

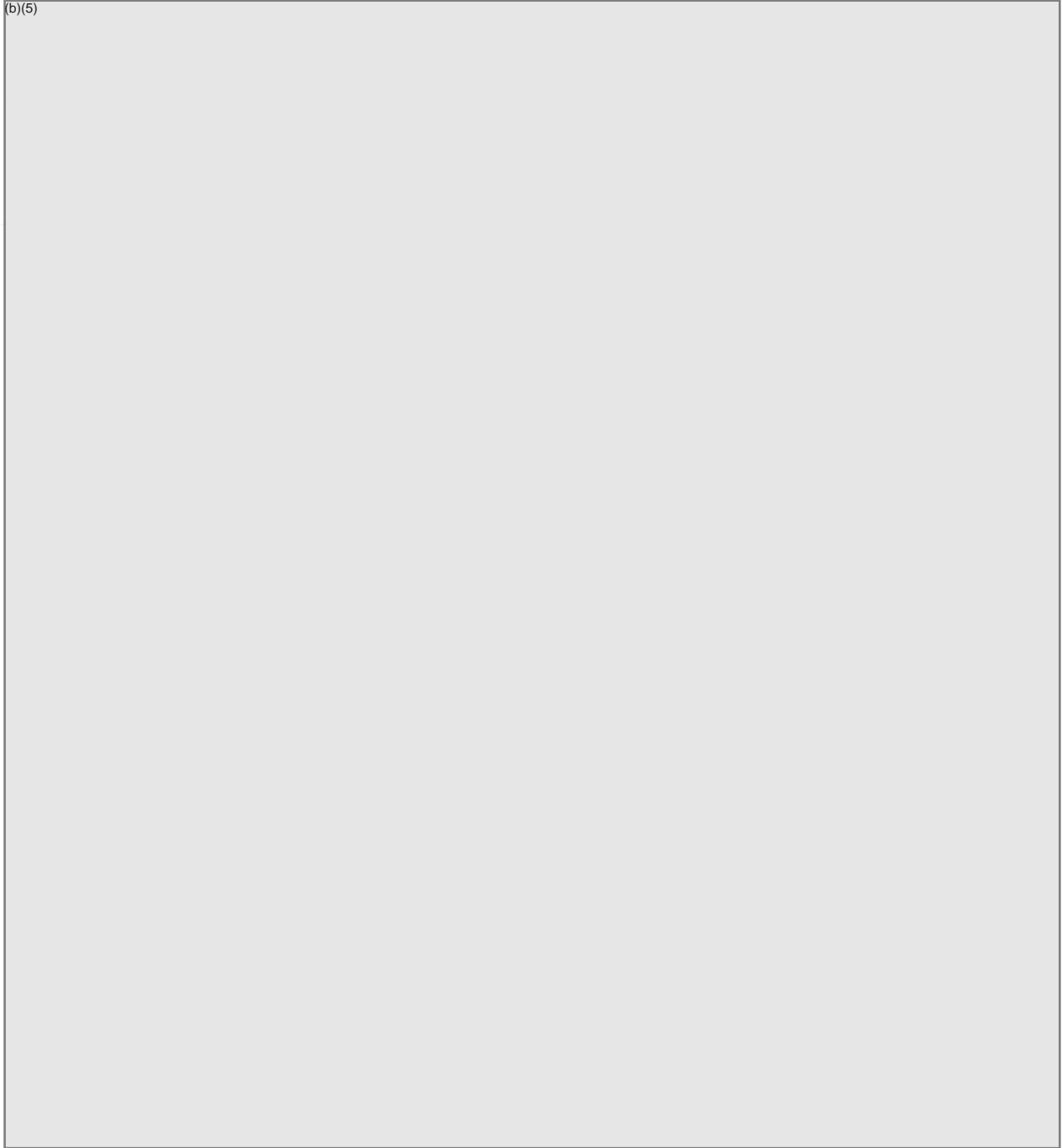
DRO

September 20

(b)(5)



(b)(5)



(b)(5)



Training

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

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(b)(5)

- 1)
- 2)
- 3)
- 4)

(b)(5)

5/19

DNA #w/ BOP Rep

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

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

- BOP ?

