentes se acercaron a mi y me pidieron mis papeles sin ninguna razón, yo les di mi licencia de manejo pero cuando la saqué también vieron la matricular consular mexicana y en tono de mandato también me exigieron ver esa credencial, yo les di todo sin decirles nada pero luego vinieron los maltratos", narró. (b)(6) (b)(7)(C) tiene 11 años de ser ciudadano americano y 25 años de residir en este país, desde hace 20 años sufre una incapacidad debido a un fuerte golpe que recibió en la cabeza. Cuando llegaron los agentes (b)(6) (b)(7) les dijo que era ciudadano pero aun así le pidieron papeles y además uno de los agentes le dijo en voz de mando que le levantara las manos de inmediato para que lo revisará, aunque hubiera querido moverse rápido (b)(6) (b)(7)(C) no pudo porque su discapacidad imposibilita sus movimientos del lado derecho. "Yo me puse nervioso por la manera como me estaban tratando, estaban abusando de su poder, entonces ya no pude mover mi brazo, le dije al oficial que soy discapacitado, pero no me creyó me dijo 'tu no eres discapacitado no te resistas' y me trato de mover con fuerza el brazo hacia atrás para esposarme, pero mi brazo es imposible de moverlo, así que con esos movimientos me caí al piso", contó (b)(6) (b)(7)(C) estaba estacionado en el lugar asignado para discapacitados y cuenta con la placa para ello, los agentes no le creyeron y siguieron revisándolo y tratándolo con rudeza en el piso. "Cuando estaba en el piso vi llegar otra patrulla blanca con letras verdes, venían dos agentes mujeres, una se bajo rápido y me gritaba no te resistas o te echo spray, pero yo no estaba haciendo nada no me estaba resistiendo, me quede sin hablar del miedo, no sé porque me trataron así", comentó. Pocos minutos después de la ruda inspección, los agentes le dijeron que se levantará, (b)(6) (b)(7)(C) se paró ayudándose de su brazo izquierdo, los agentes solo lo veían sin decir nada, él camino a su carro y el agente que estaba verificando por teléfono su identidad le regresó sus papeles. (b)(6) (b)(7)(C) se dio cuenta con impotencia que eran cuatro agentes que lo estaban rodeándo sin ningún motivo, aunque el primer oficial que se le acercó, era de origen hispano, todo el tiempo que (b)(6) (b)(7)(C) fue maltratado estuvo haciendo llamadas. "Los dos agentes, el que no me creyó y la mujer que llegó gritando fueron los que me trataron mal y eran americanos, ya después de que me levanté el agente hispano solo me dio mis identificaciones. Antes de irse les pedí que me dijeran sus nombres, los dos agentes hombres me dijeron 'aquí en el informe están lee', y se fueron rápido; cuando se iban las mujeres solo les dije 'que dios las acompañe y hagan su trabajo, pero no así porque esto está mal', ellas no dijeron nada", explicó. Varias personas que pasaron a la tienda vieron como lo maltrataron los agentes, un hombre se acercó para preguntarle como estaba, pues vio quehabía sido muy mala la manera que lo trataron, por lo que cuenta con testigos de los hechos. (b)(6) (b)(7)(C) logró obtener los nombres de los dos agentes que primero lo abordaron, y como se sintió abusado y humillado pensó que este tipo de actos no se pueden quedar así, y acudió a la agencia (b)(6) (b)(7)(C) a buscar ayuda, ellos le ayudaron a comunicarse a las oficinas en Washington DC, donde le dijeron que tenía que mandar una carta con su queja. También le recomendaron llamar al (b)(6) (b)(7)(C) quienes comenzaron a asesorarlo para ayudarlo a mandar su queja al Departamentote Seguridad Nacional, y dijeron que este no es un caso aislado. "Todos los casos de maltrato y abuso los estamos documentando, hacemos entrevistas a las víctimas y si podemos obtenemos evidencias y testigos, nombres de agentes y de esta manera los ayudamos a redactar la carta-queja que se manda a Washington. Los casos más severos incluso los mandamos con un abogado y con el consulado de sus países", dijo (b)(6) (b)(7)(C) del (b)(6) (b)(7)(C) quien está llevando el caso de (b)(6) (b)(7)(C) De acuerdo a esta agrupación este tipo de casos han ido en aumento este último año, actualmente están documentando e investigando por lo menos 20 casos, de los cuales 10 son relacionados a la Patrulla Fronteriza, y otros a los agentes aduanales en las puertas de entrada al país. "Tenemos varios casos, incluido el de (b)(6) (b)(7)(C) que murió a manos de oficiales fronterizos, además otros en Laredo y otros estados del país, el problema con este tipo de situaciones es que el gobierno federal no tiene una sola instancia que lleve un control o registro o se haga responsable de resolver los abusos de agentes federales, y se cae en la impunidad, pero nosotros estamos trabajando en esto, el próximo mes vamos a reunirnos con el gobierno federal para poder determinar como parar estos abusos", mencionó (b)(6) (b)(7)(C) directivo nacional de (b)(6) (b)(7)(C) Por su parte, al ser cuestionado por El Latino sobre este caso la oficina de la Patrulla Fronteriza dijo no tener aún una queja formal, pero dijeron que existe un departamento de Control Interno llamada Professional Standard Division el cual se dedica a investigar las acciones de sus agentes. "Toda persona que tenga una queja sobre un mal procedimiento de algún agente de la Patrulla Fronteriza puede llamarnos directamente para que iniciemos una investigación, nuestro trabajo es vigilar que los agentes actúen de acuerdo a la ley, invitamos a que el señor (b)(6) (b)(7)(C) nos llame y nos de su queja", dijo (b)(6) (b)(7)(C) de la División de Control Interno. Las quejas sobre agentes de la Patrulla Fronteriza deben hacerse por la víctima de abusos no

otras personas y deben de reportarse al 619-498-9897 o al 619-216-4169, hay agentes que hablan español. [redacted] ya se puso en contacto con esta oficina y esta en proceso de enviar la carta donde explica la manera en como fue tratado. Tambien incluye los nombres de los agentes y de los testigos que tiene. En tanto que dirigentes del [redacted] dijeron que continúan documentando casos de abusos de agentes de inmigración de todas las divisiones de Aduanas(CBP), Patrulla Fronteriza y ICE porque están preparando un informe nacional que será presentado en breve ante el gobierno federal. Para reportar abusos de poder de agentes federales comuníquese al [redacted]

Quick Rough Computer/Visual Translation into English:

Abuse Continues Human rights defenders are documenting cases of unfair treatment by federal agents
America Barceló america.barcelo@ellatino.net hidden –

(b)(6) (b)(7)(C) never thought it would be a reason to suffer mistreatment and injustices by going to the supermarket, but the morning of July 2 became a nightmare for him after Border Patrol agents approached him to ask for his documents of legality in the country. "I was going to take out bottles from my trunk to fill them with water, when two agents approached me and asked me for my papers for no reason, I gave them my driver's license but when I got it out they also saw my "Matricular Consular Identificar Targeta' (Mexican Consular Identification Card) and also demanded to see this credential, I gave them all without telling them anything but then came the mistreatment", narrated. (b)(6) (b)(7)(C) has 11 years of being an American citizen and 25 years of residence in this country, since 20 years ago he suffers from a disability due to a strong blow to the head. When agents arrived (b)(6) (b)(7)(C) told them that he was a citizen but nevertheless requested papers and also one of the agents told in voice command to lift his hands immediately so that they could search him, though he would have liked to move fast (b)(6) (b)(7)(C) was unable to because his disability makes it impossible for movement on the right side. "I became nervous because of the manner I was being treated, they were abusing their power, then I was not able to move my arm, I told the officer that I am disabled, but he did not believe me, "you are not disabled do not resist" and he tried to move my arm with force back to handcuff me, but it is impossible to move my arm, so with these movements I fell to the ground", told (b)(6) (b)(7)(C) Although (b)(6) (b)(7)(C) was parked in a disabled parking space and relies on a placard to do so, agents did not believe him and continued searching him and treating him with rudeness while on the ground. "When he was on the ground he saw come another white patrol vehicle with green letters, two female agents arrived, one got out fast and screamed at me not to resist "or I'll spray you", but I wasn't doing anything, I was not resisting, I was so afraid I couldn't speak, I do not know why they treated me so", he commented. A few minutes after the rough inspection agents told him to get up. (b)(6) (b)(7)(C) stood up, assisting himself with his left arm. The officers would only watch him without saying anything. *The path to his car* and the agent that was verifying his identity by telephone returned his papers. (b)(6) (b)(7)(C) helplessly recounted that there were four agents who surrounded him for no reason, although the first officer who approached him, Hispanic, the whole (b)(6) (b)(7)(C) was manhandled he was making *phone*calls. "The two agents who did not believe me and the female that arrived screaming were those who treated me badly and were Americans, after I got up the Hispanic agent just gave me my IDs." "Before they left I asked them to tell me their names, the two male agents told me ' here in the report are reads ', and they left quickly; when they were leaving, I only told the women 'may God be with you and do your job, but not like this because this is wrong ', they said nothing", he explained.

As several people walked by the store they saw how I was mistreated by the agents, a man approached to ask how I was, because he saw that I was treated, and the manner I was treated badly, so there are witnesses to the facts. (b)(6) (b)(7)(C) was able to get the names

of two agents that addressed him first, and as he was abused and humiliated he thought that such acts could not be, and came to the (b)(6) (b)(7)(C) to seek help, they helped him communicate with offices in Washington, D.C., where he was told that he had to send a letter with his complaint. They also recommended that he call the (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) who began to advise him and to help him send his complaint to the Department of Homeland Security, and said that this is not an isolated case. "We are documenting all cases of ill-treatment and abuse, we conduct interviews of victims, and if we can, we obtain" evidence and witnesses, names of agents and thus help write the complaint letter which is sent to Washington. "For the most severe cases we will even send them to a lawyer and the Consulate of your country", said (b)(6) (b)(7)(C) who is taking the case of (b)(6) (b)(7)(C) According to this group such cases have been growing this past year, currently they are documenting and researching a minimum of 20 other cases, of which 10 are related to the Border Patrol, Customs Agents at the port of entry. "We have several cases, including (b)(6) (b)(7)(C) who died at the hands of border officers, and others in Laredo and other States in the country, the problem with this type of situation is that the Federal Government doesn't have a single instance which bears a control or record or becomes responsible for resolving abuse of federal agents, and falls in impunity, (there isn't one sole entity responsible to resolve these issues) but we are working on this, next month we will meet with the Federal Government to be able to determine how to stop these abuses", mentioned (b)(6) (b)(7)(C) senior national (b)(6) (b)(7)(C) Furthermore, upon being questioned by the Latino on this case of the Border Patrol Office said they did not have a formal complaint regarding this case, but said that there is a Department of internal control called "Professional Standard Division" which is dedicated to investigate the actions of their agents. " Anyone who has a complaint about a bad procedure of a Border Patrol Agent can call us directly so we can begin an inquiry, our job is to monitor agents to act according to the law, we invite (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) to call us and give us his complaint", said (b)(6) (b)(7)(C) Division of internal control. Complaints about the Border Patrol agents should be made by the victim of abuse rather than other people and should be reported to 619-498-9897 or 619-216-4169, there are agents who speak Spanish. (b)(6) (b)(7)(C) already made contact with this Office and is in process of sending the letter which explains the way he was treated. Also included are agents' and witnesses' names. Leaders of (b)(6) (b)(7)(C) said they continue documenting abuses of all immigration divisions of Customs (CBP), Border Patrol agents and ICE because they are preparing a national report to be submitted shortly to the Federal Government. To report abuse of power by federal agents call the (b)(6) (b)(7)(C)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

[redacted]

(b) (7)(E)

[redacted]

(b) (7)(E)

ENFORCEMENT STANDARD

Use of Nondeadly Force

(b) (7)(E)

Approval of Standard

9/21/98
Date

(b)(6) (b)(7)(C)
Commissioner

APPENDIX A

(b) (7)(E)

[redacted]

1 [redacted]

2 (b) (7)(E)

(b) (7)(E)

Use of Force Policy Handbook

Office of Training and Development

October 2010

HB 4500-01B

U.S. Customs and Border Protection

For Official Use Only
Law Enforcement Sensitive

FOREWORD FROM THE COMMISSIONER

I am very pleased to bring you the first version of the *U.S. Customs and Border Protection Use of Force Policy Handbook*. This Policy supersedes the *U.S. Customs Firearms and Use of Force Handbook* (CIS HB 4500-01A) dated March 2003; the *U.S. Customs and Border Protection Interim Use of Force and Firearms Guidelines* dated October 11, 2004; the *INS Firearms Policy* dated 19 February 2003; the *U.S. Customs Firearms and Use of Force Training Policy* (CD 4510-017A) dated December 17, 2001; the *24 Hour Carry of Firearms by Office of Field Operations Personnel* (ENF-3-FO RDJ) dated March 3, 2000; and the *U.S. Immigration and Customs Enforcement Interim Firearms and Use of Force Policies* dated July 7, 2004 (as they applied to CBP components transferred from U.S. Immigration and Customs Enforcement).

This *Handbook* sets forth the Policy for use of force within U.S. Customs and Border Protection (CBP). It was developed to provide all CBP personnel a single, unifying use of force reference, while enabling CBP operational component leadership to address use of force related issues unique to their respective workplace environments and adopt more detailed operational guidance.

This Policy reflects CBP's commitment to balance the need to secure America's borders with the need to preserve individual liberties as prescribed by law. CBP adheres to the Department of Homeland Security's *Use of Deadly Force Policy* and *Commitment to Race Neutrality in Law Enforcement Activities* statements, which are attached as appendices and referenced throughout the body of this Policy.

CBP will provide legal support to the extent authorized by the Constitution and federal law for CBP personnel involved in civil or criminal legal actions as a result of performing duties under this policy, provided that actions were taken in good faith and with a reasonable belief in the lawfulness of the actions taken.

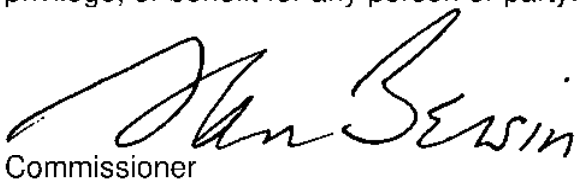
Representation by the Department of Justice is available to present and former federal employees sued, subpoenaed, or charged in a personal capacity for actions taken within the scope of their federal employment. Department of Justice representation is contingent upon a finding that the employee's actions giving rise to the suit reasonably appear to have been performed within the scope of employment, and it is in the interest of the United States to provide the requested representation. The Department of Justice is responsible for making final determinations with respect to these criteria. CBP's views on each of these elements are considered in making a decision on a request for representation. Representation requests should be coordinated through the Office of Chief Counsel.

In addition, emergency, interim legal representation for federal law enforcement officials is made available by the Department of Justice in the immediate aftermath of a shooting or other use of force involving serious physical injury. These requests should be coordinated through the Office of Chief Counsel as well.

Suggestions for future updates to this Policy should be sent to the Director of the Use of Force Policy Division.

Additional copies of this *Policy Handbook* may be obtained by submitting CBP Form 205 (Graphics, Printing and Reproduction Services Request) to the Printing, Graphics and Distribution Branch, Logistics Division.

This Policy sets forth guidance for CBP personnel, and does not create any right, privilege, or benefit for any person or party.



Commissioner
U.S. Customs and Border Protection

FOREWORD FROM THE ASSISTANT COMMISSIONER, OFFICE OF TRAINING AND DEVELOPMENT

This document, the *U.S. Customs and Border Protection Use of Force Policy Handbook*, is the result of a collaborative process between U.S. Customs and Border Protection (CBP) operational components, and CBP's steward for use of force and threat management policy, the Office of Training and Development (OTD).

As specified in the *Handbook,* OTD, through the Use of Force Policy Division (UFPD), is responsible for the development and articulation of all CBP use of force policy. As the CBP lead for use of force and threat management policy, UFPD ensures that each CBP policy, directive, and procedure describing when and how CBP employees use force is in conformance with the provisions of this Policy, which incorporates the *DHS Use of Deadly Force Policy* (Appendix II), and the *DHS Commitment to Race Neutrality in Law Enforcement Activities* (Appendix III).

As specified in the Policy, no testing, evaluation or procurement of any firearm, weapon system, ammunition, or other use of force device is permitted without the concurrence of UFPD. Properly tested and procured firearms, weapons systems and use of force devices are to be accounted for and inventoried in accordance with inventory guidelines specified in this Policy, and in other directives and guidelines established by UFPD.

Finally, as specified in this Policy, UFPD is responsible for developing, maintaining, and approving all use of force training.

By conforming to standard use of force policies, procedures, training, and equipment, CBP personnel are able to more effectively and professionally protect themselves and the public they serve. As CBP personnel, this *Handbook* serves as your authoritative reference for firearms and use of force related issues. Therefore, you must become intimately familiar with its contents.

Patricia McDuffy

Assistant Commissioner
Office of Training and Development

- FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE -

CBP ROVING PATROL 00004865

Table of Contents

FOREWORD FROM THE COMMISSIONER i

FOREWORD FROM THE ASSISTANT COMMISSIONER, OFFICE OF TRAINING AND DEVELOPMENT iii

Chapter 1: Compliance with the U.S. Customs and Border Protection (CBP) Use of Force Policy 1

A. Implementation 1

Chapter 2: Authority to Carry Firearms 3

A. Authorities 3

B. Authorized Officers/Agents 3

C. Carriage of Firearms 3

D. Flying Armed on a Commercial Aircraft 5

E. Private Citizens 6

F. Alcohol and Medication 6

G. Revocation of Authorization to Carry Firearms 6

H. Domestic Violence Convictions (Lautenberg Amendment) 8

I. Protective Orders Governing an Officer/Agent 9

Chapter 3: Authorizing and Approving Officials 10

A. Responsible Officials (ROs) 10

B. Director of UFPD 11

C. The UFPD Incident Review Committee 12

D. Primary Firearms Instructor (PFI) 12

E. Primary Intermediate Force Instructor (PIFI) 13

Chapter 4: Use of Force 14

A. General Guidelines 14

B. CBP Use of Force Continuum 14

C. Use of Deadly Force 15

D. Use of Intermediate Force 17

E. Emergency Situations 17

F. Employee Assistance Program (EAP) 17

Chapter 5: Use of Force Reporting Requirements 19

A. Use of Deadly Force 19

B. Investigation of Reportable Use of Deadly Force Incidents 22

C. Incident Investigation 23

D. CBP Personnel Involved in a Use of Deadly Force Incident 25
E. Discharge of a Firearm 25
F. Reporting Use of Intermediate Force 27
G. Intermediate Force – Serious Physical Injury or Death 28
Chapter 6: Use of Force Proficiency and Training 29
A. Demonstration of Firearms Proficiency 29
B. Unable to Participate 31
C. Failure to Qualify 33
D. Firearms Instructors 34
E. Range Safety Officers 35
F. Intermediate Use of Force Proficiency and Training 36
G. Intermediate Force Device Basic Certification and Remedial Training 36
H. Intermediate Force Device Re-Certification and Remedial Training 36
I. Exposure to Oleoresin Capsicum (OC) 37
J. Intermediate Force Instructors (IFIs) & Intermediate Force Instructor Trainers. 38
Chapter 7: Intermediate Force Devices 39
A. Authorization to Use Intermediate Force Devices 39
B. Use of Chemical Agents 39
C. Chemical Munitions 40
D. Procurement of Chemical Agents/Munitions 40
E. Storage, Transportation and Issuance of Chemical Agents/Munitions 40
F. Approved Batons 41
G. Procurement of Batons 41
H. Use of Approved Batons 41
I. Training in Intermediate Force Techniques, Tactics and Devices 41
J. Reporting Requirements for Use of Intermediate Force Devices 42
Chapter 8: Aviation and Marine Enforcement 43
A. General Guidelines 43
B. Marine Enforcement 43
C. Aviation Enforcement 44
D. Reporting the Use of Warning or Disabling Shots 45
Chapter 9: Special Programs 46
A. Border Patrol Tactical Unit (BORTAC) 46
B. Special Response Team (SRT) 46

C. Special Weapons 46
D. Training and Testing 46
E. Honor Guards 46
F. CBP-Authorized Competitive Shooting Teams 47
G. Explorer Programs 47

Chapter 10: Foreign Travel and Assignments 48
A. Foreign Travel 48
B. Foreign Assignments 48

Chapter 11: Firearms Accountability 49
A. Control of Firearms, Munition Launchers and Body Armor 49
B. Annual Inventory 49
C. Storage of Firearms, Munition Launchers and Body Armor 50
D. Lost or Stolen Firearms, Munition Launchers and Body Armor 51
E. Board of Survey 52
F. Firearms Requests 52
G. Firearms, Munition Launchers and Body Armor Transfers 52
H. Unissued Firearms 52
I. Non-Standard Firearms 53
J. Seized or Abandoned Firearms 53
K. Firearm Acquisitions (Including Munition Launchers) 53

Chapter 12: Firearm and Munition Launcher Maintenance, Inspection and Repair ... 55
A. Firearm and Munition Launcher Inspection Requirements 55
B. Firearm and Munition Launcher Maintenance 55
C. Firearms Repair 56
D. Firearm, Munition Launcher and Body Armor Shipping 56
E. Firearm, Munition Launcher and Body Armor Replacement 56
F. Firearm, Munition Launcher and Body Armor Destruction 57

Chapter 13: CBP-Issued Ammunition 58
A. Ammunition Procurement and Use 58
B. Special Ammunition Requests 58
C. Ammunition Issue 58
D. Ammunition for Competitive Shooting 59
E. Ammunition Storage 59
F. Ammunition Inventory 60

G. Emergency Situations 60

Chapter 14: Holsters and Related Equipment 61

A. Uniform Duty Holsters and Related Equipment 61

B. CBP-Authorized Plainclothes/Off-Duty Holsters and Related Equipment 61

C. Inspection of Holsters and Related Equipment 61

Chapter 15: Range Operations 62

A. Range Conduct 62

B. Range Operation and Safety 62

C. Force-on-Force Training (FFT)/Integrated Scenario Base Training (ISBT) 63

Appendix I: Acknowledgement of Receipt of CBP Use of Force Policy 64

Appendix II: DHS Use of Deadly Force Policy 65

Appendix IV: CBP-Authorized Firearms and Intermediate Force Devices 71

Appendix V: CBP Use of Force Continuum 73

Appendix VI: CBP Form 318 – Reportable Use of Force Incident Data 75

Appendix VII: Memorandum of Agreement (MOA) with the NTEU 81

Appendix VIII: Memorandum of Agreement (MOA) with the NBPC 90

Appendix IX: First Aid Trauma Kit Standards 96

Appendix X: Glossary 98

Chapter 1: Compliance with the U.S. Customs and Border Protection (CBP) Use of Force Policy

A. Implementation [1]

1. For the purposes of this Policy, the term "Authorized Officers/Agents" includes:
   a. CBP Officers;
   b. Border Patrol Agents;
   c. Air Interdiction and Marine Interdiction Agents;
   d. Internal Affairs Special Agents and Investigators; and
   e. Other qualified CBP personnel as designated by the Assistant Commissioners of the operational components or the Chief, Office of Border Patrol (hereinafter referred to as "Assistant Commissioners" or "ACs"), the Commissioner and the Director of UFPD.