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

- OFO

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

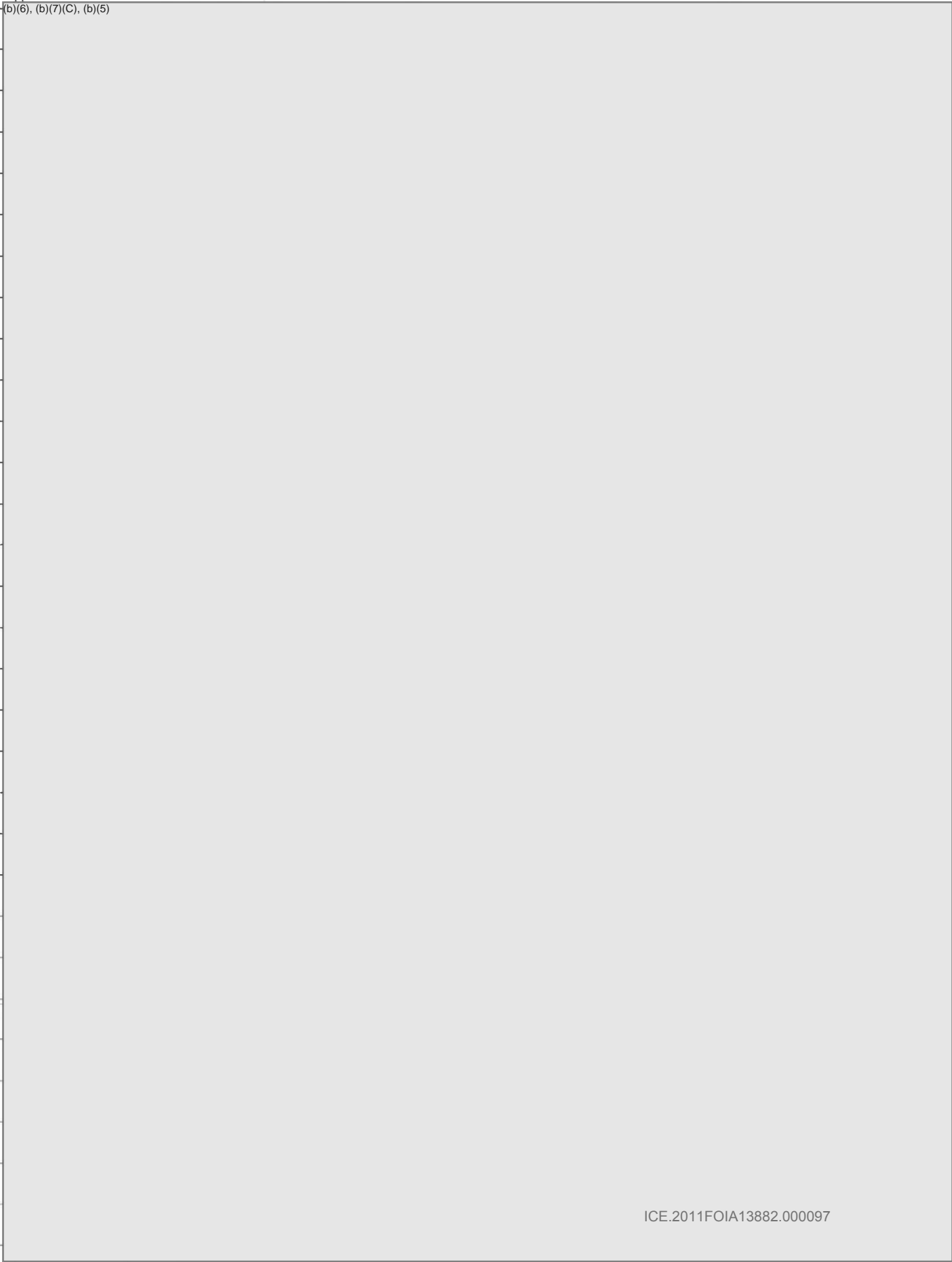
- OFO
- OBP ?

DHS - use of force + unions

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

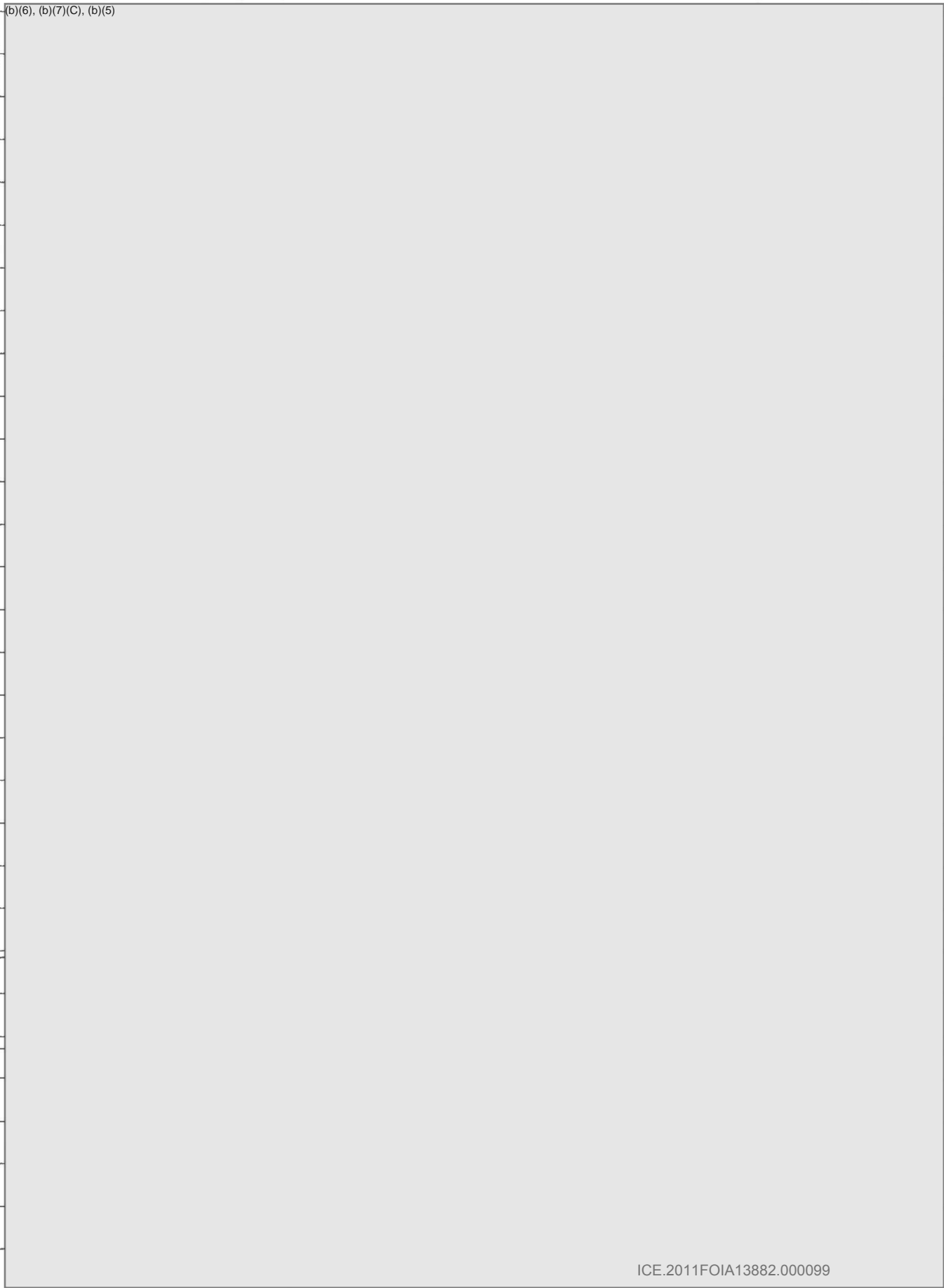
(b)(5)

(b)(6), (b)(7)(C), (b)(5)

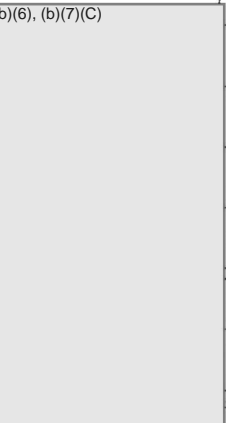


(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)



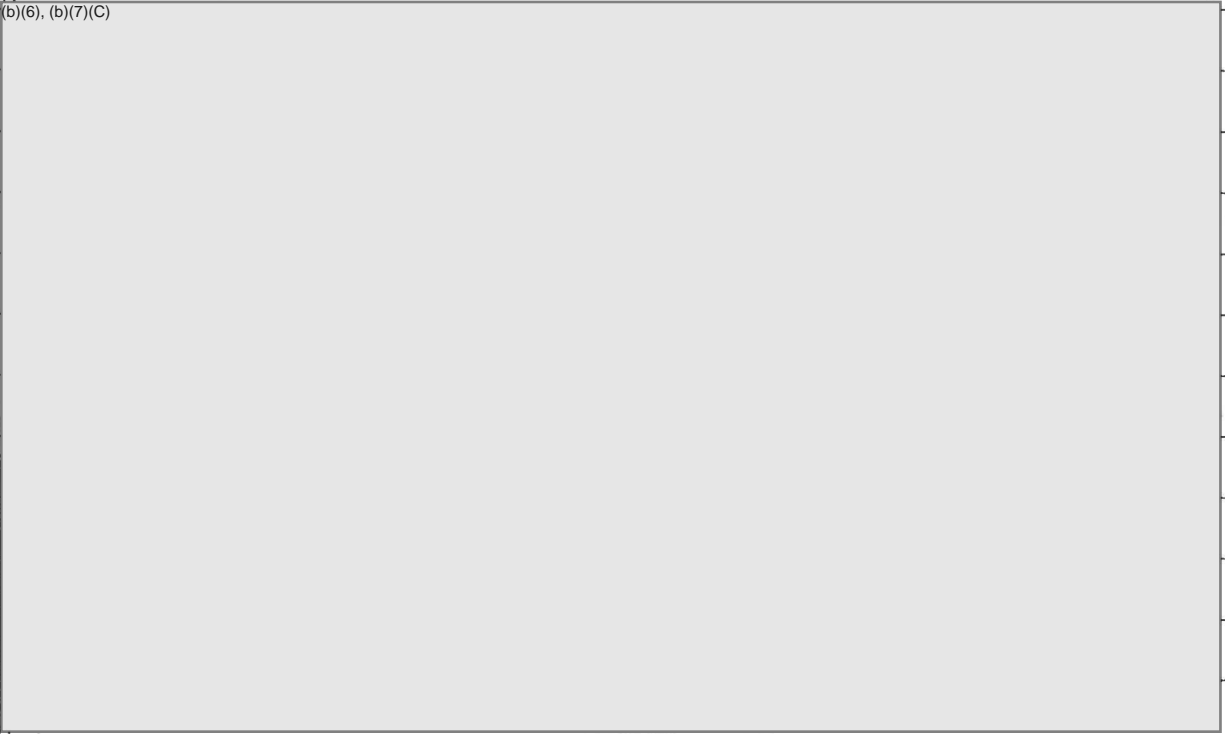
(b)(6), (b)(7)(C)



4/17

Mtg at DHS HQ - DOJ DNA

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



(b)(5)



(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)

Handwritten mark

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(b)(6), (b)(7)(C), (b)(5)

(b)(6), (b)(7)(C), (b)(5)

4/21

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

(b)(6), (b)(7)(C), (b)(5)

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(b)(5)