2. Additional qualified CBP personnel may be designated as armed personnel by the ACs of the operational components, the Commissioner and the Director of UFPD, but are not considered to be Authorized Officers/Agents and may carry CBP-authorized weapons only during duty hours and in performance of their official duties.

3. Within thirty days of issuance, Responsible Officials (ROs) shall provide a copy of this policy to all Authorized Officers/Agents. Within 30 days of receipt, Authorized Officers/Agents shall sign a statement (see Appendix I) acknowledging receipt, comprehension and the obligation to comply with the policy. Violation of the CBP Use of Force Policy may constitute grounds for disciplinary action. The signed acknowledgement shall be forwarded to the officer's/agent's duty station for inclusion in the officer's/agent's local personnel file.

4. ROs shall ensure that supervisors and managers review and discuss the contents of this policy with each officer/agent under their supervision.

5. Trainee officers/agents shall be issued a copy of this policy at their respective academies and shall be provided a course of instruction to ensure their comprehension of its elements. Trainee officers/agents shall sign a statement acknowledging receipt, comprehension and the obligation to comply with the policy at the completion of training. The signed acknowledgement shall be forwarded to the officer's/agent's duty station for inclusion in the officer's/agent's local personnel file.

[1] Border Patrol Agents should refer to Appendix VIII.

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6. Authorized Officers/Agents shall complete the Use of Force Policy training course on the Virtual Learning Center (VLC) as well as have the opportunity to discuss the new Use of Force Policy with instructors at their next firearms and intermediate force training date.

   Questions regarding the Use of Force Policy that cannot be answered locally may be submitted in writing to the Director of the Use of Force Policy Division (UFPD). UFPD may issue periodic clarifications of the Use of Force Policy based upon the questions submitted.

7. Authorized Officers/Agents shall, at a minimum, review the concepts and responsibilities of the Use of Force Policy annually, and shall be given a reasonable opportunity to read the Use of Force Policy during duty hours.

8. Officers/agents who encounter use of force issues in the field that are not addressed in this policy are expected to exercise reasonable judgment.

9. As changes to this policy occur, additional acknowledgement forms shall be issued, signed and collected, as required by the Director of UFPD.

10. Any and all actions taken in performance of the duties and responsibilities of the CBP Use of Force Policy that have an impact on bargaining unit employees will be taken in accordance with the terms of the applicable collective bargaining agreement. Nothing in this Policy is to be interpreted to invalidate or interfere with the existing rights and protections of employees under the law and under applicable collective bargaining agreement(s).

Chapter 2: Authority to Carry Firearms

A. Authorities

The authority to carry a CBP-authorized firearm is provided by 8 U.S.C. § 1357, 8 C.F.R. § 287.8 and § 287.9, and 19 U.S.C. § 1589(a).

B. Authorized Officers/Agents

To carry firearms, Authorized Officers/Agents must:

1. Be designated to carry a firearm, individually or as a class, by the Commissioner of CBP;

   A component Assistant Commissioner (AC) may request an individual designation by submitting a written justification requesting this designation to the Commissioner, through the AC of the Office of Training and Development (OTD). This justification shall be forwarded to the Director of UFPD for comment prior to submission to the Commissioner.

2. Be issued a badge and credentials to bear firearms;

3. Have successfully completed the basic law enforcement training required as a condition of employment with CBP, including basic firearms training, or have successfully completed a substantially equivalent training program approved by the AC of OTD and the Director of UFPD;

4. Maintain proficiency, as set forth in Chapter 6 of this *Policy Handbook*, in the use of firearms they are permitted to carry and adhere to the provisions of the policy governing the use of force; and

5. Meet all other requirements and standards set forth in the Use of Force Policy.

C. Carriage of Firearms

A component AC may request an individual designation for CBP personnel to carry privately owned CBP-authorized firearms by submitting a written justification requesting this designation to the Commissioner, through the AC of OTD. This justification shall be forwarded to the Director of UFPD for comment prior to submission to the Commissioner. Absent a specific individual or group designation from a component AC, new requests for CBP personnel to carry privately owned, CBP-authorized firearms shall not be approved.

1. Authorized Officers/Agents, when carrying a CBP-authorized firearm(s), are required to carry their CBP badge and credentials authorizing them to bear firearms. This requirement does not apply to officers/agents involved in an

authorized undercover operation or when approved in writing by the officer's/agent's immediate supervisor.

2. Authorized Officers/Agents are required to carry a CBP-authorized handgun during duty hours in the performance of their normal duties, unless operational circumstances preclude use of these handguns, such as when engaged in certain authorized undercover activities or when operating in specified restricted areas. Only those handguns listed in Appendix IV, CBP-Authorized Firearms and Intermediate Force Devices, and specifically approved by the AC of each operational component may be carried.

3. An Authorized Officer/Agent shall be issued only one primary handgun appearing in Part A of Appendix IV. Based upon availability within an operational component, an officer/agent may be issued a subcompact handgun as a secondary handgun, with the concurrence of the AC of that operational component. An Authorized Officer/Agent shall not be issued more than two handguns without the concurrence of the operational component and the Director of UFPD.

4. Except as provided herein, Authorized Officers/Agents shall carry only one handgun on their person at a time. Written authorization to carry two handguns at the same time must be obtained from the RO with the concurrence of the respective operational component AC. Authorization to carry two handguns at the same time shall be based on factors including, but not limited to, types of duty performed, location of assignment and justification submitted. Such written authorizations may be continuing in nature, and may apply to more than one officer/agent, such as a group of officers/agents assigned to the same type of duty or assignment. A copy of all such authorizations shall be placed in the local personnel file of each of the officers/agents authorized to carry two handguns at the same time. A copy shall also be provided to the local Primary Firearms Instructor/Inventory Officer (PFI) and to UFPD.

5. Authorized Officers/Agents are authorized to carry a CBP-approved handgun off-duty subject to the provisions of this policy. Only those handguns listed in Appendix IV, CBP-Authorized Firearms and Intermediate Force Devices and specifically approved by the AC of each operational component may be carried.

6. Based on the duty assignment, Authorized Officers/Agents may be issued shoulder-fired weapons (SFWs) as determined necessary by the operational component ACs (or their designees). Officers/agents have the option to carry such weapons at the discretion of management based on operational considerations. Only the firearms listed in Appendix IV and approved by the respective operational component AC may be carried. Authorized Officers/Agents are not authorized to carry any personally owned SFWs or special weapons while on duty.

7. In special circumstances, when unarmed CBP personnel are required to provide service in areas of substantial risk, armed Authorized Officer/Agents shall provide an appropriate level of security, up to and including the formation of a security detail.

8. The AC of the respective operational component may, with concurrence of UFPD, approve requests from an RO for a non-standard firearm during an approved undercover operation or operational activity. With this approval, the PFI may issue for carry a UFPD-provided non-standard firearm to an Authorized Officer/Agent designated to act in an undercover capacity, for the term of the approved undercover operation or until revoked by the RO or the Director of UFPD. A non-standard firearm is one not specified as an authorized firearm in Appendix IV.

9. Authorized Officers/Agents shall carry their CBP-authorized handgun(s) fully loaded at all times. Semiautomatic pistols shall be carried with a round in the chamber and the magazine loaded to capacity. When authorized, revolvers shall be carried with all chambers loaded. Officers/agents are authorized to use only CBP-issued ammunition for carry, whether on or off-duty.

10. Authorized Officers/Agents, when in uniform and on-duty, shall carry a minimum of two, fully loaded, spare magazines for their primary handgun.

11. Authorized Officers/Agents may carry their CBP-authorized firearms twenty-four (24) hours a day in accordance with the provisions of this Policy.

12. Only Authorized Officers/Agents may discharge a CBP-issued firearm, except during CBP-authorized training, events or activities and military and/or law enforcement joint operations.

D. Flying Armed on a Commercial Aircraft

1. Authorized Officers/Agents may carry their CBP-authorized firearms in the cabin of commercial aircraft. Such carriage is governed by 49 C.F.R. § 1544.219: Carriage of accessible weapons.

2. Each officer/agent who carries a firearm while traveling on board a commercial aircraft must complete the CBP-approved Law Enforcement Officers Flying Armed training course. This course will be readily available to all Authorized Officers/Agents.

3. Any officer/agent traveling aboard an aircraft while armed must at all times keep their weapon:

   a. Concealed and out of view, either on their person or in immediate reach, if the armed Authorized Officer/Agent is not in uniform; or

b. On their person, if the armed Authorized Officer/Agent is in uniform.

4. No officer/agent may place a weapon in an overhead storage bin.

5. Under no circumstances shall an Authorized Officer/Agent relinquish their CBP-authorized handgun to the pilot or any member of the flight crew, or allow the weapon to be stored in the crew compartment of the aircraft. If an Authorized Officer/Agent is directed by anyone to check their authorized handgun, the officer/agent should request assistance from the appropriate security officials in order to resolve the issue: first, the airport's Ground Security Coordinator (GSC) and then the TSA Federal Security Director (FSD). Any officer/agent who has been denied boarding shall notify their immediate supervisor at the earliest practicable time. A written report of this denial shall be forwarded to the Director of UFPD, through the RO, outlining the details of the occurrence. Further guidance on issues of this nature is available in the CBP-approved Law Enforcement Officer Flying Armed training.

6. The TSA and FAA do not permit any chemical agents in the cabin of a commercial aircraft. As provided by 49 C.F.R. § 175.10, self-defense spray (mace or pepper spray) may be carried in checked baggage, provided the container does not exceed four (4) fluid ounces and has a positive means to prevent accidental discharge. Chemical agents shall be carried aboard CBP aircraft only in accordance with CBP Air Operations Handbook (AOH) guidelines.

E. Private Citizens

Nothing in this policy shall be construed as interfering with the right of Authorized Officers/Agents as private citizens to carry a personally-owned firearm for personal use. Officers/agents must comply with all applicable federal, state, and local laws when exercising this right.

F. Alcohol and Medication

1. Authorized Officers/Agents are prohibited from consuming alcoholic beverages while carrying CBP-authorized weapons, except when engaged in authorized undercover activities necessitating the consumption of alcoholic beverages. In these cases, the consumption of alcoholic beverages shall be limited to an amount that does not impair the officer's/agent's judgment.

2. Authorized Officers/Agents shall not carry a firearm while taking medication that impairs their judgment and/or ability to safely carry, control or use a firearm.

G. Revocation of Authorization to Carry Firearms

1. The authority to carry a firearm can be revoked by the CBP Commissioner AC of an operational component or the appropriate RO.

2. Temporary revocations will be based on reliable evidence. Permanent revocations will be based on substantiated evidence.

3. Credentials may be temporarily or permanently revoked (and be subsequently reinstated) by the CBP Commissioner, AC of an operational component or the appropriate RO.

   a. The revocation of credentials results in the automatic revocation of the authorization to carry a CBP-issued firearm.

   b. The revocation of the authorization to carry a firearm does not automatically result in the revocation of credentials.

4. Situations that warrant the temporary or permanent revocation of the authority to carry firearms and/or credentials include, but are not limited to:

   a. The failure to demonstrate proficiency with firearm(s) or other mandatory training requirements without an authorized exception as outlined in Chapter 6B. All such revocations must be accomplished in strict accordance with the procedures set forth therein;

   b. Medical conditions that impede the safe and effective use of a firearm. In such circumstances the Authorized Officers/Agents may have the authorization to carry a firearm temporarily revoked. A medical evaluation in accordance with regulations must take place before a permanent revocation occurs;

   c. Evidence of substance abuse. Such determinations will be made in accordance with the CBP Drug Free Workplace Policy;

   d. Evidence of the commission of a felony;

   e. Evidence of the commission of an act of domestic violence;

   f. Evidence of unlawful violent behavior;

   g. Evidence of serious breaches of CBP integrity or security policies;

   h. Evidence of a credible threat to use a firearm to commit a crime; and/or

   i. Any conduct, which is in violation of applicable federal law, that meets the criteria outlined in Section 7 below.

5. In addition to the examples listed above, the appropriate RO may revoke the authority to carry a CBP-issued firearm when the revocation is in the best interests of CBP and/or the officer/agent. Such authority will be reasonably exercised.

6. When the authority to carry a CBP-issued firearm(s) is temporarily revoked by a supervisor, the supervisor shall inform the RO, in writing, within twenty-four (24) hours of such action, identifying the officer/agent involved and the circumstances of the revocation.

7. When the authority to carry a firearm is revoked, the RO shall provide the officer/agent with a written notification explaining the reason(s) for the revocation, the nexus between their conduct (performance or condition) and the threat to the safety of the employee or others, and any limitations on the performance of duties and the duration of the revocation. This written notification will be provided as soon as practicable and may either precede or follow the action (bargaining unit employees should refer to Appendix VII or VIII).

8. When the authority to carry firearms is permanently or temporarily revoked, officers/agents shall not perform assignments that normally require the carriage of a firearm. Permanent revocation of firearms and/or credentials may be grounds for reduction in grade, reassignment or removal, as determined appropriate by CBP.

9. If the revocation of a CBP-authorized firearm(s) extends beyond seventy-two (72) hours, the RO shall provide written notification to the respective operational component AC, identifying the officer/agent involved and explaining the circumstances of the revocation. When the AC of an operational component is the RO, notification to the next level of management is not required, but a permanent record of the action must be maintained.

10. If the revocation of a CBP-authorized firearm(s) extends beyond seventy-two (72) hours, the RO shall formally suspend the authorization to carry any firearm in accordance with Chapter 2.G. Additionally, the revocation shall be recorded in the CBP firearms information tracking system.

11. Officers/agents whose authority to carry a firearm has been temporarily revoked due to any of the circumstances listed in Chapter 2.G or any officer/agent suspended indefinitely while under investigation shall turn in all CBP-issued firearms. Managers, Supervisors and/or Firearms Instructors are authorized to immediately revoke authorization to carry a firearm from an officer/agent if any of the circumstances listed in Chapter 2.G apply.

H. Domestic Violence Convictions (Lautenberg Amendment)

1. Pursuant to 18 U.S.C. § 922(g)(9), it is illegal for anyone, including a federal law enforcement officer, who has been convicted of a misdemeanor crime of domestic violence to possess any firearm or ammunition.

2. It is the responsibility of any Authorized Officer/Agent arrested for, or charged with, a crime of domestic violence to promptly report their arrest or charge to their immediate supervisor. During the period pending disposition of the domestic violence case, officers/agents shall not be permitted to possess or carry any CBP-issued firearms or ammunition.

3. The Authorized Officer's/Agent's supervisor shall ensure that all CBP-issued firearms and ammunition are immediately turned over to the PFI for storage pending final disposition of such a domestic violence arrest or charge.

I. Protective Orders Governing an Officer/Agent

1. Pursuant to 18 U.S.C. § 922(g)(8), it is illegal for anyone, including a federal law enforcement officer, who is subject to a court order (restraining order, protective order, etc.) to possess any firearm or ammunition.

Chapter 3: Authorizing and Approving Officials

A. Responsible Officials (ROs)

1. A RO is responsible for all aspects of the CBP use of force program as it relates to the offices and personnel under his or her supervision, and for ensuring compliance with the CBP Use of Force Policy by all officers/agents within his or her area of responsibility.

2. Each RO has primary responsibility for inventory control, maintenance, and security of all CBP use of force equipment within his or her area of responsibility.

3. Each RO shall designate a Primary Firearms Instructor/Inventory Officer (PFI), a Primary Intermediate Force Instructor (PIFI) and/or Co-Authority (COA) to manage the firearms and ammunition program within his or her area of responsibility. These designees are responsible for overseeing the shipment, receipt, issuance and the periodic inventory of use of force equipment.

4. The ROs are:

   a. Chief, Office of Border Patrol (OBP);

   b. Assistant Commissioner, Office of Field Operations (OFO);

   c. Assistant Commissioner, Office of Air and Marine (OAM);

   d. Assistant Commissioner, Office of Internal Affairs (IA);

   e. Assistant Commissioner, Office of Training and Development (OTD);

   f. Chief Patrol Agents (CPA);

   g. Directors, Field Operations (DFO);

   h. Directors, Air Operations and Marine Operations (DAO, DMO);

   i. Division Directors, Internal Affairs (IA);

   j. Division Directors, Office of Training and Development (OTD); and

   k. Other officials designated in writing by the Commissioner.

B. Director of UFPD

1. The Director of UFPD has primary responsibility to:

   a. Direct all aspects of the CBP use of force and firearms program, including intermediate force equipment[2];

   b. Direct the development and implementation of CBP use of force and firearms policies and procedures;

   c. Direct the technical and evaluation aspects of the CBP use of force and firearms programs;

   d. Direct the development of the training curriculum and the training of CBP firearms instructors, armorers, defensive tactics instructors and other related training;

   e. Direct the development and presentation of training for all CBP Special Response Teams (SRTs) and other related training;

   f. Direct the collection and storage of qualification and instructor certification records;

   g. Establish the procedures for the selection, training, and certification of armorers, firearms instructors, intermediate force instructors, and other advanced instructors;

   h. Oversee all CBP armories and direct the maintenance, repair, and alteration of all CBP-issued and authorized firearms; and

   i. Oversee the control and accountability of all firearms, ammunition, ordnance, intermediate force devices and body armor.

2. The Director of UFPD is responsible for overseeing the acquisition of all CBP-issued firearms, ammunition, ordnance, intermediate force equipment and body armor. No CBP component or individual officer/agent or employee is authorized to solicit, accept or otherwise acquire or dispose of CBP-issued firearms, ammunition, ordnance, intermediate force equipment and/or body armor outside of authorized CBP equipment procurement and distribution procedures for any CBP purpose or operation without the written consent of the Director of UFPD.

[2] As used in this Policy, the term "intermediate" when used to describe (among other things) devices, equipment and force, has the same meaning as the term "non-deadly" used in the same context at 8 C.F.R. § 287.8 and § 287.9.

C. The UFPD Incident Review Committee

1. The UFPD Incident Review Committee is authorized to review any incident in which use of force is employed, whether by a CBP employee or directed at such an employee. The primary role of this Committee is to allow qualified experts an opportunity to perform an internal analysis of these incidents. Accordingly, this Committee will not make any recommendations concerning disciplinary or adverse actions.

   Through a deliberative process, the Committee will identify trends that may impact the use of force procedures and policies employed by CBP to protect its personnel, property and operations.

2. The UFPD Incident Review Committee members are:

   a. The Director of UFPD, who serves as committee chair; and

   b. A representative of each operational component or the RO's designee.

3. The UFPD Incident Review Committee shall meet at the discretion of the Director of UFPD, when sufficient use of force data is assembled to warrant the convening of the Committee.

D. Primary Firearms Instructor (PFI)

The PFI is designated by the RO to perform the following administrative functions as required:

1. Coordinate the scheduling of other Firearms Instructors (FIs) and/or Range Safety Officers (RSOs) to assist with firearms training, familiarization and qualification.

2. Train and verify that RSOs are prepared to perform their duties as prescribed by the Director of UFPD. The purpose of the RSO program is to enhance and maintain safety on the firing line during routine structured firearms training. At no time shall an RSO be used in lieu of a certified firearms instructor for conducting advanced tactical courses of fire or for teaching new weapon systems.

3. Oversee the shipment, receipt, transfer and issuance of firearms at the location they are assigned within the CBP firearms information tracking system and conduct periodic physical inventories of weapons, ammunition and related equipment and verify the results in the tracking system.

4. Input qualification scores into the CBP firearms information tracking system or ensure input either by FIs or designated administrative personnel.

E. Primary Intermediate Force Instructor (PIFI)

The PIFI is designated by the RO to perform the following administrative functions as required:

1. Coordinate the scheduling of other CBP Intermediate Force Instructors (IFIs) and to assist with intermediate force training, intermediate force device familiarization and certification.

2. Train and verify that the IFIs are prepared to perform their duties as prescribed by the Director of UFPD. The purpose of the IFI program is to enhance and maintain a safe environment during routine, structured intermediate force training. Only CBP-certified instructors shall be used to conduct approved, formalized certification/re-certification training.

3. Oversee the shipment, receipt, transfer and issuance of intermediate force devices at the location they are assigned and conduct periodic inventories of stored devices, training aids and related equipment.

4. Input assigned Training Records and Enrollment Network (TRAEN) code(s) into TRAEN for all appropriately qualified officers/agents.

Chapter 4: Use of Force

A. General Guidelines

1. Only that force which is both reasonable and necessary may be used in any given situation. Reasonable means that there are objective reasons that justify the degree of force to be used in the given situation, up to and including deadly force. The "reasonableness" of a particular use of force is judged from the perspective of a reasonable officer/agent on the scene, and its calculus must embody an allowance for the fact that law enforcement officers/agents are often forced to make split-second decisions about the amount of force necessary in a particular situation. Necessary means that some force is required to carry out one's duties as a law enforcement officer/agent.