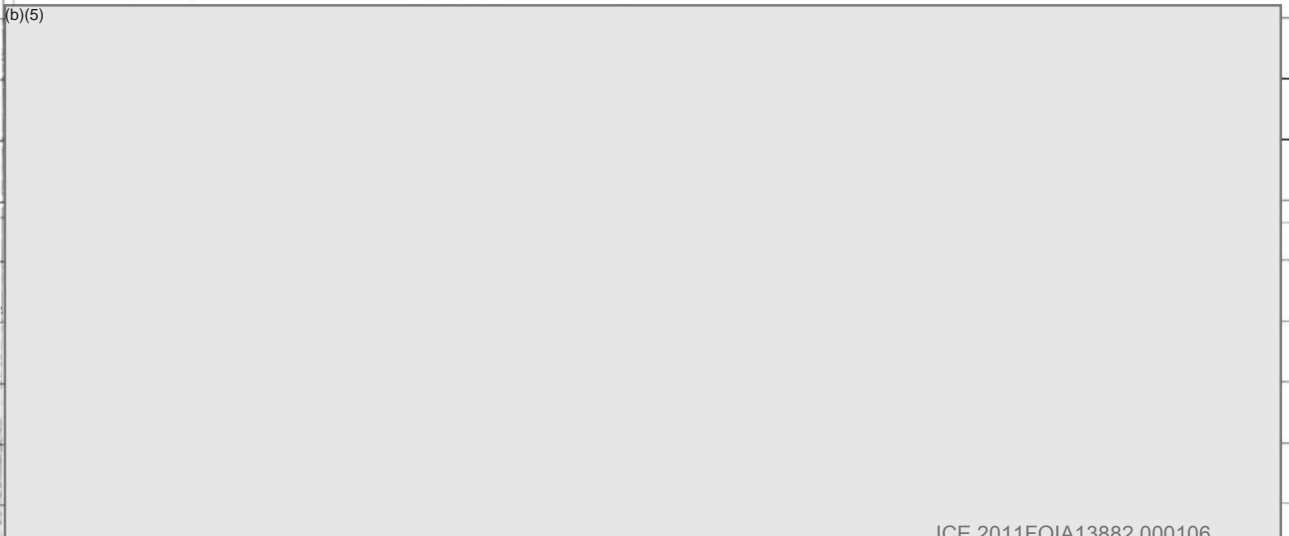
Front office on Monday

[2pm. OSLC]

mtg w/OSLC

4/21

(b)(5)



DNA DOJ Mtg

9/13

(b)(5)

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

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

DRO Policy

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

- response w/ front office

smn vetted

(b)(5)

IGSAs

(b)(5)

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[Redacted]

(b)(6), (b)(7)(C), (b)(5)

[Redacted]

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

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(b)(5)

FBI will provide us w/ letters -

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

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

-

(b)(5)

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

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Phase 1
①

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

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

(b)(5)

Lynn Healy - Privacy office

OI - Operational side

PRO - Criminal issues

Re focus on DOJ / FBI issues

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

- phone call

- assign someone from Inform side
to work on this

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Web TA - Arena

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

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

Assistant General Counsel (Enforcement)

#

(b)(5)

9/9 CBP/FBI Meeting (Call-in)

- (b)(6), (b)(7)(C) OPLA
- someone from ICE Privacy
- ICE OI
- ICE DRO
- CBP OIT
- ICU
- (b)(6), (b)(7)(C) - OBP
- (b)(6), (b)(7)(C) CBP OPO
- OBP
- DRO (b)(6), (b)(7)(C) - in person + on phone
- OPO
- (b)(6), (b)(7)(C) ICE
- FBI Lab
- (b)(6), (b)(7)(C)
- (b)(6), (b)(7)(C)
- (b)(6), (b)(7)(C)

- Met on implem. plans
- FBI back for follow-up; tech questions; data merging

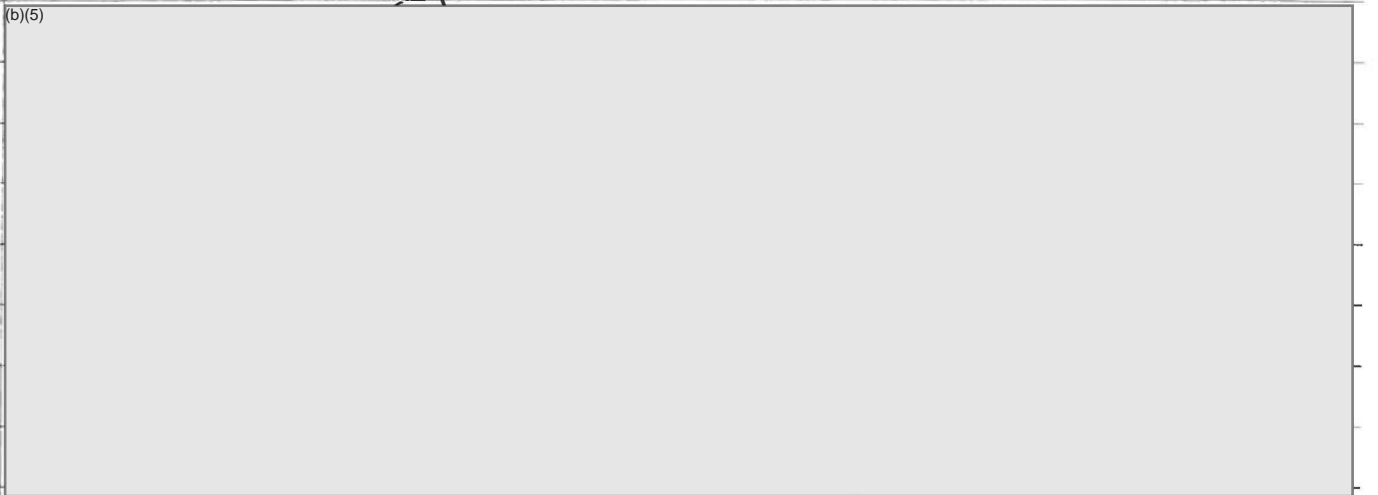
- (b)(6), (b)(7)(C) = list of 35
- Sample kits - (b)(5) - one swab, barcode system: (b)(5)

(b)(5)