2. Authorized Officers/Agents are to act in a professional manner and therefore shall not carelessly or unnecessarily display firearms and/or intermediate force devices. The authority to carry this equipment carries with it an obligation and responsibility to exercise discipline, restraint and good judgment.

3. The *DHS Commitment to Race Neutrality in Law Enforcement Activities* is contained in Appendix III and is applicable to all situations where officers/agents exercise their use of force authority.

4. Although the wording may be slightly different in the regulations set forth at 8 C.F.R. § 287.8 and § 287.9 (first promulgated by the former Immigration and Naturalization Service) CBP has determined that these regulations, as they apply to Authorized Officers/Agents, are consistent with the intent of the Use of Force Policy.

B. CBP Use of Force Continuum

1. The CBP Use of Force Continuum is a force model used to illustrate the levels of force an Authorized Officer/Agent may need to utilize to gain control over a subject. The CBP Use of Force Continuum is set forth in Appendix V.

2. It is not necessary to mechanically apply every step of the CBP Use of Force Continuum. An officer/agent may have to rapidly escalate or de-escalate through the Continuum, depending on the totality of the circumstances present.

   Totality of circumstances refers to all factors existing in each individual case. These factors include, but are not limited to, the level of training, mental attitude, strength, age, the size of the officer/agent and the size of the subject. Additional factors may include the weapon(s) involved, presence of other officers/agents, subjects or bystanders and environmental conditions. In some situations, the proper initial response might be the application of deadly force.

3. Due to the unique circumstances and individual differences present in every potential confrontation, different officers/agents may have different responses to the same situation, all of which may be reasonable and necessary.

C. Use of Deadly Force

1. The *Department of Homeland Security Policy on the Use of Deadly Force* governs the use of deadly force by all DHS officers/agents and employees. The complete DHS policy is contained in Appendix II.

2. Authorized Officers/Agents may use deadly force only when necessary, that is, when the officer/agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer/agent or to another person.

3. If feasible, and if to do so would not increase the danger to the officer/agent or others, a verbal warning to submit to the authority of the officer/agent shall be given prior to the use of deadly force.

4. Discharging a firearm at a person shall be done only with the intent of stopping that person from continuing the threatening behavior that justifies the use of deadly force.

5. Deadly force is not authorized solely to prevent the escape of a fleeing subject. Deadly force against a fleeing subject is only authorized, in accordance with the paragraphs above, if there is probable cause to believe that:

   a. The subject has inflicted or threatens to inflict serious physical injury or death; and

   b. The escape of the subject poses an imminent threat of death or serious physical injury to the officer/agent or to another person.

6. Firearms shall not be fired solely to disable vehicles, vessels, aircraft or other conveyances. The only exception is that Authorized Officers/Agents, when conducting maritime law enforcement operations, may use specifically authorized firearms and ammunition to disable moving vessels or other maritime conveyances.

7. Deadly force may be used against the driver or other occupant of a moving motor vehicle, vessel, aircraft or other conveyance only when:

   a. The officer/agent has a reasonable belief that the subject of such deadly force poses an imminent danger of death or serious physical injury to the officer/agent or to another person and the hazard of an uncontrolled conveyance has been taken into consideration before firing; or

b. The public safety benefits of using deadly force outweigh the risks to the safety of the officers/agents and/or of other persons.

8. Deadly force may be directed against dangerous or vicious animals in self-defense or in defense of others. Deadly force may also be used to euthanize an animal that appears to be seriously injured or diseased. In doing so, the officer/agent must be able to justify the use of deadly force to prevent the animal from additional suffering, eliminate a public health risk or to ensure public safety.

9. The use of firearms to discharge chemical munitions or specially designed breaching munitions against structures does not constitute the use of deadly force, unless it is reasonable to believe that the use of such force may place individuals at substantial risk of death or serious physical injury.

10. Warning shots are not permitted, except as follows:

    a. Warning shots may be used by Authorized Officers/Agents conducting maritime law enforcement operations, only as a signal for a vessel to stop (see Chapter 8).

    b. Warning shots may be used by Authorized Officers/Agents conducting aviation law enforcement operations only as a signal to an aircraft to change course and follow direction to leave airspace (see Chapter 8).

11. In maritime situations where Authorized Officers/Agents believe that they are in imminent danger of being rammed, and the ramming or attempt to ram is believed to be intentional, CBP personnel can invoke deadly force in self-defense in the circumstances set forth below and in Chapter 8. To stop a ramming by using deadly force, the following criteria must be met:

    a. The subject vessel must pose an imminent threat of serious physical injury or death to CBP personnel;

    b. The ramming attempt must appear to the officer/agent to be intentional. If not specifically threatened, the intent to ram may be reasonably inferred based on facts and circumstances, including but not limited to the following:

        (1) An uncooperative and belligerent attitude toward generalized warnings or orders to "heave to;" or

        (2) An uncommunicative vessel which refuses to respond to CBP queries, signals, or presence, and does not appear to have difficulties in maneuvering, such as when a sudden change of course is obviously made to collide with the CBP vessel; and

    c. The CBP vessel cannot prevent the ramming by maneuvering clear.

D. Use of Intermediate Force[3]

Authorized Officers/Agents shall be trained in alternative methods and tactics for handling resisting subjects that may be used when the use of deadly force is not appropriate. Such alternative methods and tactics include physical tactics, such as hand-to-hand combat, and weapons such as the Collapsible Straight Baton (CSB) or Oleoresin Capsicum (OC) spray.

1. Intermediate force is defined as that force that is neither likely nor intended to cause death or serious physical injury.

2. Authorized Officers/Agents may use intermediate force when reasonable and necessary to:

   a. Protect themselves or other persons from bodily harm;

   b. Restrain or subdue a resisting detainee or subject;

   c. Make an arrest;

   d. Prevent escape; and/or

   e. Enforce compliance with a lawful order.

E. Emergency Situations

In threatening, emergent situations, Authorized Officers/Agents are authorized to use any weapon available, appropriate to the level of force required, for self-defense or the defense of another person. However, this statement does not authorize the carrying of any weapon for duty use that is not authorized and listed in Appendix IV.

F. Employee Assistance Program (EAP)

1. **It is CBP policy to strongly encourage the use of EAP**.

2. A supervisor shall advise the employee that the EAP is available for consultation in the event of a violent confrontation involving an Authorized Officer/Agent.

[3] As noted previously, as used in this Policy, the term "intermediate" when used to describe (among other things) devices, equipment and force, has the same meaning as the term "non-deadly" used in the same context at 8 C.F.R. § 287.8 and § 287.9.

3. When an Authorized Officer/Agent uses deadly force, either on or off-duty, which results in death or serious physical injury to a person, the officer/agent shall (after providing incident information in accordance with the requirements of Chapter 5.A.2.d.(1-8)) be placed on Administrative Leave with pay and/or regularly scheduled days off for three (3) consecutive calendar days. During this period, the officer/agent may voluntarily participate in a confidential consultation conducted by an EAP counselor. The RO, on a case-by-case basis, shall grant requests for additional administrative leave for the confidential consultation or other related purposes.

4. The RO shall ensure that an EAP counselor is available for consultation with all officers/agents involved in a deadly force incident. This service is confidential and is not part of the investigative process; its sole purpose is to assist the employee in dealing with the traumatic incident.

5. If an employee avails himself/herself of EAP services under Section 4, the employee shall be granted duty time consistent with operational requirements.

6. While on Administrative Leave following a shooting incident, officers/agents who are compensated with Administratively Uncontrollable Overtime or Law Enforcement Availability Pay shall continue to receive overtime pay and will be credited with excludable days in accordance with existing laws, government-wide regulations, policies and practices.

Chapter 5: Use of Force Reporting Requirements

Important Note: In order to understand and properly comply with the reporting and investigative procedures and responsibilities in this chapter, it must be read, interpreted and applied as a whole. Compliance with the chapter requires an understanding and proper application of all provisions of this chapter and applicable laws and collective bargaining agreements as an overall process.

A. Use of Deadly Force

1. Local law enforcement agencies may investigate use of force incidents, including those resulting in serious bodily injury or death, occurring within their territorial jurisdictions. Their investigative responsibility does not diminish because one of the participants is a federal employee. Accordingly, a CBP employee involved in a critical incident should anticipate an investigation by local authorities.

2. Whenever an Authorized Officer/Agent uses deadly force, whether on or off-duty, the incident **must** be reported by a supervisor to CBP Headquarters. Reports shall be made to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy), to the Office of Internal Affairs (IA) via the Joint Intake Center (JIC) and to the duty officer at the IA office with responsibility for that area of operations.

   a. Any use of intermediate force that results in serious physical injury or death shall follow the procedures for reporting the use of deadly force.

   b. The act of establishing a grip, drawing a weapon or pointing a weapon does not constitute the use of deadly force.

   c. Any Authorized Officer/Agent who participates in or observes a reportable use of deadly force incident shall orally report the incident to a supervisor in accordance with the requirements of this chapter.

   d. Unless the employee is physically incapacitated or otherwise unable, the oral report shall be made within one (1) hour of the time the incident occurs or within one (1) hour of the time the employee becomes aware of the incident.

      The oral report shall be made either in person, or via radio or telephone, and shall be comprised of the following information, if known:

      (1) The date, time, and location of the incident;

      (2) The identity and current location of any injured or deceased person(s), including an assessment of the extent of the injuries;

(3) The identity, physical description, and current location of any individual(s) known to be involved in, or to have witnessed the incident, including subjects who are at large;

(4) The description and location of conveyances involved in the incident, including any subject conveyance(s);

(5) A brief description of the incident, including any unusual circumstance(s) which might cause additional conflicts or confrontations;

(6) The operational activity in which the Authorized Officer/Agent or employee(s) involved in the incident was engaged;

(7) When firearms are used: the type of firearm(s), the number of shots fired, and the current location of all firearms used in the incident;

(8) Any other information that is needed to assure that the operational responsibilities of CBP related to the security of human life and CBP equipment are properly carried out.

3. Following the initial reporting of the incident, an employee who learns of additional information concerning the items listed in Chapter 5.A.2 shall, as soon as practicable, make an oral report of such information to a supervisor.

4. Any supervisory or management official who is notified of the occurrence of a reportable use of deadly force incident shall make an initial supervisory report, via the established chain of command, to the appropriate RO, to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy) and to the Joint Intake Center (JIC).

   a. Incidents involving CBP personnel detailed/assigned to a Field Office (FO), Border Patrol Sector (BPS), Air and Marine Branch (AMB), or any subordinate office, shall be reported via the established chain of command.

   b. Incidents involving CBP personnel detailed/assigned to a FO, BPS or AMB activity that operate directly under the jurisdiction of CBP Headquarters, BORTAC, or CBP academies, shall be reported via the established chain of command in the geographic jurisdiction where the incident occurred. The RO shall also notify the detailed personnel's permanent command element of a reportable use of deadly force incident involving one or more of their personnel.

   c. The respective RO, for an incident that occurs in his or her jurisdiction, may retain investigative interest after a declination has been received by the relevant DHS investigative entities. The RO may initiate a parallel investigation into an incident via a Critical Incident Team (CIT), but the

respective CIT investigation will be the secondary investigative entity for investigative purposes. The CIT will coordinate with the primary investigative entity to ensure procedural continuity throughout the investigation.

d. The RO assumes responsibility for the employee(s) involved as if the personnel were permanently assigned within the RO's jurisdiction.

e. The initial supervisory report shall contain a summary of the incident and shall be made within one (1) hour of receipt of the first employee report, and may be made orally, either in person, or via radio or telephone to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy). Whenever practical, the report shall be made through official channels, but the report shall not be delayed when observance of the chain-of-command is impractical.

f. Following the submission of the initial supervisory report, any supervisor or other CBP management official who receives additional information regarding the incident shall, as soon as practicable, report such information to the RO and to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy).

5. Any RO who is notified of a reportable use of deadly force incident shall report it through the chain of command and to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy) within one (1) hour of the occurrence of the incident, or as soon as practical. The report should contain all information known about the incident at the time.

   a. In any use of force incident where there is a death or serious injury as a result of actions taken by a CBP Officer, Agent or employee, the RO shall ensure that the incident has been reported to the law enforcement authorities having jurisdiction over the investigation.

   b. Until the incident is resolved, the RO shall be responsible for responding to requests for information about the incident from the public, the media, and other agencies with a "need to know," after coordinating such information releases with the Office of Public Affairs.

   c. Following the initial report of the incident and during the ensuing investigation, the RO shall ensure that copies of all investigative reports, any other pertinent documents and copies of all printed and televised media reports are provided to the AC of their operational component and the AC of IA.

   d. When an injured or diseased animal is euthanized by an Authorized Officer/Agent, the RO may limit the extent of the investigation necessary, with the concurrence of the respective DHS investigative entities. This decision should be based on reasonable facts and belief that the action taken was

prudent, appropriate and justified. If any doubt exists as to the need to have euthanized the animal, a full investigation should be completed.

e. Upon completion of the local CBP investigation of the incident, the RO shall send a copy of the final report to the UFPD Incident Review Committee (IRC).

6. Upon receipt of a report of a use of deadly force incident, the Commissioner's Situation Room shall immediately notify the Joint Intake Center (JIC).

7. The JIC shall evaluate the initial report of the incident, contact the RO to confirm receipt of the report and notify appropriate CBP Headquarters and DHS offices.

B. Investigation of Reportable Use of Deadly Force Incidents

1. Responsibility of ROs:

a. In any incident where a law enforcement agency other than CBP has the primary investigative jurisdiction, the RO shall ensure that the following actions are taken until contact with the responsible law enforcement agency has been made:

(1) Collect and report use of deadly force incident information in accordance with Chapter 5.A.2;

(2) Ensure that medical attention is provided for any individual injured;

(3) Preserve the use of deadly force incident scene and all relevant evidence;

(4) Identify witnesses; and

(5) Exchange information with other law enforcement investigative agencies and advise them of the desire of CBP to maintain liaison during the investigation.

b. Following contact with the law enforcement agency with primary investigative jurisdiction (or through DHS/CBP channels if DHS/CBP has primary jurisdiction):

(1) The RO is responsible for the completion of the local CBP investigation if a declination is received from the relevant DHS investigative entities. Absent a declination from the relevant DHS investigative entities, the RO may initiate a parallel secondary investigation, but the investigation must be coordinated with the entity with primary investigative jurisdiction to ensure procedural continuity. In incidents involving personnel from more than one CBP component, the responsibility to conduct the investigation shall be agreed upon among all ROs with officers/agents involved in the incident.

(2) The RO may immediately notify a subordinate official of the incident and direct him/her to initiate a local CBP investigation of the incident.

(3) The local CBP investigation of the incident is intended to determine the following:

(a) Were the actions of each CBP employee involved in the incident appropriate and in accordance with CBP policies?

(b) Is there any indication of criminal misconduct by any CBP employee?

(c) Are there any factors that should be referred to IA and/or the CBP Office of the Chief Counsel concerning potential litigation?

c. Upon completion of the local CBP investigation of the incident, the RO shall review all final investigative reports and the recommended disposition of the incident.

C. Incident Investigation

1. Upon receipt of declination from the relevant DHS investigative entities, the RO shall direct designated investigative personnel to initiate an investigation. The investigative personnel shall:

a. Obtain a Report of Investigation from the Joint Intake Center and comply with the other instructions contained in the CBP Incident Investigation Manual.

b. Assign at least two (2) investigative officers/agents to conduct the local CBP investigation of the incident. No investigating officer/agent who has a conflicting relationship with the involved employee(s) shall be assigned to the investigation. The RO shall determine if a conflict of interest exists between the investigating officer/agent and the involved employee.

c. Ensure that when any bargaining unit employee is compelled by or through CBP and/or DHS to provide any information that could reasonably lead to disciplinary action against that employee (other than the initial verbal notification outlined herein), he or she is advised in writing of his or her right to Union representation in accordance with the applicable provisions of the law and governing Collective Bargaining Agreement.

d. Ensure that supervisory or investigative officers involved in the investigation of a deadly force incident are aware that any information provided by any employee under threat of disciplinary action by CBP or through any other means of coercion cannot be used against such employee in any type of action other than administrative action(s) taken by CBP, consistent with Garrity v. New Jersey, 385 U.S. 493 (1966).

In appropriate circumstances employees will be provided "Kalkines" warnings consistent with Kalkines v U.S. 473 F.2d 1391 (Ct. Cl 1973) informing them of the requirement to cooperate in management's examination when the employee has been assured that he or she will not be subject to criminal action. After receiving such assurances, an employee's failure to cooperate in an administrative investigation may result in disciplinary action up to and including removal.

e. The designee shall also direct supervisory personnel present at the scene to:

(1) Remind involved CBP employees of their rights to Union representation and of their Constitutional rights (including protections against self-incrimination and the right to have an attorney represent them during all phases of the investigation);

(2) Ensure that all CBP employees who are involved in the incident have been identified and advised that they will be interviewed by the investigating officer(s)/agent(s) and that they are to remain on-duty until the initial interview has been completed or they are released by the investigative team supervisor;

(3) If an employee requests to consult with an attorney, normally no questioning to the employee will occur until his/her attorney is present. Questioning of an employee without an attorney being present after the employee has requested an attorney be present may result in not being able to take criminal action against the employee;

(4) If the interview cannot be conducted within a reasonable period of time or the employee is physically or mentally unable to participate in the interview, the investigative team supervisor, or designee, shall direct the necessary rescheduling for this requirement. Employees who are directed to remain on duty will be compensated under the appropriate section of Title 5 of the United States Code for all hours beyond the end of their scheduled shift;

(5) Ensure that supervisors and/or investigators are aware that employees who are involved in a shooting and/or any deadly force incident are prohibited from making a written statement regarding the incident;

Written statements regarding the incident shall be prepared by the local CBP investigating officer(s)/agent(s) and shall be based upon an interview of these CBP employees. In addition, the supervisor should complete a Reportable Use of Force Incident Data Form, CBP Form 318 (Appendix VI, available as an e-form on CBPnet) for submission to UFPD; and

(6) Assume on-scene responsibility for media contacts and prevent media disruption of CBP activities at the scene.

f. Provide to the RO, within one (1) hour, or as soon as practicable, of the arrival of CBP management or the CIT at the scene of the incident, a preliminary report of the status of the situation, including updated information regarding the condition of injured persons and the employee(s) involved in the incident.

g. Ensure that upon completion of the investigation of the incident that a single, consolidated report of the incident is prepared by the investigative team.

h. Ensure that any use of force and/or officer safety issues that are identified during the investigation (e.g., equipment, training, tactics or policy) are promptly brought to the attention of UFPD.

D. CBP Personnel Involved in a Use of Deadly Force Incident

1. While CBP's internal investigation of the incident, or a criminal investigation of the incident, is being conducted, the RO may, with the concurrence of the appropriate AC, continue the officer/agent on Administrative Leave with pay until either or both of the investigations are completed. If any such investigation lasts more than 30 days beyond the date of the use of deadly force incident, the RO shall provide the affected employee with a status report of the investigation(s) at 30-day intervals until the employee is returned to full duty status. The report may be oral or in writing, and shall inform the employee of the status of the investigation(s) to the extent known by CBP and an estimated time of completion of the investigation(s).

2. CBP's Drug-Free Federal Workplace Program – Post-incident drug testing shall be required when there is a reasonable suspicion that the actions of the officer/agent were the result of illegal drug use. The decision to require post-incident testing must be based on articulable facts, evidence and circumstances and be undertaken in accordance with the standards and procedures documented in Chapter 5, Part C of the *U.S. Customs Service Drug-Free Federal Workplace Program* (CIS HB 51200-01A), dated April 2002.

E. Discharge of a Firearm

1. All reportable shooting incidents, as defined below, must be reported to the Commissioner's Situation Room by a supervisor in accordance with CBP Directive 3340-025C (or any successor policy) and to the Joint Intake Center (JIC).

   All reportable firearms discharges shall be reported to UFPD via CBP Form 318 – Reportable Use of Force Incident Data (Appendix VI, available as an e-form on CBPnet). Firearms discharges pursuant to Chapter 5.F are exceptions to this reporting requirement.

Reportable incidents are defined as:

a. Any incident that involves the discharge of a firearm by an Authorized Officer/Agent, either intentional or unintentional, which occurs under the following circumstances:

   (1) While on duty (except for intentional discharges which occur during firearms training, practice, or qualification, and do not cause any injury to a person or animal, or damage to private, public, or government property); or

   (2) While off duty, and causes any injury to any person, or any damage to either private, public, or government property in violation of any law or ordinance, or causes an investigation by any law enforcement agency; or

   (3) At any time, regardless of the Authorized Officer's/Agent's duty status, and regardless of the location or outcome of the incident, when a CBP-issued or approved firearm is, or reasonably appears to be, discharged in an unsafe or reckless manner due to impairment caused by the consumption of alcohol or another drug.

b. Any incident which involves the discharge of a CBP-issued firearm by any person other than an Authorized Officer/Agent, and causes any injury to any person, or any damage to any private, public, or government property in violation of any law or ordinance, or causes an investigation by any law enforcement agency;

c. Any incident that involves the discharge of a firearm as an act of assault against any Authorized Officer/Agent, or employee, and the assault is, or reasonably appears to be, related to that officer's/agent's CBP employment; or

d. Any incident that involves the discharge of a firearm by a law enforcement officer other than an Authorized Officer/Agent, when the discharge occurs during multi-agency operations involving CBP personnel.

2. After any discharge resulting in personal injury or property damage where a firearm malfunction is suspected, the RO must immediately send the firearm and ammunition to the appropriate UFPD facility for examination, unless the firearm is required for an ongoing federal, state or local law enforcement investigation or legal action.

   When an officer/agent is required to relinquish his or her CBP-issued firearm, but the authority to carry a firearm has not been revoked, the officer/agent shall promptly be provided with:

a. A replacement firearm;

b. The opportunity to familiarize himself or herself with the replacement firearm under the supervision of a FI;

c. An opportunity to qualify with the replacement firearm if required by Chapter 6; and

d. Ammunition equivalent to the number of rounds necessary to complete two courses of fire under the applicable components qualification course.

3. To send a firearm to the UFPD facility, ensure that the firearm and magazine are unloaded and that it has **NOT** been cleaned or disassembled prior to shipping.

4. When an unintentional discharge occurs and the officer/agent has any reason to believe that the firearm has malfunctioned, the firearm must be immediately sent to the UFPD facility for examination.

5. A shooter-induced unintentional discharge in which there is no personal injury or property damage, and for which the officer/agent acknowledges responsibility, does not require the firearm be sent to the UFPD facility. Post-incident safety and function remedial training shall be provided and documented by the local FI. The documentation shall be included in the incident investigation file.

F. Reporting Use of Intermediate Force

1. Verbal Notification Procedures:

   Any incident that results in physical contact with intermediate force devices must be reported orally to a supervisor. Unless the reporting employee is physically incapacitated or otherwise unable, the report shall be made within one (1) hour of the time the incident occurs. The oral report shall be made in person, via radio, or telephone and shall include the following information, if known:

   a. The date, the time and the location of the incident;

   b. The device(s) used by the officer/agent and subject;

   c. The nature and the extent of any injuries claimed or observed; and

   d. The name, date of birth, and physical location of the subject(s).

2. Written Notification Procedures:

   a. The supervisor on-duty shall submit a preliminary written report by the end of the work shift through the chain of command.

b. CBP supervisors shall send reports through their respective chains of command. Copies of the written reports shall be sent to the appropriate AC and to the Director of UFPD within ten (10) business days or as soon as practical.

c. Authorized Officers/Agents shall report incidents involving the use of intermediate force (not resulting in serious injury or death) to UFPD by utilizing CBP Form 318 – Reportable Use Of Force Incident Data (Appendix VI, available as an e-form on CBPnet). Uses of force that result in serious injury or death shall be reported to UFPD by CBP supervisors.

3. Special Considerations:

Before fulfilling reporting requirements in this section, Authorized Officers/Agents shall offer medical attention to any person who claims or appears to be injured.

G. Intermediate Force – Serious Physical Injury or Death

Any use of force that results in serious physical injury or death shall follow the report procedures described in Chapter 5 for reporting the use of deadly force.

Chapter 6: Use of Force Proficiency and Training

A. Demonstration of Firearms Proficiency

1. All Authorized Officers/Agents who carry a CBP-authorized firearm(s), on or off-duty, must maintain an acceptable level of proficiency. All officers/agents are required, on a quarterly basis, to demonstrate their proficiency in the use of each of the firearms that they are authorized to carry (unless one of the exceptions noted in Chapter 6.B apply).

2. The RO or his/her designee shall ensure that officers/agents demonstrate proficiency with additional firearms needed to meet operational requirements (e.g., a rifle, shotgun, etc.). Authorized Officers/Agents who cannot demonstrate proficiency with such firearm(s) will not be allowed to carry such types of firearm(s), but this shall not affect their ability to carry their CBP-issued and/or CBP-authorized handgun(s).

3. ROs shall ensure that Authorized Officers/Agents participate in a minimum of four (4) hours of firearms training each qualification period (unless one of the exceptions noted in Chapter 6.B apply).

4. The successful demonstration of proficiency satisfies the requirements that enable the officer/agent to carry that firearm until the last day of the next quarter (unless one of the exceptions noted in Chapter 6.B apply, in which case the time period will be extended as specified in that subsection).

5. An acceptable level of proficiency, pursuant to guidelines established by the Director of UFPD, is based on all of the following:

   a. Successfully completing the approved CBP qualification courses of fire in no more than two consecutive attempts and achieving at least the minimum numerical score as determined by the Director of UFPD;

   b. Demonstrating proper handling techniques and manual dexterity required to safely draw, fire, holster, load, unload and operate the firearm;

   c. Demonstrating safe weapon handling skills with the firearm during all firearms training;

   d. Successfully completing advanced firearms training exercises, pursuant to guidelines established or approved by the Director of UFPD; and

   e. Demonstrating appropriate responses to the failure or malfunction of firearms or ammunition, including immediate action drills and weapons clearing procedures.

6. The quarter timeframes referenced in the proficiency requirements are:

   a. First Quarter - October through December;

   b. Second Quarter - January through March;

   c. Third Quarter - April through June; and

   d. Fourth Quarter - July through September.

7. When an Authorized Officer/Agent fails to demonstrate proficiency with any authorized firearm, the officer/agent loses authorization to carry that firearm.

   In instances where an Authorized Officer/Agent is unable to demonstrate the required level of proficiency with a shoulder-fired or specialized weapon, and the authority to carry such weapon is revoked, the officer/agent shall not be assigned to duties that normally require the carrying of such weapon(s). However, if the officer/agent is qualified to carry a handgun and is assignable to duties where the carrying of a shoulder-fired or specialized weapon is not required, the officer/agent shall be assigned to those duties.

   The officer/agent must demonstrate proficiency before being reauthorized to carry any firearm for which he or she failed to demonstrate proficiency. This demonstration of proficiency shall enable the officer/agent to carry the firearm for the remainder of the current quarter and shall satisfy the requirements to carry that firearm until the next quarterly qualification (unless one of the exceptions noted in Chapter 6.B apply, in which case the time period will be extended as specified in that subsection).

8. An officer/agent who is unavailable to participate in the quarterly demonstration of firearm(s) proficiency (Did Not Fire) is still qualified until the last day of the current quarter. The officer/agent, however, is neither qualified nor authorized to carry any CBP-authorized firearm after the last day of the current quarter until he or she successfully demonstrates proficiency (unless one of the exceptions noted in Chapter 6.B apply, in which case the time period will be extended as specified in that subsection).

9. Each officer/agent must complete the night fire or low-light familiarization course of fire, approved by the Director of UFPD, on an annual basis (sunglasses or similar devices may not be used to simulate night or reduced light conditions).

10. Managers/supervisors are responsible for planning schedules to ensure that Authorized Officers/Agents are able to participate in required training and proficiency demonstration.

11. Officers/agents are responsible for planning their activities to ensure that they participate in required training and proficiency demonstration.

12. If an officer/agent is detailed to another duty station and will miss firearm(s) qualification at their permanent duty station, the officer/agent shall notify managers/supervisors at the temporary duty station of his or her need to qualify during that quarter.

13. No portion or stage of any firearms qualification or familiarization course may be waived or altered, except as prescribed in Appendix VII or VIII.

B. Unable to Participate

1. Authorized Officers/Agents who are unable to participate in firearms and/or intermediate force device qualifications due to an authorized absence shall be excused from such requirement(s) in accordance with the provisions of this subsection. Except as provided in Chapter 6.B.4, officers/agents shall not be excused from the requirement to qualify with firearms for more than two consecutive quarters.

   An authorized absence includes a detail away from an officer's/agent's official duty station, any type of approved leave, or compensatory time off. Officers/agents who are excused under these circumstances may continue to carry a firearm and/or intermediate force device.

   Make-up qualifications should be scheduled in the same quarter as the regular qualification. Officers/agents who are unable to attend a make-up qualification due to an excused absence shall be excused from the requirement to qualify for that quarter.

2. If an officer/agent does not participate in the required quarterly firearms qualification for two consecutive quarters, the RO shall revoke the officer's/agent's authority to carry a firearm.

   In the case of handguns, the Authorized Officer/Agent shall be required to relinquish his or her CBP-issued handgun to a supervisor, who will provide the officer/agent with a written record of the transfer of such item(s). The officer/agent shall be re-issued his or her CBP-issued handgun upon qualifying and demonstrating proficiency.

   If an officer/agent does not participate in the required annual intermediate force device qualification within 180 days after the expiration of his or her previous certification, the RO shall revoke the officer's/agent's authority to carry such device(s), and the officer/agent shall be required to surrender such device(s).

   The officer/agent shall be reissued his or her CBP-issued handgun or intermediate force device(s) upon qualifying and demonstrating proficiency.

In all such instances, the officer/agent must be provided with a written notice at least five working days prior to such revocation, and must be provided with reasonable opportunities to participate in such qualifications prior to the actual revocation.

3. Officer/Agent on Detail

   a. If an Authorized Officer/Agent is detailed to another duty station and will miss one or more firearms qualification(s) and/or an annual intermediate force device qualification at his or her permanent duty station, the officer/agent shall notify supervisory or management officials at the temporary duty station of his or her need to qualify during that quarter.

   b. If the detailed Authorized Officer/Agent is performing duties that normally require he carrying of a firearm, the RO who is responsible for the officer's/agent's temporary duty station shall make reasonable efforts to provide the means and the opportunity for the officer/agent to qualify during that quarter.

   c. If the detailed Authorized Officer/Agent is performing duties that are routinely performed by officers/agents who do not carry a firearm and/or intermediate force device, the officer may be exempted from the requirement to qualify until he or she returns to his or her permanent duty station.

4. Exemptions to Qualification Requirements

   a. An Authorized Officer/Agent may be granted an exemption to the requirement to participate in quarterly firearms qualifications and/or annual intermediate force device qualifications due to a temporary physical condition which affects the officer's/agent's ability to properly utilize a handgun and/or intermediate force device.

      Accordingly, an officer/agent granted such an exemption is excused from participating in quarterly firearms qualification and/or annual intermediate force device qualifications for the period for which the exemption is granted. A temporary physical condition may be caused by injury, surgery, illness or pregnancy, and normally will not exceed 180 days. On a case-by-case basis, extensions may be granted. Under no circumstances will an exemption be granted for more than 270 days.

   b. An exemption shall not be granted for non-physical conditions or mental trauma related to mental illness deemed by a mental health professional to adversely affect the officer's/agent's judgment regarding the use of deadly force. Such mental disability shall require immediate revocation of authority to carry a firearm and intermediate force device.

c. Authorized Officers/Agents granted such an exemption must be able, at any time, to demonstrate an acceptable level of proficiency in accordance with the requirements listed in Chapter 6.A.5(b), (c) and (e).

d. Authorized Officers/Agents requesting such an exemption must provide their supervisor with a written doctor's recommendation. The recommendation must describe the nature of the disability and the anticipated duration of the disability.

e. The RO's decision regarding the granting of an exemption and the duration thereof shall be based on all available relevant information. Such information may include the medical documentation submitted by the officer/agent, records of the officer's/agent's prior firearms and/or intermediate force device qualifications and the recommendations of the Firearms Instructor(s) and/or Intermediate Force Instructor(s) and supervisory personnel.

f. The authority to grant these exemptions is limited to ROs.

g. Authorized Officers/Agents granted an exemption from qualifying for these reasons shall receive a written authorization to continue carrying handgun(s) and/or intermediate force device(s). The written notice shall include a specific expiration date of the exemption, and a description of the handgun(s) and/or intermediate force device(s) the officer/agent is authorized to carry,

h. As soon as possible after the expiration of the exemption, but within thirty (30) days, the RO shall ensure that the officer/agent is provided with reasonable opportunities to demonstrate proficiency with each firearm(s) and/or intermediate device(s) he or she is authorized and/or required to carry.

C. Failure to Qualify

1. An Authorized Officer/Agent who fails to demonstrate proficiency with any authorized firearm shall have his or her authority to carry that type of firearm suspended and shall immediately relinquish such firearm to the Firearms Instructor (FI). The officer/agent will be provided with a written record of the transfer of such item(s). The officer/agent shall promptly be scheduled for and attend remedial training with a CBP-certified FI. Remedial training shall be conducted during normal duty hours and begin as soon as practicable after failure to qualify.

2. Each Firearms Instructor should use lesson plans and training aids or materials provided by the Advanced Training Programs necessary for the presentation of remedial training. These items shall be based on CBP-approved Basic Marksmanship Instruction and Practical Pistol course lesson plans, and shall include a combination of classroom instruction and live-fire training.

Remedial training for all officers/agents (except Border Patrol Agents) shall not exceed two (2) hours per day for a total of eight additional hours (Border Patrol Agents should refer to Appendix VIII).

3. An officer/agent who, after completing the remedial training, is still unable to demonstrate the required level of proficiency shall have the removal of his or her CBP-issued firearm recorded in the CBP firearms information tracking system.

4. An officer/agent who, following remedial training, is unable to demonstrate proficiency with the firearm shall not perform duties that require the carriage of a firearm and may be subject to reassignment or removal.

   If such inability to demonstrate proficiency is for reasons that are beyond the officer's/agent's control, he or she may be reassigned to a position that does not require the carrying of a firearm. Such reassignment shall not obligate CBP to pay relocation expenses and shall not involve reassignment to a position which has non-competitive promotion potential beyond the position from which the officer/agent is reassigned.

   If such inability to demonstrate proficiency is for reasons that reasonably appear to be within the officer's/agent's control, he or she may be removed from employment in accordance with applicable laws, government-wide regulations and CBP policies.

D. Firearms Instructors

1. Each RO shall designate a Primary Firearms Instructor (PFI). The PFI may be a supervisor. The PFI shall:

   a. Manage the firearms training, practice or qualification programs;

   b. Schedule and direct the other FIs;

   c. Ensure all qualification scores are recorded in the CBP firearms information tracking system;

   d. Maintain sufficient quantities of supplies to conduct the firearms program;

   e. Coordinate the scheduling of officers/agents to participate in the required firearms qualifications and all applicable training, including use of force, tactical exercises and other required training;

   f. Make final determinations regarding proficiency, consistent with the provisions and requirements of this policy; and

   g. Manage the overall firearms and use of force program within his or her area of responsibility.

NOTE: Operational components may also designate PFI personnel at the Sector or Field Office level to assist the RO in administering the firearms program.

2. Each RO shall designate officers/agents to perform full-time or collateral duties as a FI. It is recommended that the designation be for a minimum of five (5) years in duration, if the officer/agent remains assigned to that duty location.

3. The Director of UFPD shall establish the criteria for the selection and certification of an FI. The Director of UFPD shall maintain a record of all certified FIs.

4. All FIs must have successfully completed a CBP/UFPD-approved Firearms Instructor Training Program. FIs must be able to cross-train other CBP operational components.

5. FIs are required to be re-certified at least once every five (5) years through a re-certification program approved by the Director of UFPD. On a case-by-case basis, an extension of one (1) year may be approved by the Director of UFPD.

6. FIs must successfully complete training as specified by the Director of UFPD. For those Authorized Officers/Agents who are involved in full time instructional duties for firearms or participate in an extended detail as an FI to the CBP academies, the five (5) year time frame begins once they leave the full time position or the detail ends.

7. FIs must participate as an instructor in at least one qualification event per year to maintain certification.

8. During firearms training, practice or qualification sessions, FIs are responsible for taking all reasonable steps to ensure the safety and security of all personnel and property. They are authorized to remove any person from the range who refuses to comply with safety instructions or otherwise would pose a safety risk.

E. Range Safety Officers

Range Safety Officers (RSOs) are utilized to augment safety requirements on a range during authorized firearms training. They are trained locally using a prescribed program authorized by the Director of UFPD and administered by a FI. Once they complete the program requirements they can act as safety officers during established qualification and familiarization courses of fire.

RSOs do not carry any firearms instructor certification and therefore cannot take the place of certified FIs. A certified FI is required to conduct any and all training that utilizes RSOs.

F. Intermediate Use of Force Proficiency and Training

1. While performing uniformed law enforcement duties, Authorized Officers/Agents who carry firearms are required to carry either OC spray or a CSB (an officer/agent who is certified in both intermediate force devices may choose to carry either or both). Annual re-certification training is mandatory for all armed officers/agents, regardless of their assigned duties (unless one of the exceptions noted in Chapter 6.B apply).

2. ROs shall ensure that a minimum of four (4) hours of Intermediate Use of Force training is conducted during each qualification period. Each such training block may include the annual re-certification on an intermediate force device.

3. Training guidelines shall be established by the Director of UFPD and shall include training in the following areas:

   a. Intermediate use of force devices (e.g. OC spray, the CSB);

   b. Control and arrest techniques;

   c. Edged weapons defense; and

   d. Defensive tactics.

G. Intermediate Force Device Basic Certification and Remedial Training

1. No Authorized Officer/Agent shall be allowed to carry an intermediate force device until they have successfully completed the initial course of instruction for such device and have been certified in its use.

2. Successful completion/certification in the use of both OC spray and the CSB is required at the basic training academies.

3. Remedial training shall be provided to Authorized Officers/Agents who are unable to demonstrate the required degree of proficiency. Such training shall be no more than eight (8) hours per device to allow the officer/agent to certify or improve their abilities (Border Patrol Agents should refer to Appendix VIII).

H. Intermediate Force Device Re-Certification and Remedial Training

1. Re-certification in the use of intermediate force devices shall be required on an annual basis. If an officer/agent is detailed to another duty station and will miss qualification at their permanent duty station, the officer/agent shall notify mangers/supervisors at the temporary duty station of his or her need to qualify during that quarter.

2. Authorized Officers/Agents who are unable to demonstrate an acceptable level of proficiency shall have their authority to carry that authorized intermediate force device suspended until they have demonstrated required proficiency. An Authorized Officer/Agent who fails to demonstrate proficiency with any required intermediate force device shall promptly be scheduled for and attend remedial training with a CBP-certified intermediate force instructor. Remedial training shall be conducted during normal duty hours and begin as soon as practicable after failure to qualify.

3. Remedial training for all Authorized Officers/Agents, including trainees at the CBP basic academies, shall not exceed eight (8) additional hours (Border Patrol Agents should refer to Appendix VIII).

4. An officer/agent who, after completing the remedial training, is still unable to demonstrate the required level of proficiency shall immediately relinquish that authorized intermediate force device to the IFI conducting the remedial training. This relinquishment shall be documented in accordance with CBP property control policy and practice. The officer/agent will be provided with a written record of the transfer of such item(s).

5. An officer/agent who, following the completion of remedial training, is unable to demonstrate proficiency with the intermediate force device shall not be assigned to perform duties that require the carriage of an intermediate force device and may be subject to reassignment or removal from employment.

   If such inability to demonstrate proficiency is for reasons that are beyond the officer's/agent's control, he or she may be reassigned to a position that does not require the carrying of an intermediate force device. Such reassignment shall not obligate CBP to pay relocation expenses and shall not involve reassignment to a position which has non-competitive promotion potential beyond the position from which the officer/agent is reassigned.

   If such inability to demonstrate proficiency is for reasons that reasonably appear to be within the officer's/agent's control, he or she may be removed from employment in accordance with applicable laws, government-wide regulations and CBP policies.

I. Exposure to Oleoresin Capsicum (OC)

One exposure to OC spray shall be required as part of the basic certification course for Authorized Officers/Agents to carry OC.

1. As part of the basic training at the CBP academies, officers/agents shall be exposed as part of the course of instruction (bargaining unit employees should refer to Appendix VII or VIII).

2. Officers/agents who have already completed the basic academy prior to the effective date of this policy, but who have not been exposed to OC, are not required to be exposed but are required to attend the OC re-certification course and participate in quarterly intermediate force training.

J. Intermediate Force Instructors (IFIs) & Intermediate Force Instructor Trainers

1. Each RO shall designate officers/agents to perform full-time or collateral duties as an IFI.

2. The Director of UFPD shall establish the criteria for the selection, certification and re-certification of IFIs. Such criteria must be reasonable and fairly applied in all selection, certification and re-certification actions. The Director of UFPD shall maintain a record of all certified IFIs.

3. IFIs are required to be re-certified at least once every five (5) years. To maintain their certification, IFIs must instruct at least one class per year. On a case-by-case basis, a certification extension of up to one year may be granted by the Director of UFPD.

4. IFIs must successfully complete training as specified by the Director of UFPD. For those officers/agents who are involved in full time instructional duties for the use of intermediate force or participate in an extended detail in defensive tactics to the CBP academies, the five (5) year time frame begins once they leave the full time position or the detail ends.

5. During intermediate use of force training, practice or certification sessions, IFIs are responsible for taking all reasonable steps to ensure the safety and security of all personnel and property. IFIs are authorized to remove any person from the training area who refuses to comply with safety instructions or otherwise would pose a safety risk.

Chapter 7: Intermediate Force Devices

A. Authorization to Use Intermediate Force Devices

1. All Authorized Officers/Agents shall participate in UFPD-approved training for the Collapsible Straight Baton (CSB) and Oleoresin Capsicum (OC) spray. All officers/agents are required to be certified in and carry either OC spray or a CSB while performing uniformed duties.

   a. An officer/agent who is certified in both intermediate force devices may choose to carry either or both.

   b. An officer/agent who is only certified in one intermediate force device shall carry that device.

2. Re-certification training shall be required annually as outlined in Chapter 6.F of this policy.

3. In addition, Authorized Officers/Agents who are trained and UFPD-certified in their use may use the following intermediate force devices:

   a. Chemical agents;

   b. CSBs of non-standard length;

   c. Riot batons;

   d. Munition launchers (e.g. Pepper Ball); and/or

   e. Other intermediate force devices authorized, in writing, by the Director of UFPD with the concurrence of the operational component ACs.

B. Use of Chemical Agents

1. Officers/agents may use only chemical agents authorized by the Director of UFPD, as listed in Appendix IV. Authorized Officers/Agents shall not carry personally-owned OC devices or chemical agents for official use.

2. UFPD-authorized chemical agents may be used as an intermediate force option to temporarily incapacitate an assailant. They may be used in situations where empty-hand techniques are not sufficient to control disorderly or violent subjects, but where deadly force is not justified.

3. The use of chemical agents must be discontinued after a subject has been subdued or incapacitated.

4. Officers/agents shall conduct decontamination of the subject as soon as it can be safely effected.

C. Chemical Munitions

1. UFPD-authorized and CBP-issued CS (O-Chlorobenzylidenemalononitrile) or OC spray may be used.

2. These chemical munitions may be fired from a compressed air kinetic impact delivery system (or similar device) or from a 12 gauge or 40 mm weapon. Such devices shall be procured, inventoried, transferred, and excessed in accordance with Chapter 11 and CBP firearms information tracking system protocols.