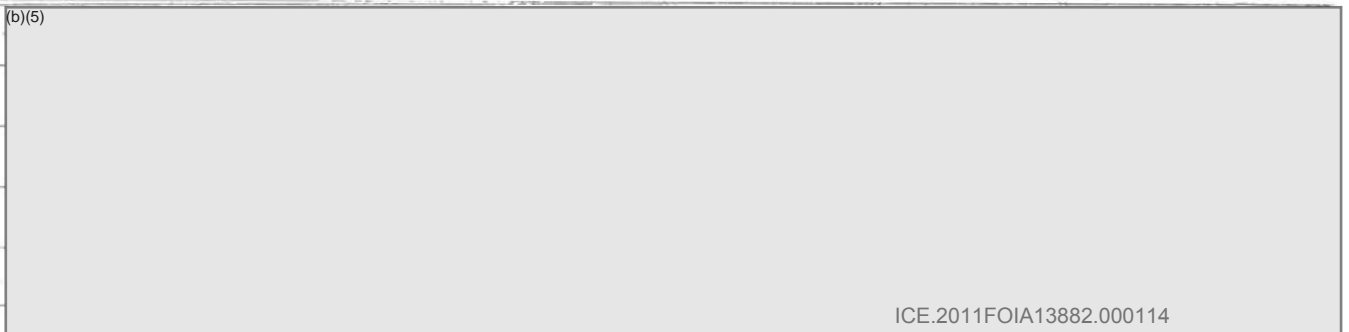
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(b)(6), (b)(7)(C)

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Goal =

(b)(5)

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5/20

DHS HQ DNA Mtg

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

[Redacted]

CBP

DHS Policy

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

[Redacted]

ICE Privacy

BOP MTA Summary

(b)(5)

[Redacted]

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

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DOJ Responses

CBP -

(b)(5)

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

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

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DEA Policy -

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2/5

Room

DNA implement.

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Exemptions

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DOJ DNA Rea

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Con call

1/9

OPLA -

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

PPS -

DRO -

OI -

Forensic Doc Lab -

Division 1 -

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

Division 3 -

(b)(5)

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Issues

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1/30

Congressional Briefing

(b)(5), (b)(6), (b)(7)(C)

[Redacted]

Document Routing Form



U.S. Immigration
and Customs
Enforcement

Date: June 28, 2010 Purpose: Congressional DHS Routine FYI SharePoint Tracking No.: 47193

From: Sarah Dorsey Office: OPP Telephone No.: Room No.: 4th Floor

Subject Title:
ICE Homeland Security Investigations DNA Sampling Pilot Program

Comments:
(b)(5), (b)(6), (b)(7)c

Response to be signed by: N/A

2 Required Concurrences Before Routing to the Office of the Assistant Secretary

Name	Extension	Office	Action Requested	Initial	Date	Comments
Sarah Dorsey	2 (b)(6), (b)(7)(C)	OPP	<input type="checkbox"/> Concur <input type="checkbox"/> Sign		6/28/10	
(b)(6), (b)(7)c	2	OESIM	<input type="checkbox"/> Concur <input type="checkbox"/> Sign	(b)(6), (b)(7)(C)	7/1	
			<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
			<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
			<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
			<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
			<input type="checkbox"/> Concur <input type="checkbox"/> Sign			

3 Office of the Assistant Secretary Concurrences

Name	Action Requested	Initial	Date	Comments
	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Special Assistant (b)(6), (b)(7)(C)	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Special Assistant	<input type="checkbox"/> Concur <input type="checkbox"/> Sign	(b)(6), (b)(7)(C)	7/1	
Special Assistant	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Special Assistant	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
CoS MGMT (b)(6), (b)(7)(C)	<input type="checkbox"/> Concur <input type="checkbox"/> Sign		7/19	Edits / Signature
DAS MGMT Daniel H. Ragsdale	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	DR	7/20	Pls route to Erik, Beth, Al, and Suzanne for their SA
(A) DCoS OPS Stefanie Aarthun	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
CoS OPS Patrick J. Lechleitner	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
DAS OPS Alonzo R. Peña	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Special Advisor Tracey-Bardorf	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Counselor Kevin Fandl	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Sr. Counselor Beth Gibson	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Sr. Counselor Erik Barnett	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign			
Deputy CoS Edward Dolan	<input type="checkbox"/> Concur <input type="checkbox"/> Sign		7/20/10	(A) COS
Chief of Staff Suzanne E. Barr	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			
Assistant Secretary John Morton	<input type="checkbox"/> Concur <input type="checkbox"/> Sign			



OESIMS

Intranet

People

Search: keyword, subject, task, address, project name

go

Site Actions

ONLY NON-CLASSIFIED INFORMATION MAY BE LOADED INTO OESIMS

Folder Documents Attached Emails Assignments History Notes Send / Return

Folder ID 47193 Create Date 6/29/2010 3:34:54 PM

Folder Subject ICE Homeland Security Investigations DNA Sampling Pilot Program

Primary Owner (b)(6), (b)(7)(C)

Date	User	Comments	
7/1/2010 4:48:11 PM	(b)(6), (b)(7)(C)	Task response for (b)(6), (b)(7)(C) Completed. Hand carried to OAS.	Edit Delete
7/2/2010 5:28:36 PM	(b)(6), (b)(7)(C)	Return folder for edits and new signature.	Edit Delete
7/6/2010 11:03:19 AM	(b)(6), (b)(7)(C)	Task response for Policy: Policy made the requested change and uploaded the document.	Edit Delete
7/7/2010 3:57:53 PM	(b)(6), (b)(7)(C)	Cleared by Sarah Dorsey, Deputy Director Returned to the Director's Office for clearance.	Edit Delete
7/9/2010 5:30:28 PM	(b)(6), (b)(7)(C)	OAS returned folder for signature from Assistant Director. zdr	Edit Delete
7/13/2010 12:24:49 PM	(b)(6), (b)(7)(C)	Task response for Policy: Policy uploaded a pdf copy of the signed memo and the attached Public Affairs Guidance.	Edit Delete
7/19/2010 11:07:15 AM	(b)(6), (b)(7)(C)	Cleared by Sarah Dorsey, Deputy Director Returned to the Director's Office for clearance.	Edit Delete

Add New Note

Empty text area for adding a new note.

Save





OESIMS

Intranet | People

Search: keyword, subject, task, address, project name



Site Actions

Clo:

Reply | Edit Message | Delete Message | Create Case From Message

Created 6/28/2010 4:01:25 PM
From (b)(6), (b)(7)(C)
Subject FW: memo for Dan Ragsdale
Folder ID
Folder Owner
Attachments DNA Pilot memo 6-28-10.doc
DNA sample m2DRagsdale 6-28-2010.pdf
DNA Sample PAG draft.doc.pdf

Body (b)(6), (b)(7)(C) please process for Sarah.

Thank you.

From: Dorsey, Sarah B
Sent: Monday, June 28, 2010 3:58 PM
To: ICE Exec Sec
Cc: (b)(6), (b)(7)(C)
Subject: memo for Dan Ragsdale

Please see attached information memo to be sent to Dan Ragsdale (cc Beth Gibson), with attachment. The attachment is PDF only; I have attached the Word version of the memo.

Sarah B. Dorsey
Deputy Director/Chief, Operations & International Division
ICE Office of Policy
500 12th Street, S.W.
Washington, D.C. 20536
+1 202.733.(b)(6), (b)(7)(C)

Clo:

42193

Document Routing Form



and Customs Enforcement

1 Date: 5/22/09	Purpose: <input type="checkbox"/> Congressional <input checked="" type="checkbox"/> DHS <input type="checkbox"/> Routine <input type="checkbox"/> FYI	Waiver No/Tracking No. (If appropriate) 37981
From: (b)(6), (b)(7)(C)	Office: Policy	Telephone No: (202)73 (b)(6), (b)(7)(C) Room No. 4121
Subject: Implementation of DOJ Final Rule "DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction"		
Response to be signed by: Assistant Secretary		
Comments: Memorandum is due to Ellen McClain in DHS OGC on June 12.		

2 Required Concurrences for Routing to the Office of the Assistant Secretary					
Name	Office	Action Requested	Initial	Date	Comments
James T. Hayes, Jr., Director	DRO	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	JTH	6/8/09	
Gary W. Schenkel, Director	FPS	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign		6/8/09	see attached e-mail
ra Marcy Forman, Director	OI	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	MF	6/1/09	MF (make copy for Marcy)
Lyn Rahilly, Privacy Officer	PRIV.	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	LHR	5/27/09	
Barry O'Melinn, Acting Principal Legal Advisor	OPLA	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	PSU	6/25	
Susan Cullen, Director	OP	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign	SMC	5/26/09	

3 Office of the Assistant Secretary Concurrences					
Name	Action Requested	Initial	Date	Comments	
Executive Secretariat	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
Special Advisor Dora Schriro	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
Beth Gibson, Counselor to the A/S	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
DAS Theresa Bertucci	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
DAS John Torres	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
Chief of Staff Suzanne Barr	<input checked="" type="checkbox"/> Concur <input type="checkbox"/> Sign				
Assistant Secretary John Morton	<input type="checkbox"/> Concur <input checked="" type="checkbox"/> Sign				

INV-2009-1785

Cullen, Susan M

From: (b)(6), (b)(7)(C)
Sent: Monday, June 08, 2009 5:16 PM
To: Cullen, Susan M (b)(6), (b)(7)(C)
Cc: Dorsey, Sarah B; (b)(6), (b)(7)(C)
Subject: RE: FPS Clearance via Email on the DOJ DNA Memos

Sue,
(b)(5) Sorry, my computer was out of service.

R/
(b)(6), (b)(7)(C)

From: Cullen, Susan M
Sent: Monday, June 08, 2009 4:56 PM
To: (b)(6), (b)(7)(C)
Cc: Dorsey, Sarah B
Subject: FW: FPS Clearance via Email on the DOJ DNA Memos

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

Can I please get your assistance on this? (b)(5)

(b)(5)

(b)(5) All of the background materials are attached as well. I will need concurrence by tomorrow morning!

Please let me know if you have any questions.

Thanks,
Susan

Susan M. Cullen
Director, Office of Policy
U.S. Immigration and Customs Enforcement
Potomac Center North
500 12th St., SW
Washington, D.C. 20536
202-73 (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, June 08, 2009 4:48 PM
To: Cullen, Susan M
Cc: Dorsey, Sarah B
Subject: FW: FPS Clearance via Email on the DOJ DNA Memos

Susan,
(b)(6), (b)(7)(C) is now down in Glynco and told me to follow up with (b)(6), (b)(7)(C) on this. I could not reach him this afternoon, but I did reach (b)(6), (b)(7)(C) who is trying to track down the memos as well.

Thanks,

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

From: (b)(6), (b)(7)(C)
Sent: Thursday, June 04, 2009 9:32 AM
To: (b)(6), (b)(7)(C)
Cc: Dorsey, Sarah B
Subject: FPS Clearance via Email on the DOJ DNA Memos

Good morning!