3. These chemical munitions shall be used only by officers/agents who have received UFPD-approved training and certification in their use and shall only be used in accordance with such training.

D. Procurement of Chemical Agents/Munitions

ROs shall only purchase chemical agents/munitions through contracts and procedures established by UFPD. Purchase Card acquisitions of chemical agents/munitions must be approved in writing by the Director of UFPD.

E. Storage, Transportation and Issuance of Chemical Agents/Munitions

1. Unissued chemical agents/munitions shall be stored in a secure room with limited access and in a secure safe or container separate from other firearms and ammunition. In addition, chemical agents/munitions should be stored per current industry standards in a cool, dry environment and be rotated periodically.

2. Chemical agent/munition inventory control is the responsibility of the RO, and may be delegated to the PFI/PIFI.

3. The TSA and FAA do not permit any chemical agents in the cabin of a commercial aircraft. As provided by 49 C.F.R. § 175.10, self-defense spray (mace or pepper spray) may be carried in checked baggage, provided the container does not exceed four (4) fluid ounces and has a positive means to prevent accidental discharge. Chemical agents carried onboard CBP aircraft shall be carried in accordance with the CBP Air Operations Handbook (AOH).

4. Upon successful completion of the OC certification course, an Authorized Officer/Agent shall be issued an OC device and a holder. Such items shall be replaced as necessary without cost to the officer/agent.

5. Officers/agents are responsible for advising their supervisors when the chemical agents issued to them are approaching the end of their useable life so that they can be replaced prior to their expiration date.

6. Officers/agents are required to turn in expired, damaged, or empty OC spray canisters to the PFI/PIFI for proper disposal in accordance with local Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) requirements.

F. Approved Batons

1. Authorized Officers/Agents may use only CSBs authorized by the Director of UFPD, as listed in Appendix IV. Officers/agents may not carry personally-owned batons for official use.

2. Upon successful completion of the CSB certification course, an Authorized Officer/Agent shall be issued a baton (in the length preferred by the officer/agent) and a holder. Such items shall be replaced as necessary without cost to the officer/agent.

G. Procurement of Batons

ROs shall only purchase CSBs through contracts and procedures established by UFPD. Purchase Card purchases of batons are prohibited without written approval from the Director of UFPD.

H. Use of Approved Batons

1. The use of the CSB must be objectively reasonable and necessary based on the totality of circumstances.

2. The following acts and techniques with the CSB are prohibited when using intermediate force:

   a. Choke holds, carotid control holds, and other neck restraints;

   b. Use of a baton to apply "come-along" holds to the neck area; and

   c. Intentional strikes with the baton to the head, the neck, the face, the groin, the solar plexus, the kidneys or the spinal column.

3. When a subject stops his or her assaultive resistant behavior, the use of the CSB as an impact device must also stop.

I. Training in Intermediate Force Techniques, Tactics and Devices

Authorized Officers/Agents must participate on a quarterly basis in intermediate force techniques, tactics and device training conducted by Intermediate Force Instructors. The Director of UFPD shall prescribe appropriate training to meet operational needs or to update skills or knowledge.

J. Reporting Requirements for Use of Intermediate Force Devices

When Authorized Officers/Agents employ an approved intermediate force device in accordance with the Use of Force Continuum (Appendix V) the officer/agent shall report the incident in accordance with the requirements of Chapter 5.

Chapter 8: Aviation and Marine Enforcement

A. General Guidelines

1. Warning shots are not permitted except as follows:

   a. Warning shots may be used by Authorized Officers/Agents when conducting maritime law enforcement operations only as a signal to stop a vessel.

   b. Warning shots may be used by Authorized Officers/Agents when conducting aviation law enforcement operations only as a signal to an aircraft to change course and follow direction to leave airspace.

2. Firearms may not be used solely to disable moving vehicles, vessels, aircraft or other conveyances, except when Authorized Officers/Agents are conducting maritime law enforcement activities against maritime conveyances.

B. Marine Enforcement

1. Training and Certification

   a. Only those Authorized Officers/Agents who have successfully completed the required training, as mandated by the Director of UFPD, shall be authorized to utilize warning shots and/or disabling fire.

   b. Only ordnance approved by the Director of UFPD, shall be authorized for use in conducting warning and/or disabling shots.

   c. Warning shots and disabling fire shall be deployed with strict adherence to UFPD-approved programs policies, procedures and directives.

2. Warning shots are to be used as a signal only. They are used to attract attention after all other available means of signaling have failed. This conforms to United States and international law, which recognize warning shots across the bow of vessels as legitimate signals.

3. Warning shots pose a potential hazard; therefore, good judgment must be exercised at all times. They may be fired only to signal a vessel to stop. They cannot be fired where there is a reasonable belief that personal injury, death, or property damage will occur. Safety shall always be the first consideration when firing warning shots.

4. Warning and or disabling shots shall be fired only in open waters, when the range is clear and when land or another vessel is not in the line of fire and within range of the projectile(s).

5. Use of Disabling Fire

   a. When a pursued vessel fails to comply with an order to stop, and warning shots have been deployed, the CBP Vessel Commander may elect to authorize disabling fire. The deployment of disabling fire must be in strict accordance with UFPD-approved policies, procedures and directives.

   b. The Authorized Officers/Agents must utilize only ordnance authorized by the Director of UFPD, for disabling fire. The authority to commence disabling fire rests with the Vessel Commander. The decision to fire, however, ultimately rests with the shooter. It is the shooter's responsibility to ensure the safe deployment of the disabling rounds and it must be done in strict accordance with UFPD-approved policies, procedures and directives.

6. Defense Against Ramming Attempts

   In maritime situations where Authorized Officers/Agents believe that they are in imminent danger of being rammed, and the ramming or attempt to ram is believed to be intentional, CBP personnel can invoke deadly force in self-defense in the circumstances set forth below and in Chapter 4.C. To stop a ramming by using deadly force, the following criteria must be met:

   a. The subject vessel must pose an imminent threat of serious physical injury or death to CBP personnel;

   b. The ramming attempt must appear to the officer/agent to be intentional. If not specifically threatened, the intent to ram may be reasonably inferred based on facts and circumstances, including but not limited to the following:

      (1) An uncooperative and belligerent attitude toward generalized warnings or orders to "heave to;" or

      (2) An uncommunicative vessel which refuses to respond to CBP queries, signals, or presence, and does not appear to have difficulties in maneuvering, such as when a sudden change of course is obviously made to collide with the CBP vessel; and

   c. The CBP vessel cannot prevent the ramming by maneuvering clear.

C. Aviation Enforcement

1. Training and Certification

   a. Only those Authorized Officers/Agents who have successfully completed the required training, as mandated by the Director of UFPD, shall be authorized to utilize warning shots.

b. Only ordnance approved by the Director of UFPD shall be authorized for use in conducting warning shots.

c. Warning shots shall be deployed with strict adherence to UFPD-approved programs policies, procedures and directives.

2. Warning shots are to be used as a signal only. They are used to attract attention after all other available means of signaling have failed. This conforms to United States and international law, which recognize warning shots across the nose of aircraft as legitimate signals.

3. Warning shots pose a potential hazard; therefore, good judgment must be exercised at all times. They may be fired only as a signal to an aircraft to change course and follow direction to leave airspace. They cannot be fired where there is a reasonable belief that personal injury, death, or property damage will occur. Safety shall always be the first consideration when firing warning shots.

4. Warning shots shall be fired only when the range is clear.

5. The Aircraft Commander is responsible for authorizing the use of warning shots.

D. Reporting the Use of Warning or Disabling Shots

1. Air Enforcement – The Aircraft Commander shall report any use of warning shots to the local CBP communications center.

2. Marine Enforcement – The Vessel Commander shall report any use of warning and/or disabling shots to the local CBP communications center.

3. Warning and disabling shots are considered an Intermediate Use of Force. Reporting shall be in accordance with Chapter 5 F.

4. In addition, a supervisor shall complete a Significant Incident Report for any use of warning and/or disabling fire and submit it to the Commissioner's Situation Room in accordance with CBP Directive 3340-025C (or any successor policy) and to the Joint Intake Center (JIC).

5. Authorized Officers/Agents shall report incidents involving the use of warning or disabling shots (not resulting in serious injury or death) to UFPD by utilizing CBP Form 318 – Reportable Use Of Force Incident Data (Appendix VI, available as an e-form on CBPnet). Uses of force that result in serious injury or death shall be reported to UFPD by CBP supervisors.

Chapter 9: Special Programs

A. Border Patrol Tactical Unit (BORTAC)

BORTAC, acting as a national special response unit for CBP, may test, evaluate and utilize any weapons system or weapon-related equipment with the written approval of the AC of an operational component and the concurrence of the Director of UFPD.

B. Special Response Team (SRT)

Any SRT use of force or special weapons training will be consistent with the guidelines and procedures established by BORTAC, authorized by the Director of UFPD and approved by the appropriate AC of an operational component.

C. Special Weapons

1. BORTAC, SRT and specifically designated Authorized Officers/Agents may use specialized firearms, not otherwise listed in Appendix IV, which are specifically approved by the appropriate AC of an operational component with the concurrence of the Director of UFPD.

2. Only BORTAC, SRT and specifically designated Authorized Officers/Agents who have successfully completed the required training, as mandated by the Director of UFPD, shall be authorized to utilize special weapons. Every quarter, these officers/agents must demonstrate proficiency with each special weapon that they are authorized to carry.

D. Training and Testing

As directed by the Director of UFPD, selected Authorized Officers/Agents, FIs or officers/agents assigned to approved SRTs (including detail assignments) may transport and use any firearm in the CBP inventory, any firearm selected by the Director of UFPD for training or operational purposes, or any firearm under consideration by CBP for acquisition for the purpose of conducting:

1. Any training approved by the Director of UFPD; and/or

2. Testing and evaluation of weapons as directed by the Director of UFPD.

E. Honor Guards

Authorized Officers/Agents assigned to an honor guard unit may use firearms specifically approved by the appropriate AC of an operational component with the concurrence of the Director of UFPD. If the firearms are carried loaded, the

officers/agents must successfully complete the required training and certification for each specialized firearm and demonstrate proficiency.

F. CBP-Authorized Competitive Shooting Teams

1. Participation in competitive shooting events is encouraged. CBP may provide support at the local level, to include funds, ammunition and administrative leave as determined by the Field Office or Sector. Officers/agents are required to submit a written request for support and must provide match results from those events. Use of CBP-issued weapons in competitive events is authorized.

2. National competitive shooting teams may be selected on a yearly basis, based on the availability of funds allocated and with the approval of the AC of the respective operational component and/or the Director of UFPD.

3. Use of CBP-issued weapons for competitive team shooting is limited to organized firearms sporting events, competitions, or commercial, public, or government-owned ranges.

G. Explorer Programs

CBP participation in the Law Enforcement Explorer program is encouraged. Local and national support may be made available when funding and manpower permit.

Participants in the Explorer program must adhere to all appropriate safety rules and protocols when utilizing CBP equipment and facilities.

Chapter 10: Foreign Travel and Assignments

A. Foreign Travel

Authorized Officers/Agents who carry firearms and/or intermediate force devices into a foreign country on official business must notify (and receive advance approval from) the AC of the respective operational component, the AC of International Affairs (INA) and the U.S. Embassy, and verify procedures regarding transit country(s) (if required) prior to travel.

B. Foreign Assignments

The following procedures are for officers/agents who are assigned or will be assigned to an overseas post of duty:

1. Import and export of firearms, as well as carriage of a firearm in a foreign country, requires approval from the U.S. Embassy and the AC of INA.

   When approval is granted, the Authorized Officer/Agent will be issued a firearm from a permanent inventory of firearms at the post of duty. If available at that location, such weapons will be of the same type that they normally carry. Each duty post may have spare primary firearms for officer/agent use when in country.

   a. These firearms shall be assigned to the CBP Attaché (or other designated representative) who shall act as the RO for the purposes of entering the assignment into the CBP firearms information tracking system and shall ensure compliance with all appropriate national policies and appropriate foreign laws.

   b. Request for weapons, other than handguns, shall be considered on a case-by-case basis with the approval of the appropriate AC of an operational component and the concurrence of the Director of UFPD.

   c. When Authorized Officers/Agents are on an extended foreign assignment that is expected to exceed ninety (90) days, their domestic CBP-issued firearm(s) must be returned to their PFI until they return.

      When an officer/agent either departs or returns from an extended foreign assignment they will make arrangements with their supervisor to secure or retrieve their CBP-issued weapon. The purpose of these arrangements is to minimize the time the officer/agent is without a weapon, thereby increasing officer/agent safety.

Chapter 11: Firearms Accountability

A. Control of Firearms, Munition Launchers and Body Armor

1. The Director of UFPD is responsible for providing policy guidance and system oversight of the firearms, munition launchers and body armor accountability process. Firearms, munition launchers and body armor are considered accounted for when they are assigned to a specific person by serial number and are associated with a specific geographical location. Locations are identified by the 16-digit U.S. Department of Agriculture organizational code table. Accountability information is maintained in the CBP firearms information tracking system.

2. Every CBP-issued and authorized firearm, munition launcher, and/or body armor must be recorded and its life cycle maintained in the CBP firearms information tracking system (acquisition, issuance, transfer, maintenance and destruction).

3. Authorized Officers/Agents shall physically verify and certify their inventory (e.g., firearms, body armor), recording such action as required in the CBP inventory system.

4. Supervisors shall physically verify and certify an employee's inventory (e.g., firearms, body armor), recording such actions as required in the CBP inventory system.

5. Upon separation of an officer/agent, the immediate supervisor is responsible for ensuring that all firearms, munition launchers and/or body armor is transferred in the tracking system to the PFI prior to clearance.

6. Managers and supervisors are responsible for the accuracy of inventories for their organizational components.

7. Managers must ensure that each of their officer's/agent's profiles in the tracking system is accurate.

8. PFIs must notify UFPD when a firearm and/or munition launcher undergoes any atypical change of disposition (such as use for competition, firearms being held as evidence, etc.).

B. Annual Inventory

1. The Director of UFPD shall conduct an annual automated inventory for all firearms, munition launchers, and body armor in CBP.

2. ROs shall ensure field compliance with completion of the inventory.

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C. Storage of Firearms, Munition Launchers and Body Armor

1. Each Authorized Officer/Agent shall be responsible for the general care and maintenance of assigned firearms, munition launchers, body armor and associated equipment.

    a. Officers/agents are expected to exercise good judgment in providing sufficient security for all CBP-issued firearms, munition launchers, body armor and other use of force devices to protect against theft or unauthorized use.

    b. Officers/agents may be subject to disciplinary action if a CBP-issued firearm, munition launcher, body armor or use of force device is stolen or lost and a determination is made that the officer/agent was negligent or used poor judgment in safeguarding that equipment.

2. All unissued CBP firearms shall be stored in locked firearms storage containers and in accordance with the policies and procedures cited in the *Interim Physical Security Guidance for Customs and Border Protection (CBP) Facilities* memorandum dated Oct. 25, 2006 (available on CBPnet).

3. A safety-locking device (cable lock, trigger lock and/or lock box) shall be issued to each Authorized Officer/Agent and shall be used when storing a CBP-issued firearm in a residence, temporary residence or lodging unless the weapon is on the officer/agent or in his/her immediate control. Immediate control means an officer/agent has control over who can access the weapon. These firearms shall be stored out of plain view and in a location that affords reasonable protection against theft or unauthorized use.

4. Issued Shoulder Fired Weapons (SFWs) and munition launchers shall be stored in a secure area with limited access. With the prior written approval of a supervisor, SFWs and munition launchers may be stored in a residence and must be secured by the use of an approved safety-locking device. The firearm and/or munition launcher shall be stored in a location that affords reasonable protection against theft or unauthorized use.

5. Firearms and munition launchers shall not be stored in vehicles, vessels, or aircraft overnight (or equivalent) unless there is a justified operational purpose and it is approved, in writing (e.g. e-mail) by a supervisor.

    a. Such approval must be obtained in advance; however the employee is not required to have a copy of the documentation with him/her.

    b. To receive approval for storage of a weapon under this subsection it must be able to be secured to the vehicle, vessel, or aircraft by locked chain, cable, or CBP-approved safety-locking device and concealed from view. Firearms and munition launchers stored in visible, vehicle-mounted racks do not meet the concealment or security requirement.

6. When Authorized Officers/Agents are on extended leave that is expected to exceed ninety (90) days, their CBP-issued firearm(s) may (at the officer's/agent's discretion) be returned to their PFI until they return to duty.

D. Lost or Stolen Firearms, Munition Launchers and Body Armor

1. CBP firearms, munition launchers and/or body armor that are lost or stolen shall be reported as follows:

   a. An Authorized Officer/Agent who has a firearm, munition launcher, and/or body armor lost or stolen shall report it to a supervisor as soon as practicable following the discovery of the loss or theft.

   b. The loss or theft of firearms and/or munition launchers shall be reported immediately through the chain of command to the Commissioner's Situation Room and the Joint Intake Center (JIC) by the RO (or his or her designee).

   c. Within twenty-four (24) hours of the incident, the firearm, munition launcher and/or body armor must be entered into the National Crime Information Center (NCIC) database by the RO (or his or her designee).

   d. The Director of UFPD must be notified through the CBP firearms information tracking system. The tracking system form shall be completed by the RO (or his or her designee) within twenty-four (24) hours. Detailed instructions for completing the form are contained in the help screens and training materials on CBPnet.

2. CBP personnel must comply with applicable local law enforcement reporting requirements for lost or stolen firearms and/or munition launchers.

3. When a CBP-issued firearm has been lost or stolen the officer/agent shall (so long as the authority to carry a firearm has not been revoked) promptly be provided with:

   a. A replacement firearm;

   b. The opportunity to familiarize himself or herself with the replacement firearm under the supervision of a FI;

   c. An opportunity to qualify with the replacement firearm if required by Chapter 6; and

   d. Ammunition equivalent to the number of rounds necessary to complete two courses of fire under the applicable components qualification course.

4. Lost or stolen body armor will be replaced as soon as practicable in order to allow employee to return to duty.

E. Board of Survey

1. The Headquarters Board of Survey (BOS) should meet within thirty (30) days of receipt of a Report of Survey for lost or stolen firearms and/or munition launchers. Body armor loss or theft should be reported to the Local Property Officer.

2. UFPD is responsible for documenting the BOS findings in the CBP firearms information tracking system.

F. Firearms Requests

1. Requests for firearms and/or munition launchers shall be documented in the CBP firearms information tracking system. PFIs shall request firearms and/or munition launchers from UFPD via the tracking system. This request must be approved by the RO or COA.

2. Requests for firearms and/or munition launchers other than handguns require the concurrence of the Director of UFPD, after review by operational component headquarters personnel.

G. Firearms, Munition Launchers and Body Armor Transfers

1. Authorized Officers/Agents shall electronically transfer firearms, munition launchers and body armor assigned to them in the CBP firearms information tracking system through the appropriate tracking system form. The officer/agent receiving the firearm, munition launcher and/or body armor shall electronically accept the property in the tracking system. Accountability does not change until the transfer is accepted in the tracking system.

2. All unissued or pool firearms and munition launchers in any office shall be assigned to the CBP firearms information tracking system PFI for that office.

H. Unissued Firearms

1. The maximum allowable number of each type of handgun is limited to 5% of the number of officers/agents at the duty station. In locations with less than twenty (20) officers/agents, one (1) unissued handgun shall be authorized.

2. The number of handguns authorized to be retained in reserve by the Director of UFPD shall be 10% of the total number of officers/agents.

3. The maximum allowable number of each type of SFW is limited to 105% of the number of officers/agents at the duty station.

4. The number of SFWs authorized to be retained in reserve by the Director of UFPD shall be 5% of the total number of officers/agents.

5. For special weapons in support of specific missions, the type, number, and deployment shall be determined by the appropriate RO with the written concurrence of the AC of the operational component.

I. Non-Standard Firearms

1. Requests for authorization to carry non-standard firearms must be submitted through the CBP firearms information tracking system for approval by the RO and the Director of UFPD. Specific mission needs must be addressed in the form. Non-standard firearms are those that are used by officers/agents in a specific operational activity, in addition to the standard CBP-authorized firearms described in Appendix IV of this policy.

2. UFPD shall be notified when non-standard firearms are issued in order to document the tracking system appropriately.

3. ROs shall ensure that the officers/agents using non-standard firearm(s) have qualified with the firearm(s) in accordance with this policy.

4. Issuance of non-standard firearms shall not exceed one hundred and eighty (180) days. If additional time is needed, an extension may be granted by the RO (UFPD must be notified in writing).

J. Seized or Abandoned Firearms

1. Immediately after final adjudication, abandoned firearms, ammunition, and other firearms related materials and firearms seized for forfeiture shall be forwarded to UFPD.

2. Firearms shall be checked in NCIC prior to shipment to UFPD. Contact UFPD for exceptions.

3. Copies of related documents shall be included and the firearms shall be checked to ensure they are unloaded prior to shipment to UFPD. Seized or abandoned firearms shall be handled in accordance with the current *Seized Asset Management and Enforcement Procedures Handbook* (HB 4400-01A) (available on CBPnet).

4. General Order (GO) firearms, ammunition, and related materials shall be held for ninety (90) days and then forwarded to UFPD. Copies of documents related to GO firearms, ammunition, and related materials must be included.

K. Firearm Acquisitions (Including Munition Launchers)

1. UFPD is the only authorized entry and exit point for all firearms and munition launchers for CBP and is the inventory control point for all firearms and munition launchers.

2. No entity outside of UFPD is approved to receive, destroy or otherwise remove firearms and munition launchers from service without written approval of the Director of UFPD.

3. No entity outside of UFPD is approved to loan or transfer firearms and/or munition launchers to another agency or to individuals within another agency without the written approval of the Director of UFPD.

Chapter 12: Firearm and Munition Launcher Maintenance, Inspection and Repair

A. Firearm and Munition Launcher Inspection Requirements

1. Only UFPD shall receive newly purchased firearms and munition launchers from vendors. All firearms and munition launchers shall be inspected to ensure proper functioning and compliance with CBP specifications and standards.

2. All CBP-authorized firearms shall be inspected during qualification periods by a Field Armorer (FA) or Firearms Instructor (FI) to ensure safe and proper functioning.

3. No accessories may be mounted on any CBP-authorized firearm without written approval from the Director of UFPD.

4. All maintenance and repairs must be documented in the CBP firearms information tracking system.

5. Periodic Inspections - FIs shall provide officers/agents with training regarding proper firearms and munition launchers care, maintenance, and inspection procedures. This training shall be incorporated into the quarterly firearms training curriculum.

6. UFPD has the authority to recall and/or inspect any CBP-issued firearm and/or munition launcher as necessary.

B. Firearm and Munition Launcher Maintenance

1. All Authorized Officers/Agents are responsible for normal cleaning and preventive maintenance of their firearms and/or munition launchers. Officers/agents shall be provided with sufficient materials and sufficient duty time (consistent with operational needs) to clean their authorized weapons. Failure to do so may result in disciplinary action.

2. Maintenance should only be done in accordance with the instructions provided by UFPD or as described in the operator manuals for that particular firearm or munition launcher. Operator manuals shall be provided to all officers/agents for each of their CBP-issued firearms.

3. Firearms and munition launchers shall be cleaned as soon as practicable after being fired. **NOTE: Firearms/Munition launchers should not be cleaned in the case of a reportable shooting incident or an unintentional discharge (refer to Chapter 5.E).**

4. FIs shall ensure that all unissued or pool weapons used in training, practice, or qualification sessions are cleaned and preventive maintenance performed prior to returning the weapon to storage.

5. The officer/agent shall perform any required cleaning of a firearm prior to being turned in and accepted by the FA and the PFI.

C. Firearms Repair

1. Authorized Officers/Agents (except those certified and designated as FAs) are prohibited from making any repairs, adjustments and/or modifications to CBP-authorized firearms unless expressly authorized by the Director of UFPD.

2. FAs, who are certified by UFPD, are authorized to make certain repairs and/or modifications as provided in FA training and subsequent UFPD-directed repairs and/or modifications.

3. Firearms requiring repairs beyond FA authorization must be sent to UFPD.

D. Firearm, Munition Launcher and Body Armor Shipping

1. The PFI is responsible for shipping and receiving all firearms, munition launchers and body armor assigned within their area of responsibility.

2. The shipment of any firearm, munition launcher or body armor shall be done as prescribed by UFPD and sent by a carrier that can control and track secure packages.

3. Regardless of commercial carrier, handguns shall be shipped next day air. Long guns may be shipped by ground. Contents shall not be identified on the outside of the box.

E. Firearm, Munition Launcher and Body Armor Replacement

1. An Authorized Officer/Agent shall immediately notify a PFI or an FI when any CBP-issued firearm, munition launcher or body armor becomes inoperable or appears to be unsafe to use. Based on the inspection, the PFI shall immediately issue the officer/agent a replacement.

2. Serviceable body armor should be replaced no later than the interval recommended by the manufacturer.

3. PFIs shall return any inoperable or unsafe firearm, munition launcher or body armor to UFPD via the CBP firearms information tracking system.

F. Firearm, Munition Launcher and Body Armor Destruction

UFPD is the only CBP component authorized to destroy firearms, munition launchers and/or body armor.

Chapter 13: CBP-Issued Ammunition

A. Ammunition Procurement and Use

1. All CBP-issued ammunition shall be new, commercially manufactured and procured by UFPD through normal procurement channels. UFPD shall conduct research and development, testing, evaluation and procurement of all ammunition or component products. A list of authorized brands and types of ammunition shall be compiled by UFPD. This list shall be updated as necessary and made available to the field by UFPD.

2. Only CBP-issued/approved ammunition shall be used in CBP-issued firearms.

3. Purchase Card acquisition of ammunition must be approved in writing by the Director of UFPD.

B. Special Ammunition Requests

Requests for any specialized ammunition not listed on the approved ammunition list must be submitted in writing through the respective chain of command to the Director of UFPD for approval and procurement.

C. Ammunition Issue

1. Ammunition previously issued for duty carry (handgun, shotgun and rifle) shall be fired during qualifications. Ammunition for practice and/or sighting-in with appropriate SFWs shall be issued at the range prior to firing the qualification course as needed. Replacement ammunition for duty carry shall be issued after each firearms qualification session.

2. Authorized Officers/Agents shall use duty ammunition for qualifications, practice and training.

   a. Exceptions may occur if firing ranges cannot support duty ammunition or if problems are discovered that require the use of hazard-free ammunition. ROs shall immediately notify UFPD in writing if duty ammunition cannot be used on a particular firing range.

   b. Exceptions to the requirement to use duty ammunition for qualifications may also be granted by UFPD upon determination that a safety problem exists with firearms or ammunition.

3. In addition to the handgun ammunition necessary for duty carry and official qualification, ROs may issue handgun proficiency ammunition to each Authorized Officer/Agent upon request, if available (guidance specific to Border Patrol Agents is contained in Appendix VIII).

a. The Authorized Officer/Agent shall initial an Ammunition Use Log – CBP Form 316B (available on CBPnet) upon receipt of their proficiency issue.

b. CBP issues ammunition to assist officers/agents in maintaining proficiency and improving their shooting skills. Officers/agents should expend this ammunition on a regular basis. The sale of CBP-issued ammunition by individual officers/agents is prohibited.

c. Authorized Officers/Agents shall expend proficiency ammunition in accordance with all applicable laws, ordinances and policies.

D. Ammunition for Competitive Shooting

1. Authorized Officers/Agents may request ammunition for use in competitive handgun, shotgun and rifle shooting events by submitting a memorandum to the RO.

2. If the ammunition requested is available in the local inventory and issuance will not cause a shortage for duty, training, proficiency or qualification use, it may be issued to the requesting officer/agent once approved by the RO.

3. Ammunition not in the inventory may be requested through the RO with the concurrence of the Director of UFPD.

4. Approval of requests for the purchase of ammunition for competitive shooting is subject to availability of funding and the concurrence of the AC of the respective operational component and/or the Director of UFPD. Purchase Card purchases of firearms ammunition must be approved in writing by the Director of UFPD.

5. Officers/agents who receive ammunition for use in competitive shooting are required to maintain a record of the use of ammunition and submit written evidence of participation in competitive events to the RO.

E. Ammunition Storage

1. Unissued ammunition shall be stored in a secure room with limited access and in accordance with the policies and procedures cited in the *Interim Physical Security Guidance for Customs and Border Protection (CBP) Facilities* memorandum dated Oct. 25, 2006 (available on CBPnet). If required, ROs shall ensure that special storage needs are met for the ammunition.

2. Each Authorized Officer/Agent is personally responsible for all CBP ammunition issued to them and must take reasonable measures to ensure its safe storage and general care in accordance with this policy.

F. Ammunition Inventory

1. As the inventory of ammunition changes, that change shall be continually accounted for and records maintained at the ammunition storage site by the PFI or FI.

2. The RO, or his or her designee, shall conduct an annual audit for each CBP location. Records of these audits shall be maintained locally for a period of no less than five years.

   When developed and available, ROs shall utilize the CBP electronic ammunition inventory system and update the ammunition inventory on a quarterly basis.

G. Emergency Situations

In threatening, emergent situations, Authorized Officers/Agents are authorized to use any ammunition available. However, this statement does not authorize the carrying of ammunition that is not specified on the list of Ammunition for Duty Use published by the Director of UFPD.

Chapter 14: Holsters and Related Equipment

A. Uniform Duty Holsters and Related Equipment

All holsters and related equipment which meet the standards established by the Authorized Officer's/Agent's specific program may be approved for duty use by the RO, with the concurrence of the Director of UFPD and the AC of the operational component.

A sufficient selection of holsters and related equipment will be authorized to meet the operational needs of all CBP armed personnel. Suggestions for new or improved holsters and/or related equipment may be submitted for evaluation to the Director of UFPD.

B. CBP-Authorized Plainclothes/Off-Duty Holsters and Related Equipment

1. Holsters and magazine carriers shall be constructed of durable material. They shall be of any design that securely retains the handgun and allows the officer/agent to quickly draw the handgun.

   The holsters and magazine carriers must be concealable and may be black, brown, tan, or any other color that is authorized by UFPD and approved by the RO.

2. In conjunction with firearm qualifications, Authorized Officers/Agents who normally carry the handgun in another type of holster shall be required to annually demonstrate their ability to safely draw an unloaded handgun, engage a target and holster the handgun. These exercises should be developed locally by the FI, and shall be sufficient to make a reasonable determination of the officer's/agent's ability to safely use the holster.

C. Inspection of Holsters and Related Equipment

1. The PFI or FI shall conduct an annual inspection of the Authorized Officer's/Agent's authorized holster and related equipment.

2. Officers/agents shall not use any equipment found to be non-operational or in poor condition.

Chapter 15: Range Operations

A. Range Conduct

1. All personnel participating in firearms qualifications shall conduct themselves in a safe and professional manner at all times. Any officer/agent who observes a dangerous or unsafe condition while on the range should immediately call "CEASE FIRE" in a voice that can be heard by all shooters. The Firearms Instructor (FI) shall remove from the range any person who fails to comply with safety practices, procedures or instructions.

2. When conducting firearms training, the FI has the absolute and final authority on matters of range operation and safety.

3. When participating in firearms qualifications, officers/agents may wear their normal duty uniform and/or equipment, or attire and equipment appropriate for their current assignment.

4. During qualification and structured training, armed personnel shall use only CBP-authorized weapons.

5. Armed personnel shall qualify with their assigned weapons. If a weapon malfunctions during qualification and cannot be repaired on-site, the officer/agent may qualify with a different weapon of identical make and model, if available.

6. FIs shall manually inventory weapons used during qualification and ensure that officers/agents qualify with their assigned weapons. The FI shall ensure qualification scores are properly entered in the CBP firearms information tracking system.

B. Range Operation and Safety

1. Prior to commencing range activities, FIs shall ensure that the following minimum safety precautions are adhered to:

   a. An emergency transport vehicle is designated;

   b. A telephone, a wireless telephone, and/or radio is available;

   c. Emergency numbers are available;

   d. A first aid trauma kit is available, as defined by the Director of UFPD in Appendix IX; and

e. A Standard Operating Procedure (SOP) is in place for the possibility of injuries. This SOP should be designed for the specific range location and shall include the location of appropriate medical facilities and access to local Emergency Medical Services (EMS).

2. The FI shall ensure that all personnel on or near the firing line use appropriate eye and hearing protection.

   Eye protection shall cover the front and sides of the eyes. Hearing protection shall be both inner ear plugs and outer ear protection of a hard shell design.

   Such protective devices shall be available to all officers/agents at the firearms range. Unserviceable and/or damaged protective devices will be replaced.

3. The minimum ratios of FIs/RSOs to shooters on the firing line are:

   a. For practice and demonstration of firearms proficiency sessions, one (1) FI/RSO per every six (6) shooters; and

   b. For tactical firearms training exercises, one (1) FI per every two (2) shooters during static firing and one (1) FI for each shooter during dynamic movement shooting.

C. Force-on-Force Training (FFT)/Integrated Scenario Base Training (ISBT)

1. Prior to conducting FFT or ISBT, IFIs and/or FIs must have attended training as approved by the Director of UFPD.

2. When conducting FFT or ISBT, IFIs and/or FIs must at all times adhere to the safety precautions delineated in the appropriate lesson plan or SOP.

   a. For marking cartridges: full face, throat and groin protection, gloves and coveralls or long sleeve shirts are mandatory.

   b. Marking cartridges shall be used only in firearms authorized by UFPD. UFPD shall compile a list of authorized brands and types of marking cartridges. This list shall be updated as necessary and made available to the field by UFPD.

Appendix I: Acknowledgement of Receipt of CBP Use of Force Policy

As an officer/agent who is authorized to carry a firearm and intermediate force device, you are required to comply with and be thoroughly familiar with all aspects of the CBP Use of Force Policy. You have been provided a complete copy of the CBP Use of Force Policy Handbook and the opportunity to discuss the contents of the Policy with your supervisor or other management officials. Due to the critical nature of certain aspects of the Use of Force Policy, your attention is particularly directed to the following Chapters:

Chapter 2: Authority to Carry Firearms – This section specifically addresses the requirements for an Authorized Officer/Agent to carry a firearm and the circumstances under which a firearm may be carried.

Chapter 4: Use of Force – This section addresses DHS and CBP policy regarding the use of force.

Chapter 5: Use of Force Reporting Requirements – This section addresses the specific actions that shall be taken in the event that a reportable use of force incident occurs.

Chapter 6: Use of Force Proficiency and Training – This section addresses the requirements to maintain firearm and intermediate force device certification.

Chapter 7: Intermediate Force Devices – This section addresses the use of authorized intermediate force devices.

By signing this statement, you acknowledge that you have read, understand, and agree to comply with the CBP Use of Force Policy and your personal obligation to comply with all chapters of the Policy.

_____	_____	_____
Officer's/Agent's Name (Printed)	Officer's/Agent's Signature	Date

_____
Officer's/Agent's Duty Station

_____	_____	_____
Supervisor's Name (Printed)	Supervisor's Signature	Date

This signed acknowledgment shall be included in the officer's/agent's local personnel file in accordance with Chapter 1 of the CBP Use of Force Policy.

Appendix II: DHS Use of Deadly Force Policy

Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

July 1, 2004

MEMORANDUM FOR: Deputy Secretary
Under Secretaries
Director, U.S. Secret Service
Commandant, U.S. Coast Guard
Assistant Secretary, ICE
Commissioner, CBP
Acting Administrator, TSA

FROM: Tom Ridge *Tom Ridge*

SUBJECT: Use of Deadly Force Policy

Attached is the Department of Homeland Security (DHS) Use of Deadly Force Policy which I issued today. The policy, applicable to all DHS law enforcement officers and agents, is intended to provide the standard for all DHS components. Officials and supervisors should take appropriate steps to ensure that pre-existing use of force policies comply with this new standard and incorporate its core principles.

The following Use of Deadly Force Policy was developed by a Task Force comprised of DHS headquarters and component representatives to unify to the extent feasible and practicable existing DHS agency policies. The resulting umbrella policy reflects the components' different law enforcement missions and activities, and permits the agencies to adopt more detailed operational guidance with DHS approval.

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DEPARTMENT OF HOMELAND SECURITY POLICY ON THE USE OF DEADLY FORCE

June 25, 2004

By virtue of the authority vested in the Secretary of the Department of Homeland Security, including the authority vested by 6 U.S.C. §112(a), I hereby establish a Department of Homeland Security policy on the use of deadly force for law enforcement. The policy set forth herein is intended to set uniform standards and provide broad guidelines for the use of force by law enforcement officers and agents of the Department of Homeland Security performing law enforcement missions. The provisions of this Order apply to all law enforcement officers and agents of the Department of Homeland Security.

I. GENERAL PRINCIPLES

Law enforcement officers and agents of the Department of Homeland Security may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

A. Fleeing subjects. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

B. Firearms may not be fired solely to disable moving vehicles, vessels, aircraft, and other conveyances, except as follows:

1. United States Secret Service agents and officers, in exercising the United States Secret Service's protective responsibilities, may discharge firearms to disable moving vehicles, vessels, and other conveyances. United States Secret Service agents and officers may discharge firearms to disable aircraft in flight, only if the use of deadly force against the occupants of the aircraft would be authorized under this policy.

2. U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection and U.S. Coast Guard law enforcement officers and agents, when conducting maritime law enforcement, may fire firearms to disable moving vessels or other conveyances.

C. If feasible and if to do so would not increase the danger to the officer or others, a warning to submit to the authority of the officer shall be given prior to the use of deadly force.

D. Warning shots are not permitted, except as follows:

1. Warning shots may be used by United States Secret Service agents and officers in exercising the United States Secret Service's protective responsibilities.

2. Warning shots may be used by U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection and U.S. Coast Guard law enforcement officers and agents when conducting maritime law enforcement only as a signal to a vessel to stop.

3. Warning shots may be used by U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection and U.S. Coast Guard law enforcement officers and agents when conducting aviation law enforcement operations only as a signal to an aircraft to change course and follow direction to leave airspace.

E. Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy.

II. GUIDELINES

A. Homeland Security Directorates and Agencies shall, to the extent necessary, supplement this policy with policy statements or guidance consistent with this policy. Such policy statements shall be subject to review and approval by appropriate departmental offices, including the Office of General Counsel, to ensure consistency with law and departmental standards and policies.

B. The respective Homeland Security Directorate Under Secretaries, the Commandant of the United States Coast Guard, and the Director of the United States Secret Service shall approve guidelines for weaponless control techniques, intermediate weapons, and firearms or lethal weapons with non-lethal munitions, in accordance with this policy and that directorate's or agency's unique law enforcement mission, training, and equipment.

III. MILITARY ACTIVITIES

This policy shall not apply to the United States Coast Guard when engaged in warfighting, the military defense of the United States, or other military activities where Standing Rules of Engagement apply or to other operations at sea addressed by other policies or direction.

IV. SAVINGS

To the extent agency and component policies and procedures in place prior to the creation of the Department of Homeland Security are consistent with this policy, they remain in full force and effect unless otherwise revoked or modified.

V. APPLICATION OF THE POLICY

2

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CBP ROVING PATROL 00004936

This Policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

Tom Ridge

Tom Ridge

Appendix III: DHS Commitment to Race Neutrality in Law Enforcement Activities

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

THE DEPARTMENT OF HOMELAND SECURITY'S
COMMITMENT TO RACE NEUTRALITY IN LAW ENFORCEMENT
ACTIVITIES

June 1, 2004

One of the greatest strengths of the Department of Homeland Security is the quality and integrity of the people with whom I am honored to serve. I am particularly grateful for the opportunity to work with outstanding law enforcement and military personnel who put their lives on the line daily to make our country safe. Your professionalism, dedication and commitment to excellence are inspiring to us all.

Our mission is to ensure the security of our nation and our people. The size, scope and character of our nation means that we face a substantial challenge, for while we must secure our nation and our people we must also secure our freedoms and ensure that liberty thrives. In all we do to secure America, our strategies and our actions must be consistent with the individual rights and civil liberties protected by the Constitution and the rule of law. I challenge each of you to redouble your efforts to conduct your activities in ways that meet this critical goal.

I particularly direct you to follow a policy of race neutrality in your law enforcement activities. The Department of Homeland Security's policy is to prohibit the consideration of race or ethnicity in our daily law enforcement activities in all but the most exceptional instances. The following is the Department's official policy on this issue:

"Racial profiling" concerns the invidious use of race or ethnicity as a criterion in conducting stops, searches and other law enforcement activities. It is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity. DHS explicitly adopts the Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," issued in June 2003. It is the policy of the Department of Homeland Security to prohibit the consideration of race or ethnicity in our daily law enforcement activities in all but the most exceptional instances, as defined in the DOJ Guidance. DHS personnel may use race or ethnicity only when a compelling governmental interest is present. Rather than relying on race or ethnicity, it is permissible and indeed advisable to consider an individual's connections to countries that are associated with significant terrorist activity. Of course, race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes or enterprises, may be considered, as stated in the DOJ Guidance.

This Guidance governs all federal law enforcement activities, and there will be serious consequences for those who disregard it.

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CBP ROVING PATROL 00004938

All components are hereby directed to include the DHS policy stated above in law enforcement manuals and policy guidelines covering any activity in which the use of race or ethnicity may arise. Moreover, all components are hereby directed to ensure that all law enforcement personnel, supervisors and managers are trained to the standards set forth in the DOJ Guidance and the DHS policy stated above, and are held accountable for meeting those standards. The Department's Office for Civil Rights and Civil Liberties will supply the components with training materials to ensure that the policy is interpreted and applied in a consistent and uniform manner. In addition, each component should develop agency-specific training materials, in concert with the Department's Office for Civil Rights and Civil Liberties

Working together, we can protect America while also preserving her great freedoms. I am honored to work with all of you to fulfill this calling.

Tom Ridge

Tom Ridge

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CBP ROVING PATROL 00004939

Appendix IV: CBP-Authorized Firearms and Intermediate Force Devices

An Authorized Officer/Agent shall be issued only one primary handgun from the list below. Based upon availability within an operational component, an Authorized Officer/Agent may be issued an H&K P2000SK as a secondary handgun with the concurrence of the AC of that operational component. An Authorized Officer/Agent shall not be issued more that two handguns without the concurrence of the AC of the operational component and the Director of UFPD.

A. Handguns authorized for use by Authorized Officers/Agents:

1. H&K USP Compact w/LEM
2. H&K P2000
3. H&K P2000SK (authorized for standard uniform use only with the written concurrence of the AC of the operational component)
4. Beretta 96D (authorization terminates upon component transition to the H&K USP or P2000)
5. Glock 17 (authorization terminates upon component transition to the H&K USP or P2000)
6. Glock 26 (authorization terminates upon component transition to the H&K P2000SK)
7. SIG P-229 DAO (authorization terminates three years from issuance of CBP Use of Force Policy)

B. Shotguns authorized for use by Authorized Officers/Agents:

1. Remington 870 Shotgun

C. Rifles authorized for use by Authorized Officers/Agents:

1. M4 Pattern Rifle
2. M16 Pattern Rifle
3. Steyr AUG

D. Submachine guns authorized for use by Authorized Officers/Agents:

1. H&K UMP40

2. H&K MP5

E. Special weapons authorized for use by Border Patrol Agents, Air and Marine Officers, and Special Response Teams (SRTs), in addition to all firearms listed above: (Use of these weapons requires specific certification and training prior to issue and use)

1. .308 Bolt-action Rifle

2. 40 mm Launcher

3. M14 Pattern Rifle

F. In addition to the weapons previously listed, Border Patrol Tactical Team (BORTAC) and SRT members may use and transport any weapons system whose utilization has been approved in writing by the AC of their operational component, with the written concurrence of the Director of UFPD.