(b)(6), (b)(7)(C), (b)(5)

Thank you and please let me know if you have any questions.

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

Writer-Editor, Office of Policy
U.S. Immigration and Customs Enforcement
500 12th St SW
Washington DC 20536
(202)733-3333 (b)(6), (b)(7)(C)

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



**U.S. Immigration
and Customs
Enforcement**

MEMORANDUM FOR: Ellen McClain
Assistant General Counsel (Enforcement)
Office of the General Counsel
Department of Homeland Security

THROUGH: Susan M. Cullen
Director, ICE Policy

FROM: Sarah B. Dorsey
Senior Policy Advisor

SUBJECT: Implementation of DOJ Final Rule "DNA-Sample Collection and
Biological Evidence Preservation in the Federal Jurisdiction"

Purpose

To respond to the Secretary's request that U.S. Immigration and Customs Enforcement (ICE) provide an implementation plan for the Department of Justice's (DOJ) Final Rule on DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction.¹

Background

On December 10, 2008, DOJ published a final rule amending regulations on DNA-sample collection. Under this rule, effective January 9, 2009, all federal law enforcement agencies are required to take DNA samples from "individuals who are arrested, facing charges, or convicted, and from non-United States persons² who are detained under the authority of the United States."³ On January 12, 2009, then Deputy Secretary of the Department of Homeland Security (DHS), Paul A. Schneider, wrote to the Attorney General that DHS's implementation of the rule was not feasible due to resource limitations and operational exigencies.

¹ DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction, 73 Fed. Reg. 74932 (Dec. 10, 2008).

² The term "non-U.S. persons" includes "persons who are not United States citizens and who are not lawfully admitted for permanent residence as defined in 8 CFR 1.1(p)." 28 CFR § 28.12(b).

³ 28 CFR § 28.12(b).

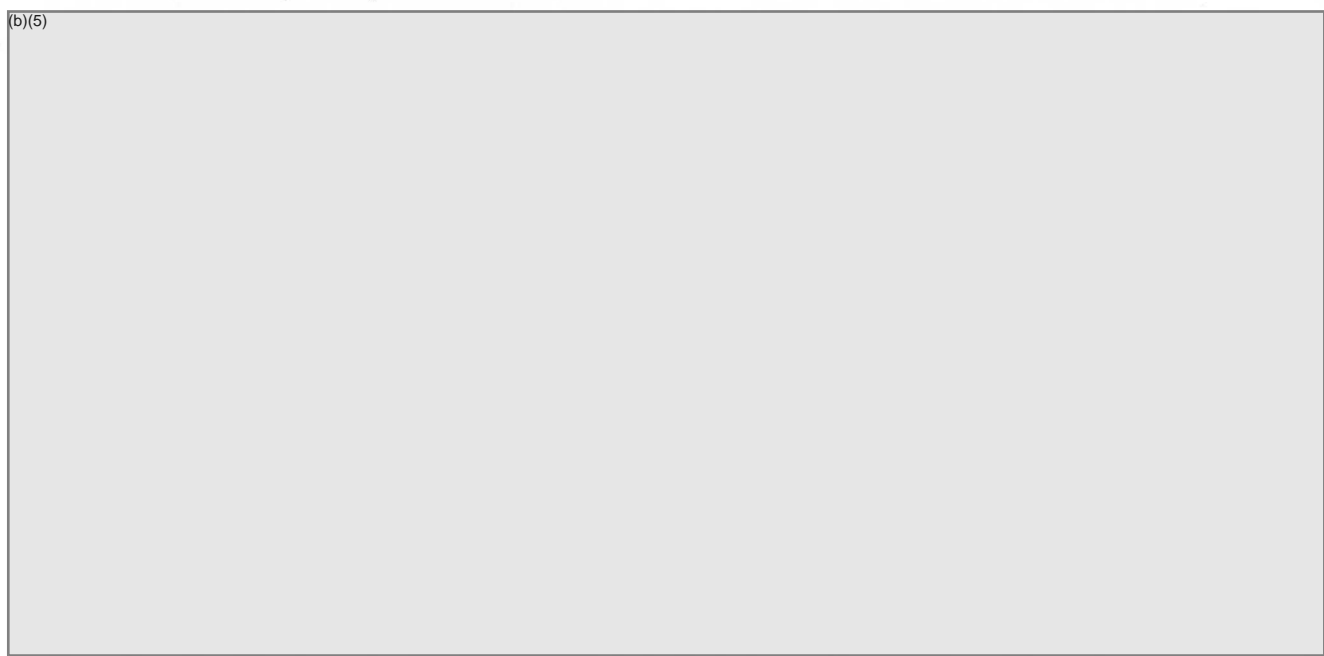
On March 25, 2009, Secretary Napolitano directed each DHS Operational Component to create an implementation plan to ensure compliance with the DNA sample collection obligations. ICE coordinated discussions among its Office of Policy, Office of the Principal Legal Advisor (OPLA), Office of Investigations (OI), Federal Protective Service (FPS), Office of Privacy, and Office of Detention and Removal Operations (DRO) on how to implement this regulation. This memorandum, in conjunction with discussions with DHS OGC and other DHS components and offices, responds to the Secretary's direction to submit an implementation plan.

Discussion

This discussion tracks the enumerated topics requested by the Secretary in her memorandum.