G. Authorized Officers/Agents serving as Primary Firearms Instructors (PFIs), Inventory Officers, Firearms Instructors (FIs) or assigned to UFPD or an approved special operations team (including detailed assignments) may use and transport any firearm in the CBP inventory or under consideration by CBP for acquisition for the purpose of conducting:

1. Training approved by the Director of UFPD; or

2. Testing and evaluation authorized by the Director of UFPD.

H. Intermediate force devices authorized for use by Authorized Officers/Agents upon completion of certified training.

1. Oleoresin Capsicum (OC) Spray

2. Collapsible Straight Baton - 21inches or 26 inches (at the option of the officer/agent).

I. Other intermediate force devices that are authorized for use by Authorized Officers/Agents upon completion of UFPD-approved training and certification by their respective operational component.

1. Munition launchers (e.g. PepperBall)

2. 36-inch straight riot baton

3. Collapsible Straight Batons of non-standard lengths

4. Intermediate force devices approved by the AC of their operational component, with the concurrence of the Director of UFPD.

Appendix V: CBP Use of Force Continuum

A. Cooperative Controls

This is the first and lowest level of officer/agent response. Although it is the lowest level, the tactics and techniques on this level can be applied to all levels of the continuum to help establish control or compliance. The primary features of this level are officer presence, verbalization and application of appropriate restraints. When considering officer presence, there are several factors to consider:

1. Those elements we can change or effect:

    a. Society recognizes that a law enforcement officer is provided with certain authorities that the average citizen does not have. Society recognizes that an officer/agent has the right to exercise this authority provided the officer/agent does so in a lawful manner. For officer presence to successfully influence the subject, there must be some type of identification to the subject that the officer/agent is a law enforcement officer. This is demonstrated through the wearing of an official uniform and/or the use of verbal identification and display of proper credentials.

    b. An officer/agent who appears to be physically fit, mentally alert, and capable of handling a situation is more likely to successfully influence a subject and be perceived as competent.

    c. Multiple officers/agents can increase the level of control exerted through officer presence as well as the carrying of intermediate force devices, such as CSBs and OC.

2. Those elements we cannot control:

    a. Individuals will make assumptions about an officer/agent based on certain factors that an officer/agent has no ability to change. These factors may include, but are not limited to: gender, height and age.

B. Contact Controls

Contact controls are physical measures taken when verbal commands and officer presence are not effective in gaining compliance. The subject is offering the lowest level of resistance. In addition to effective communication the officer/agent may use other measures such as strategic positioning, escort holds, joint manipulation or immobilization or touch pressure point stimulation.

C. Compliance Techniques

When the subject is actively resisting the efforts of the officer/agent to establish and maintain control, escalation to the use of compliance techniques may be reasonable and necessary. Examples of compliance techniques include the use of OC spray, strike pressure points, stunning techniques, takedowns and joint manipulations. In situations where subjects are offering active resistance, officers/agents must be mentally and physically prepared to escalate to a higher amount of reasonable and necessary force.

D. Defensive Tactics

When a situation has reached this level on the force spectrum, the subject has either assaulted the officer/agent or is displaying a willingness and intent to do so. An assault at this level is one that results in physical injury to the officer/agent. A sufficient amount of force is needed at this level to neutralize or stop the threat. Concentrated strikes involving the use of empty-hand techniques (i.e. the use of body parts as weapons) as well as the Collapsible Straight Baton are both reasonable and necessary.

E. Deadly Force

At this level an officer/agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer/agent or to another person, and the subject has the opportunity, ability and intent to do so. The use of a firearm, impact weapon, and empty-hand techniques or, in an emergency, a field expedient weapon, may be needed to gain control of this situation and prevent serious physical injury or loss of life.

Appendix VI: CBP Form 318 – Reportable Use of Force Incident Data Form (available as an e-form on CBPnet)

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Use of Force Policy Division

REPORTABLE USE OF FORCE INCIDENT DATA

SECTION A - INCIDENT IDENTIFICATION INFORMATION

CBP Reportable Incident Number:	Original SIR Number:	Event Number (if applicable):

Office	Owning Org: (Sector/Station, FO/POE, Branch/Unit)	Reporting Official:	
OFO OBP OAM IA		Telephone No	FAX No.

Type of Incident *	Local Time of Incident: (Military)	Date Of Incident
Firearm Intermediate Device Other		

Number of Subjects:	Number of Involved CBP Officers/Agents	Number of Civilian Witnesses:	Number LE Witnesses:	Other Agency Involved? Yes No OBP OFO OAM IA OTHER _____

SECTION B - INCIDENT LOCATION INFORMATION

Address	City:	State:	County

Zip Code	Country	Latitude	Longitude

Character of Premises (Check one from the first four columns and as applicable from Conveyance)

Urban	Highly Populated	Residential	Indoors
Suburban	Moderately Populated	Commercial	Outdoors
Rural	Sparsely Populated	Undeveloped/Open	Conveyance (ID below)
Remote / Isolated	Uninhabited	Station/Institution	On Land Vehicle
			On Aircraft On Boat

Illumination (Check one from left column. Check ALL applicable from remaining columns)

If Natural Illumination:	If Artificial Illumination:	Dark	Subject Silhouetted
Dawn	Interior Room Lights	Poor Lighting	Officer/Agent Silhouetted
Daylight	Street Lights	Good Lighting	Night Vision Aided
Dusk	Vehicle Headlights	Weak Moonlight	Snow/Marine Glare
Night	Flashlight	Strong Moonlight	Oncoming Light Glare

Environmental (Check ALL applicable)

Dry	Calm	Grassland	Estimated Ambient Temperature
Raining	Windy	Mountainous	
Snowing	Haze/Blowing Dust	Desert	(°F) _____
Standing Water	Fog	Wooded Area	

Additional Comments (relevant to the incident information page)

SECTION C - INVOLVED OFFICER / AGENT INFORMATION

Involvement Primary Assisting

Name (Last, First, MI)	Title:	Service EOD	Duty Location EOD.

Sex	Hand Usage	Height:	Weight	Age:
Male Female	Right-handed Left-handed			

Duty Status:	Total **YEARS** Law Enforcement Experience:		
On Duty Off Duty	Federal & Military:	State	Local:

Operational Activity (Check all that apply)

Uniformed Plain Clothes	Cargo Operations	Joint Task Force	Warrant Service
Primary Inspection	Linewatch	Traffic Checkpoint	Air Operations
Secondary Inspection		Traffic Observation	Marine Operations
Other _____		Training/Qualification	

*Employees covered by a collective bargaining agreement are advised that they have the right to Union representation in accordance with their agreement.

CBP FORM 318 (10/10)

SECTION D - INVOLVED OFFICER / AGENT INCAPACITATION INFORMATION

__ Check This Box if Officer/Agent is Shot

Degree of Incapacitation: __ No Incapacitation __ Partial Incapacitation __ Full Incapacitation __ Deceased

Body Armor Usage __ Used __ Not Used	Number of Impacts:	Number of Penetrations:

Describe Any Involved Officer/Agent Injuries or Other Needed Information

SECTION E – ADDITIONAL WEAPONS USED BY OFFICER/ AGENT IN SECTION C

Firearms Information

Ownership CBP Issued Personal Qualification Field Date Qualification Score

Serial Number	Manufacturer	Model Name/Number:	Caliber
Type (e.g., pistol, rifle, shotgun)	Bullet Type	Rounds Fired	Barrel Length

Intermediate Device Information

Device (e.g., OC Spray, CSB) Device Type (e.g., Stream, 26") Description

Other Device Information

Device Device Type Description

SECTION F - INVOLVED OFFICER/AGENT SHOOTING INFORMATION (Check all that apply)

Shooting Posture	Posture Orientation:	Cover Usage:	Shooting
__ Standing	__ Field Interview Stance	__ No Cover	__ Two-Handed
__ Kneeling	__ Facing Squarely	__ Cover Used	__ Strong Hand Only
__ Prone	__ Side Towards	__ In Vehicle	Weak Hand Only
__ Other _____	__ Other _____	__ Other Conveyance _____	

Target Elevation:	Aiming Method:	Firing Mode:	Shooting Distance (Expressed in Yards):
__ At/Above Eye Level	__ Point Aim	__ Semi-Automatic	
__ Below Eye Level	__ Sight Aim	__ Fully Automatic	
__ Hip Level	__ Laser	__ Pump Action	Minimum:
		__ Bolt Action	
		__ Other	Maximum

Collateral Damage: __ Non-Subjects __ Property Damaged

Comments Concerning Collateral Damage:

SECTION G - INVOLVED OFFICER/AGENT TRAINING INFORMATION

What Training (In addition to basic Academy) Assisted the Involved Officer/Agent

__ BORSTAR	__ BORTAC	__ PITP	__ EMT
__ FITP	__ IFITP	__ DTI	__ Stat
__ Other	__ DITP	__ SRT	__ Pass

Training Recommendations

Additional Comments (on all involved officers/agents)

CBP Form 318 (10/10)

SECTION H – SUBJECT INFORMATION

☐ Person ☐ Animal Reason (Animal): ☐ Defense ☐ Euthanize ☐ Other:			
☐ Unidentified Subject			
Name (Last, First, Middle):			Sex: Male Female Unknown
Date of Birth (if known) or Age or Age Range			Height or Height Range:
Ethnicity	Other Information:		Weight or Weight Range:
Attire ☐ Civilian Paramilitary Police ☐ None			
Prior Offenses Felony Misdemeanor	FBI No.	Subject Body Armor Used Not Used Unknown	
Prior Arrests (Show Date, Offense and Disposition)			

SECTION I – SUBJECT FIREARM (AND MISC. WEAPONS) INFORMATION

☐ Firearm ☐ Unknown ☐ No Firearms			
TYPE:			
☐ Pistol	☐ Rifle	☐ Submachine Gun	☐ Unknown
☐ Launcher	☐ Cannon	☐ Missile	☐ Shotgun
		☐ Machine Gun	☐ Other
Caliber:	Barrel Length:	Bullet Type (if shotgun) Shot Slug Other _____	
Serial Number:	Manufacturer:	Model Name/Number:	Rounds Fired:
Add Firearms (Use Supplemental Sheet for Additional Subject Firearms): ☐ None ☐ See Supplement			

Subject Other Weapon Information (NOT Firearm):

☐ Physical Techniques	☐ Rocks	☐ Chemical Device
☐ Edged Weapon	☐ Vehicle	☐ Explosives/Incendiary Device
☐ Other Blunt Instruments	☐ Animal	Describe _____
☐ Other _____	☐ Vessel	

Officer/Agent Weapon(s) Used on Subject:

☐ Weapon	☐ Effective to Resolve threat
☐ LL Device	☐ Not Effective to Resolve Threat
☐ K9	☐ Explain:
☐ Other	☐ CTDD Used w/Arrest; if yes, complete CTDD Supplement

Officer/Agent:
Weapon Used:
Result: ☐ Effective to Resolve threat
☐ Not Effective to Resolve Threat

Additional Weapons Used on Subject?
☐ None ☐ See Supplement

SECTION J – SUBJECT INCAPACITATION INFORMATION

☐ NO Incapacitation ☐ PARTIAL Incapacitation ☐ FULL Incapacitation

☐ Deceased Deceased Post Incident

Number and Location of Subject Hits

☐ Head (Front):	☐ Upper Torso (Front):	☐ Extremities (Arms):
☐ Head (Rear):	☐ Upper Torso (Rear):	☐ Extremities (Legs):
☐ Lower Torso (Front):	☐ Neck (Front):	
☐ Lower Torso (Rear):	☐ Neck (Back):	

CBP Form 318 (10/10)

ADDITIONAL COMMENTS
Additional Comments on All Involved Subjects:
Incident Comments (Additional Comments Relevant to the Incident Information Page):
Officer/Agent Comments (Additional Comments on All Involved Officers or Agents):

CBP Form 318 (10/10)

SUPPLEMENTAL

Use this supplement to record Involved Officer/Agent firearms and/or Subject weapons that are additional to those shown on the original form. Firearms or other weapons used by ADDITIONAL Involved Officers/Agents and/or Subjects should be shown on ADDITIONAL FORMS submitted for those parties.

SECTION A - INCIDENT IDENTIFICATION INFORMATION

CBP Reportable Incident Number:	Original SIR Number:	Name of Primary Involved Officer/Agent:

SECTION E - ADDITIONAL INVOLVED OFFICER/ AGENT FIREARM INFORMATION

Firearms Information

Ownership: CBP Issued Personal Qualification Field Date: Qualification Score:

Serial Number	Manufacturer:	Model Name/Number:	Caliber
Type:	Bullet Type:	Rounds Fired:	Barrel Length:

Intermediate Device Information

Device: Device Type: Description

Other Force Information

Device: Device Type: Description

Officer/Agent Weapon(s) Used on Subject

- Weapon
- LL Device
- K9
- Other

Effective to Resolve threat
Not Effective to Resolve Threat
Explain
CTDD Used w/Arrest

SECTION I – ADDITIONAL FIREARM (AND MISC. WEAPONS) USED BY SUBJECT IN SECTION H

Firearm	Unknown	No Firearms Were Found

TYPE:

Pistol	Rifle	Submachine Gun	Unknown
Launcher	Cannon	Missile	Shotgun
		Machine Gun	Other

Caliber	Barrel Length	Bullet Type (if shotgun) Shot Slug Other

Manufacturer	Model	Serial Number	Rounds Fired

Add Firearms (Use Supplemental Sheet for Additional Subject Firearms):

Subject Other Weapon Information (NOT Firearm)

- Physical Techniques
- Edged Weapon
- Other Blunt Instruments
- Other
- Rocks
- Vehicle
- Animal
- Chemical Device
- Explosives/Incendiary Device

Describe

ADDITIONAL INFORMATION/TEXT CONTINUATIONS

Add any additional pertinent information or specify the section of the form to which this continuation applies:

CBP Form 318 (10/10)

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Controlled Tire Deflation Device Supplement

INCIDENT INFORMATION				
Incident Number		Title		
Incident Date	Time:	Location Latitude:	Longitude	
Street:	City or County.		State.	Zip Code.
Deploying Officer(s)/Agent(s).				
Authorized by:		Supervisor:		
Justification				

VEHICLE INFORMATION				
Make:	Model	Doors	Year:	Vin

CTDD INFORMATION		
Type		Tracking Number
Identification Number:	Number of Tires Spiked	No. of Tires Deflated:
Vehicle Damage	Injuries/Fatalities:	
No. Apprehended.	Driver Apprehended:	
Estimated Vehicle Speed (MPH)	Distance Traveled	
Property Damage:	SF-95.Claim for Damage, Injury or Death Issued? ... No __I Yes http://www.gsa.gov	

OTHER CONDITIONS		
Traffic Condition	Road Condition	Weather

SIGNATURES

OFFICER/AGENT

Name	Signature

SUPERVISOR

Name	Signature
Comments	

REVIEWER

Name.	Signature
Comments	

CBP Form 318 Supplement (10/10)

Appendix VII: Memorandum of Agreement (MOA) with the National Treasury Employees Union (NTEU)

The CBP Use of Force Policy Handbook (*Handbook)* provides a unified use of force reference, while also allowing operational components to address related issues exclusive to their workplace environments. Inasmuch as an overwhelming majority of the bargaining unit represented by NTEU performs duties that require routine application of use of force policy and procedures, the parties have negotiated procedures and appropriate arrangements applicable to the bargaining unit as a supplement to the *Handbook*.

The parties' agree to the following provisions regarding the implementation of the *Handbook*:

1.A. No later than one hundred and twenty (120) calendar days after the *Handbook* is implemented, the Agency will inform NTEU of changes made to existing firearms and use of force related directives applicable to the NTEU bargaining unit. The Agency's notification will also inform NTEU if Customs Directive No. 4510-019A- Subject Management of Critical Incidents, Customs Directive No. 4510-027-Subject: Firearms Reinstatement Review Process and Customs Directive No. 4510-017A-U.S. Customs Firearms and Use of Force Training Policy are still applicable.

B. To the extent changes are made to these directives that are not responsive to the implementation of the *Handbook*, the parties will bargain prior to implementation of the changes to the extent required by law.

2. For the purpose of the *Handbook* and this Agreement, the term "Authorized Officers/Agents" includes Seized Property Specialists and any other armed bargaining unit authorized employee.

3. In addition to the Virtual Learning Center training regarding the *Handbook*, Firearms instructors will discuss the new Policy with authorized officers at their next scheduled firearms and intermediate force training date. This allotted time will allow the instructor to go over significant changes and field questions. Authorized officers may also forward questions regarding the new *Handbook* directly to the Use of Force Policy Division for a response.

4. Authorized officers, i.e. authorized to carry a firearm, who have successfully qualified may carry their weapons to and from their residences and may make

reasonable stops between their residence and work. In order to assist with their compliance, authorized officers will be provided sufficient training regarding off-duty carry of CBP issued weapons.

5. Consistent with Chapter 2.D of the *Handbook*, as well as law, rule, and regulation, authorized officers may check their firearms into checked luggage when traveling on official orders. Any checked firearm must be placed inside checked luggage and locked in its own protective carry case.

6. The Agency will provide managers and supervisors with additional guidance that will assist them in making swift and appropriate determinations in the weapon removal process, e.g., not every violation under the table of offenses may prompt the removal of a firearm.

7.A. The *Agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) (Agreement)* dated August of 2006 addressing a due process procedure for CBP Officers (to include Seized Property Specialists) will continue to apply.

B. The authorized officer's nexus letter will be modified to include an area for the Agency to provide the nexus for the firearm removal in situations that were previously identified as "other."

C. The authorized officer's investigation status letter will be expanded to include an estimated time frame for completion.

D. An authorized officer's firearm removal nexus letter and subsequent investigation status letter(s) will also include the statement: "A COPY OF THIS LETTER MAY, AT YOUR OPTION, BE FURNISHED TO YOUR NTEU REPRESENTATIVE."

8. In the event the Agency restricts an authorized officer's off-duty carriage authority for cause, the provisions of the "due process" Agreement will be followed.

9.A. It is important that CBP appropriately determine whether an officer should have the authority to carry a firearm and that where CBP conducts investigations that involve the revocation of that authority, they will be flagged

for priority over other investigations and conducted in an expeditious manner consistent with 9.D.

B. To increase oversight and attempt to expedite the investigations referenced in 9.A., the Office of Field Operations will inform (on a quarterly basis) the CBP office that is conducting the investigation, e.g., the Office of Internal Affairs, of those authorized officers who have had their weapon removed and are pending an administrative investigation. In return, the Office of Internal Affairs, or applicable office, will provide the Office of Field Operations a status of the individual investigations and an estimated time frame for completion.

The removal of firearm carriage authority pursuant to Section 2.G of the Handbook does not prohibit the return of the firearm pursuant to the procedures set forth in 9.C. below.

C. At least once a quarter, the Office of Field Operations will use the data assembled in 9.B. to review each revocation and revaluate if an officer's firearm can be returned. In the event management determines there is no longer a nexus between the alleged conduct and the threat to the safety of the officer or others, the firearm will be returned as soon as practicable.

An impacted employee's investigation status letter will be amended to inform the employee that although the firearm will not be returned at that time, the revocation will be re-evaluated at the next quarterly review.

D. Investigations involving the revocation of firearm carriage authority will not be confined to any time frame, will not require investigations to be concluded prematurely and will not take priority over all other CBP investigations.

E. In the event the firearm has not been returned pursuant to Section 9.C. above, once an investigation has been completed and the Agency has not proposed terminating the employee, the firearm will normally be provided back to the employee within ten (10) calendar days of the decision not to terminate the employee's employment unless there is a reasonable belief that returning the firearm may jeopardize the safety of employee(s), CBP operations, or the traveling public. It is understood that CBP has determined that an employee will have their firearm and credentials removed while serving any suspension.

F. After one (1) year of implementing this Agreement, either party may reopen Section 9. In the event either party requests to reopen this

Agreement, or NTEU requests information in order to make a determination whether or not to reopen this Agreement, the following cumulative report will be provided to NTEU with an appropriate employee identifier, that will include:

- CBP investigating unit;
- The reason supporting the removal of the firearm;
- The date the investigation was opened;
- The status of the investigation e.g. on-going, completed;
- The expected time frame for the completion of the investigation.

Nothing in this provision waives NTEU's right to request additional information pursuant to applicable law.

G. In the event a decision to revoke firearm carriage authority is found to be improper, in whole or in part, any remedy may include reimbursing the employee for appropriate back pay, in accordance with the provisions of law, e.g. the Back Pay Act.

10. In the event an authorized officer has temporarily had their authority to carry a firearm rescinded, the officer will be assigned duties that do not require the carriage of a firearm until the officer's situation is resolved. During this time, the Agency will make a reasonable effort to assign these officers to duties that may provide for overtime compensation.

11. In the event an officer can no longer demonstrate the proficiency necessary to maintain the authority to carry a firearm, the Agency will consider the employee for other positions for which the employee is qualified prior to taking any other administrative action. This provision is not intended to replace or conflict with established reasonable accommodation procedures.

12. Absent other outstanding misconduct issues, an authorized officer who has had a domestic violence conviction (i.e. Lautenberg Amendment) expunged will be treated as if the conviction had never occurred, e.g. the authorized officer will be permitted to carry a firearm in accordance with the provisions of the *Handbook*.

13. CBP will inform NTEU whether the M-4 and the AR-15 rifles will be made available to authorized officers.

14. CBP will inform NTEU when outerwear vest carriers will be available to authorized officers.

15. If a bargaining unit authorized officer is to be interviewed by any representative of the Agency concerning their involvement in a use of deadly force incident, the authorized officer shall be advised of their right to an NTEU representative, in writing, prior to the interview. The interview will not be held until the authorized officer has had a reasonable opportunity to secure NTEU representation. Pursuant to existing heritage agreements (or the new term agreement when completed), authorized officers will be provided all applicable notices and rights after being afforded reasonable time to regain their composure.

16. Authorized officers involved in a use of deadly force incident will be strongly encouraged to receive immediate medical attention.

17.A. In accordance with Chapter 6 of the *Handbook*, the Agency has determined that while performing official duties, authorized officers who carry firearms are required to be trained in both and carry at least one approved intermediate force device (*i.e.* OC spray or a CSB).

B. Those authorized officers in the field who have previously been certified to carry OC Spray by either CBP, the former United States Customs Services, the former Immigration and Naturalization Service or the former Border Patrol, regardless of whether or not such certification required an OC spray exposure, will be permitted to continue the carry of OC as an intermediate weapon.

C. Those authorized officers in the field who have never been previously certified to carry OC spray, and voluntarily choose to carry OC spray as an intermediate force option, must successfully complete the OC spray exposure exercise.

D. All authorized officers attending basic training must successfully complete the OC spray exposure exercise during their initial certification.

18.A. In accordance with the *Handbook*, the Agency has determined a minimum of eight (8) hours of use of force training will be conducted each qualification period. This will include four (4) hours for firearms training and recertification and four (4) hours for intermediate force training and recertification.

B. Eight (8) hours of remedial training will be provided to those failing to qualify with a firearm.

C. Eight (8) hours of remedial training will be provided to those failing to qualify with an intermediate device.

19. Re-certification in the use of OC spray will not require an OC spray exposure.

20. No pregnant authorized officer will be required to undergo an OC spray exposure.

21.A. In addition to quarterly qualifications, as well as unusual circumstances, authorized officers will be provided with sufficient materials to clean and maintain their Agency-issued or Agency-authorized firearms on duty time in accordance with guidelines provided by the CBP Use of Force Policy Division.

B. CBP will engage in good faith consultations with the local NTEU Chapter to develop procedures to safely implement the cleaning and maintenance of authorized firearms.

22.A. Off-duty storage for Agency-issued firearms at the discretion of armed employees, including overnight storage, shall be permitted only at facilities the CBP determines currently have storage available that is adequately secure.

B. Where CBP determines that a facility has adequately secure storage, but the facility does not have the capacity to fully accommodate employee interest in off-duty storage, employee requests for off-duty storage of their weapons shall be granted in the following order:

1) Authorized officers experiencing significant hardships will be provided off-duty storage.

2) Remaining off-duty storage at a duty location will be open to authorized officers for discretionary use with priority granted on the basis of seniority service at the post of duty.

3) This language is not intended to diminish the availability of secured storage provided under current practice at individual facilities.

C. To ensure that new or retrofitted facilities will have adequate off-duty firearms storage (i.e., storage to accommodate at least 25 percent of armed employees), CBP will add on-site storage capability to the technical design standards. Once a new facility is scheduled for construction or an existing location is scheduled for retrofitting, CBP will inform NTEU in accordance with existing Agreements and practices.

D. Either party may reopen the provisions concerning off-duty storage of firearms after the policy has been in effect for 1 year. In preparation for reopener bargaining, the parties shall jointly determine employee interest in off-duty firearm storage. Thereafter, the provisions, including any modifications thereto, shall remain in effect concurrently with the master collective-bargaining agreement.

23. Firearms instructors will be selected in accordance with the parties' Bid, Rotation and Placement Agreement. In locations that do not consider Firearms Instructors as included in a "work unit", existing selection procedures for the collateral duty will continue to apply.

24. In the event the Agency decides to change the qualification course of fire and required minimal passing numerical score, NTEU will be provided appropriate notice and the opportunity to bargain to the extent required by law.

25. As a general rule, any required proficiency training, demonstration or qualification will be held during the authorized officer's normal tour of duty. If the authorized officer's normal tour of duty does not coincide with the scheduled training, demonstration or qualification, the Agency will modify the work schedule seven (7) days in advance of the administrative workweek, absent an authorized officer's voluntary agreement to do otherwise.

26. The Agency will ensure medical personnel are available (either in person or by phone) when conducting use of force training exercises, including training concerning OC spray.

27. Basic first aid training will be made available to Range Officers to enable them to provide emergency first aid until a more qualified medical technician is available.

28. In accordance with the provisions of Chapter 9 Section E "CBP Authorized Competitive Shooting Teams", upon written approval from the Agency, duty time will be authorized for officers participating in authorized firearms competitions as Agency representatives.

29. To assist authorized officers when applying for concealed weapon permits pursuant to Public Law 108-277, 18 USC 926B, the Agency will issue guidance to authorized officers once finalized. Once the guidance is finalized, NTEU will be provided a copy.

30. In consideration of an employee's right to privacy, any requested medical information will be kept in confidential files separate from an individual's personnel file.

B. Employees will normally provide appropriately requested medical information to the requesting official who will ensure the information is protected in accordance with Subsection A. As an exception, in the event an employee has a reasonable privacy concern related to providing detailed medical information (*e.g.*, information that includes a doctor's prognosis and diagnosis) directly to the requesting official, upon employee request, the Employer will make alternative arrangements for the employee to deliver the required information directly to a medically certified Agency representative. The employee acknowledges the granting of such a request may result in a delay in the benefit sought by the employee.

C. In the event a medically certified Agency representative provides medical information to CBP management officials for the purpose of making an informed management decision, the non-medically certified CBP management officials will only review applicable summary medical information in which they have an appropriate need to know.

31. The *Handbook* will be modified to include this Agreement as an appendix.

7/14/10
For CBP Date

7/23/10
For NTEU Date

7/14/2010
For CBP Date

7/14/2010
For CBP Date

Page 9 of 9

Appendix VIII: Memorandum of Agreement (MOA) with the National Border Patrol Council (NBPC)

This Memorandum of Agreement (MOA) between the National Border Patrol Council of the American Federation of Government Employees, AFL-CIO (hereinafter the Union or NBPC) and U.S. Customs and Border Protection (hereinafter the Agency or CBP) modifies and/or augments the Use of Force Policy Handbook; its provisions must therefore be read and applied in conjunction with the Use of Force Policy Handbook.

The parties have negotiated over the Use of Force Policy Handbook to the fullest extent permissible under law, and as such, it is fully enforceable. In other words, the Union and/or any employee(s) have the right to grieve any alleged violation(s) thereof, including, but not limited to, failure(s) to adhere to the provisions therein and unilateral changes thereto pursuant to the Negotiated Grievance Procedure. Nothing herein shall be construed as an expansion of the scope of the Negotiated Grievance Procedure.

Moreover, in accordance with applicable law, the Agency acknowledges its obligation to notify the Union and provide it with an opportunity to bargain concerning any proposed changes to the policy, procedures, and/or guidelines that would affect the conditions of employment of bargaining unit employees.

1) Within fifteen (15) days of the signing of this MOA, the Union will supply the Agency with names and contact information for twenty-five (25) of its representatives who will assist in the evaluation process of the web-based training for the implementation of the Use of Force Policy Handbook. Within thirty (30) days of their participation in that process, the Union will forward its recommendations to the Agency for modifications to such training. The parties are committed to utilizing a collaborative approach to ensure that the training accurately and effectively conveys the important concepts of the Use of Force Policy Handbook.

2) The Use of Force Policy Handbook will be implemented six (6) months from the date this MOA is signed or six (6) months from the date the Federal Service Impasses Panel (FSIP) renders its final decision in Case No.09 FSIP 47. During this six (6) month period the Agency will do the following in this prescribed order:

A. Provide each Border Patrol Agent with a copy of the Use of Force Policy Handbook.

B. Provide each Border Patrol Agent with on-duty time to complete the Virtual Learning Center (VLC) CBP Use of Force Policy course.

C. During quarterly qualification and/or intermediate force training, provide each agent the opportunity to discuss the new CBP Use of Force Policy with a CBP-certified instructor. If the VLC course is taken off-cycle with the quarterly qualification training, employees will be provided the opportunity to meet with the IFI or FI to discuss the Use of Force Policy.

Until an employee receives a copy of the Use of Force Policy Handbook, completes the VLC course, has the opportunity to discuss the policy with an FI or IFI, and signs the acknowledgement form, he or she will adhere to prior policies and will only be held accountable for such prior policies.

3) *Use of Force Committee*

A. The parties will establish a Use of Force Committee (UFC) that will meet no less than three (3) times per calendar year to collaborate on matters related to Use of Force that impact the bargaining unit. The UFC will provide an opportunity for both parties to discuss issues of mutual concern relating to Use of Force, as well as the prevention and resolution of misunderstandings.

B. The UFC will be comprised of three (3) attendees from both the Agency and the Union. Meetings will be co-chaired by a representative of the Union and a representative of the Agency. The operating guidelines and processes of the Committee will be established at the first meeting. Bargaining unit members of the UFC will receive official time for the meeting as well as the time necessary to travel to and from the meeting. Bargaining unit members will also be entitled to reimbursement for travel and per diem expenses in accordance with the Federal Travel Regulation.

C. The UFC is designed primarily for the purpose of exchanging views and information and shall be deemed a supplement to collective bargaining as defined by the Federal Service Labor Management Relations Statute, not a substitute. The parties recognize that issues unresolved in these meetings can also be addressed in grievances, mid-term bargaining and/or other traditional representational processes.

4) *Chapter 1.A.5. (Implementation)* is modified as follows:

The course of instruction for the Use of Force Policy Handbook for trainee agents at the Border Patrol Academy will be incorporated into the standard curriculum, and will be taught during regular duty hours.

5) *Chapter 1.A.6. (Implementation)* is modified as follows:

The following procedures will be observed for Border Patrol Agents who have graduated from the Border Patrol Academy and are required to take the Use of Force Policy Handbook web-based training course:

A. Agents will not be required to change their scheduled days off or their assigned shift, or to cancel any type of leave in order to take the training.

B. The Agency will ensure that all employees are released from their normal duties in order to take the training.

C. The Agency will ensure that all employees are afforded sufficient duty time to complete the VLC training course, generally two (2) hours. To the maximum extent feasible, such time will be contiguous and uninterrupted.

D. To the maximum extent feasible, the training will be accomplished during regular duty time. If employees are required to take the training outside of their regular duty hours, they will be compensated for all such time under the appropriate rate for directed overtime.

E. Employees will not be precluded from working AUO at the end of their shift solely because they are required to take the VLC Use of Force training during the final part of their regularly scheduled shift.

F. Sector and Station managers will appropriately schedule training to maximize the availability of on-site computers to fulfill the VLC training requirement.

G. CBP management has determined that all agents must complete the VLC Use of Force Course, but that no graded examination will be required for successful completion.

6) *Chapter 2.G.4.c. (Revocation of Authorization to Carry Firearms)* and *Chapter 5.D.2. (Drug Free Work Place)* are clarified as follows:

All references in the April 2002 U.S. Customs Service Drug Free Federal Workplace program (referred to in Chapter 2.G.4.c. as the "CBP Drug Free Workplace Policy") to NTEU representatives are understood to signify NBPC representatives. Additionally, it is understood that duties assigned to managers with superseded management titles may be assigned to other management officials.

7) *Chapter 2.G.7. (Revocation of Authorization to Carry Firearms)* is modified as follows:

Absent unusual circumstances, notice of revocation of authorization to carry firearms will be provided within seventy-two (72) hours.

8) *Chapter 6.A.13. (Demonstration of Firearms Proficiency)* is modified as follows:

Authorized agents, including trainees at the Academy, who are unable to assume a required firing position because of a limited range of physical movement shall be allowed to utilize a safe adaptive shooting stance. Firearms Instructors shall work with these agents to develop an appropriate stance.

9) *Chapter 6.C.2. (Failure to Qualify)* is modified as follows:

Remedial Firearms Training

General Provisions

Blocks of actual live-fire firearms training shall not exceed two hours in length, with no more than two (2) blocks of live-fire training per day.

Border Patrol Agents Who Have Graduated From the Basic Training Academy

Border Patrol Agents who have graduated from the Border Patrol Academy and who fail to qualify with a firearm shall be provided with sufficient remedial training to enable them to qualify and/or improve their abilities, up to a maximum of forty (40) hours of live-fire remedial training per failure to demonstrate proficiency.

Trainee Border Patrol Agents at the Basic Training Academy

Trainee agents whose firearms proficiency has been identified as inadequate shall be notified of this fact in writing at the earliest practicable time. The aforementioned notice shall advise such employees of the dates and times of on-going pre-remedial training and strongly encourage them to take advantage of those opportunities. To the extent possible, all such pre-remedial training shall be scheduled to minimize adverse impact upon their other areas of study.

Trainees who have failed their firearms proficiency will be given the option of receiving a concentrated block of twelve (12) hours of remedial training from qualified instructors at the Academy or twelve (12) hours of remedial training which fits with their current course workload and academic calendar. After receiving a copy of the MOA with this subsection highlighted, the trainee will submit a memorandum indicating his/her choice. The trainee's decision must be completely voluntary and free of any coercion.

If the trainee requests the concentrated block of training, it will be done on consecutive days. If the trainee requests training on a different schedule, firearms instructors will work with the individual trainee in developing a schedule which meets the trainee's needs. For trainee agents who successfully complete the firearms qualification courses before completing the twelve (12) hours of remedial training, no further firearms remedial training will be required.

At the end of each quarter, the Director of Training shall prepare a report specifying the number of trainee agents who failed to successfully complete the firearms program and the reasons for such failures. The report shall include a comparison of the rate of failure with the overall number of trainee agents who successfully completed the firearms program during the same period. The report shall be forwarded to UFPD, which shall promptly distribute a copy thereof to the Union.

10) *Chapter 6.G.3. (Intermediate Force Device Basic Certification and Remedial Training)* and *Chapter 6.H.3. (Intermediate Force Device Re-Certification and Remedial Training)* are modified as follows:

Remedial Intermediate Force Training

General Provisions

No more than six (6) hours of intermediate use of force remedial training per day shall be provided to any agent.

Remedial training for agents who fail to certify with an authorized intermediate force device shall be divided as follows:

A. For agents who fail both the written and practical portions of the certification, the training shall be equally divided between the two portions.

B. For agents who fail only one portion of the certification, at least 75% of the training shall focus on that portion.

Border Patrol Agents Who Have Graduated From the Basic Training Academy

Border Patrol Agents who have graduated from the basic training academy and who fail to certify in the use of at least one authorized intermediate force device shall be provided with sufficient remedial training to enable them to certify and/or improve their abilities, up to a maximum of forty (40) hours of remedial training per failure to demonstrate proficiency.

If an agent is currently certified in the use of one or more authorized intermediate force devices, a minimum of twelve (12) hours of remedial training shall be provided, unless the agent passes the certification sooner.

Trainee Border Patrol Agents at the Basic Training Academy

Trainee agents who fail to certify with any required intermediate use of force device shall be provided with a minimum of eight (8) hours of remedial training per required device, unless they certify with the device sooner. To the extent possible, all such remedial training shall be scheduled to minimize adverse impact upon their other areas of study.

11) *Chapter 6.I.1 (Exposure to Oleoresin Capsicum (OC))* is modified as follows:

OC Exposure Procedures

Exposure to OC will be at a distance of six (6) to eight (8) feet. The agent can choose whether or not to be sprayed from the front or the side. Agents may also choose to wear eye protection (i.e., shooting glasses). The exposure will be administered by a CBP-certified intermediate force instructor as part of a practical exercise. All employees who are exposed to OC shall be properly decontaminated and provided with proper medical care if they suffer unusual reactions requiring attention beyond normal decontamination.

OC Exposure Statistics and Reports

The Agency will maintain statistics regarding the number of agents exposed to OC during training, as well as reports concerning those who suffer unusual reactions requiring attention beyond normal decontamination. This information will be shared with the Union on a quarterly basis. If the Agency becomes aware of any new studies concerning the effects of OC, it will promptly share that information with the Union.

12) *Chapter 13.C.3. (Ammunition Issue)* is modified as follows:

In addition to the handgun ammunition necessary for duty carry and official qualification, Border Patrol Agents will be issued 150 rounds of handgun proficiency ammunition per quarter, upon verbal request and contingent on the availability of funds.

13) This agreement will expire on the date that the Use of Force Policy Handbook policies, procedures and guidelines are superseded or terminated in accordance with the law.

For the Agency:

08/25/10

John E. Steblein Date
Director
Use of Force Policy Division

08/25/10

Aaron A. Hull Date
Associate Chief
U.S. Border Patrol

8/25/10

Donald R. Stakes Date
Labor Relations Specialist

For the Union:

8/25/10

T.J. Bonner Date
President
National Border Patrol Council

Page 6 of 6

Appendix IX: First Aid Trauma Kit Standards

Minimum standards for First Aid Trauma Kits utilized by Firearms and Intermediate Force Instructors are as follows:

The First Aid Trauma Kit shall consist of the following components:

Eye wash	
Sterile water	Cleaning wounds/irrigation purposes
Disposable Emergency Blanket	One time use, foil blanket
Flexible Splint, 36" Rolled	Flexible, moldable foam wrapped metal splint for broken arms, legs etc.
Cold Packs	Squeeze and break, chemicals cause cold within the pack
Rolled Gauze 4 ½" x 4.1 yards	Rolled gauze for keeping wounds clean
Rolled Gauze 2 ¼" x 3 yards	
Elastic Wrap	Stretchy elastic wrap for sprains, to allow some mobility and some stabilization
Trauma Dressing	Thick gauze bandage for heavy bleeding
Elastic Gauze Bandage, 4"	Flexicon is an elastic gauze bandage that holds dressings securely in place without slipping.

Alcohol Prep Pads	
Chest Seal	Plastic component with valve to allow air to escape but not enter used for sucking chest wounds
Bio-Hand Cleaner	Waterless hand cleaner
Hot Compress	Squeeze and break chemicals, cause heat within the compress
Wound Coagulation Chemical	A sterile hemostatic treatment that rapidly accelerates coagulation in large wounds, including high volume venous and arterial bleeding. It saves lives by arresting hemorrhage before victims go into shock caused by loss of blood
Burn Kit	Contains ointment and bandages
Band aids, various sizes	
Antiseptic Sting Swabs	Antiseptic inside of an ampoule

Firearms and/or Intermediate Force Instructors shall have a First Aid Trauma Kit available at all times when conducting firearms and/or tactical training.

Instructors who are trained and certified to administer oxygen should carry supplemental oxygen in addition to the First Aid Trauma Kit. Instructors carrying supplemental oxygen are required to adhere to all regulations pertaining to the handling and transportation of medical oxygen.

Appendix X: Glossary

AC — Assistant Commissioner – The director of an operational component of Customs and Border Protection.

BORTAC — Border Patrol Tactical Unit – A nationally recognized tactical unit for CBP. BORTAC has administrative control for all SRT units and is the certifying entity for all tactical teams.

BOS — Board of Survey – A Headquarters board composed of representatives from all operational components to determine disposition of lost or destroyed CBP assets.

CBP — Customs and Border Protection – A component of the Department of Homeland Security.

COA — Co-Authority – An individual designated by the Responsible Official to act in his/her stead in all functions of the CBP firearms information tracking system.

CPA — Chief Patrol Agent – The agent in charge of a Border Patrol Sector.

CS — O-Chlorobenzylidenemalononitrile – The active ingredient in CS gas or spray.

CSB — Collapsible Straight Baton – An intermediate force device.

DFO — Director of Field Operations – The director in charge of a specific number of Ports of Entry under the Office of Field Operations.

DHS — Department of Homeland Security – A cabinet level agency of the United States Government.

EAP — Employee Assistance Program – A CBP program established to provide assistance and guidance to employees.

EMS — Emergency Medical Services – Ambulance or paramedic services.

FA — Field Armorer – A firearms instructor who has been trained and certified through formal instruction to conduct limited maintenance and repair of CBP weapons.

FI — Firearms Instructor – An officer/agent who has been trained and certified through formal instruction as a CBP firearms instructor.

IA — Internal Affairs – A division of CBP that is responsible for internal investigation of all operational components.

IFI — Intermediate Force Instructor – An officer/agent who has been trained and certified through formal instruction to teach CSB, OC spray and other defensive tactics.

ISBT — Integrated Scenario Base Training – Interactive training conducted in simulated real world situations, utilizing simulated ammunition and/or inert OC spray.

OAM — Office of Air and Marine – One of the three operational components of CBP; composed of all CBP air and marine assets.

OBP — Office of Border Patrol – One of the three operational components of CBP.

OC — Oleoresin Capsicum – The active ingredient in OC spray, derived from cayenne pepper.

OFO — Office of Field Operations – One of the three operational components of CBP.

OTD — Office of Training and Development – A division of CBP at headquarters level with the responsibility to create, develop and implement basic and advanced training for all operational components of CBP.

PFI — Primary Firearms Instructor – The lead firearms instructor responsible for receiving, controlling and issuing CBP use of force equipment to CBP personnel within their duty area.

PIFI — Primary Intermediate Force Instructor – The lead intermediate force instructor responsible for receiving, controlling, and issuing CBP intermediate use of force equipment to CBP personnel within their duty area.

RO — Responsible Officials – Chief, Office of Border Patrol (OBP); Assistant Commissioner, Office of Field Operations (OFO); Assistant Commissioner, Office of Internal Affairs (IA); Assistant Commissioner, Office of Air and Marine (OAM); Assistant Commissioner, Office of Training and Development (OTD); Chief Patrol Agent (CPA); Director, Field Operations (DFO); Directors, Air Operations and Marine Operations (DAO, DMO); Division Directors, Internal Affairs (IA); Director of UFPD; and other officials designated in writing by the Commissioner.

RSO — Range Safety Officer – An officer/agent trained in range safety procedures utilized as a line safety officer on the firing line.

Serious Physical Injury – A physical injury likely to cause death or serious permanent disfigurement or loss of function of a bodily member or organ.

SFW — Shoulder-Fired Weapon – A CBP-authorized rifle or long arm.

SRT — Special Response Team – A sanctioned, certified and chartered tactical unit performing enhanced field operations and operations requiring specialized weapons, tactics and techniques.

UFPD — Use of Force Policy Division – A division of the Office of Training and Development responsible for development of CBP use of force policy, procurement of CBP firearms and tactical equipment and oversight of use of force training for all CBP operational components.