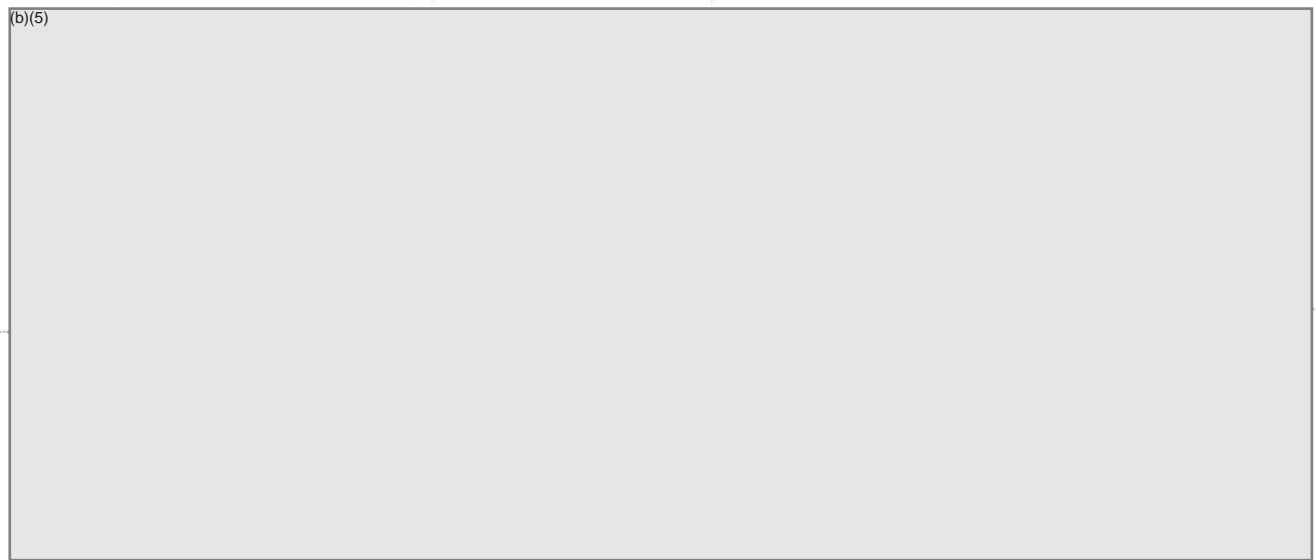
1. Timetable for Implementation

(b)(5)



2. Cost Estimates

(b)(5)



(b)(5)



3. Training

(b)(5)



4. Interagency Agreements

(b)(5)



(b)(5)



(b)(5)



5. Exemptions

(b)(5)



(b)(5)



(b)(5)





OESIMS

Intranet People

Search: keyword, subject, task, address, project name



Complete route for (select)

ONLY NON-CLASSIFIED INFORMATION MAY BE LOADED INTO OESIMS

Folder Documents Attached Emails Assignments History Notes Send / Return

Folder ID 36338 Create Date 4/23/2009 9:53:16 AM

Folder Subject 36338 - Request Review and Clearance: DOJ DNA Implementation Memo

Primary Owner (b)(6), (b)(7)c

Date User Comments

4/24/2009 1:50:39 PM (b)(6), (b)(7)(C) Task response for OI: OPSTASKING,

Please see OI's suggested edits in the attached documents. Cleared by: OI Deputy Director Kumar Kibble

(b)(6), (b)(7)(C) Office of Investigations 500 12th Street SW Washington, DC 20024 202-73-(b)(6), (b)(7)(C) (office) 202-33-(b)(6), (b)(7)(C) (cell)

4/24/2009 2:46:51 PM (b)(6), (b)(7)(C) Task response for FPS: FPS has not comments. Response cleared by by Deputy Director.

4/24/2009 2:48:04 PM (b)(6), (b)(7)(C) FPS has no comments. Response cleared by Deputy Director.

4/24/2009 6:01:38 PM (b)(6), (b)(7)(C) DRO did not complete this tasking, so consolidated versions of the cover memo and implementation memo have been uploaded for OPLA's review without DRO input.

Add New Note

Empty text area for adding a new note.

Save



OESIMS

Intranet

People

Search: keyword, subject, task, address, project name



Complete route for (select)

ONLY NON-CLASSIFIED INFORMATION MAY BE LOADED INTO OESIMS

Folder Documents Attached Emails Assignments History Notes Send / Return

Folder ID 36338 Create Date 4/23/2009 9:53:16 AM

Folder Subject 36338 - Request Review and Clearance: DOJ DNA Implementation Memo

Primary Owner (b)(6), (b)(7)(C)

Assignee Data

Assignee	Office	Due Date	Task	Status	
OI	GROUP TASKING	4/24/2009	Review and comment	Completed	
DRO	GROUP TASKING	4/24/2009	Review and comment	Current	
OPLA	GROUP TASKING	4/27/2009	Review and comment	Current	
FPS	GROUP TASKING	4/24/2009	Review and comment	Completed	
Current Assignees	OAS Distribution List	4/24/2009	FYI	Completed	
	Policy	4/24/2009	FYI	Completed	
	OIA	4/24/2009	FYI	Completed	
	CFO	4/24/2009	FYI	Completed	
	OTD	4/24/2009	FYI	Completed	
	Morrell, Jenny L	HQOPP	4/24/2009	FYI	Completed

Add Assignee

Name (s):

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Role: Review and comment

A



Route Data

Priority

Normal

Due Date

[Date and time selection: 12 AM 00]

Instructions

DNA Sampling
DHS Working Group
July 18, 2011 Meeting Agenda

1. Welcome/Introductions
2. DNA Sampling Background/History
3. DHS Component updates on status of DNA sampling programs

U.S. Coast Guard (USCG)/Coast Guard Investigative Service (CGIS)

Customs & Border Protection (CBP)

Immigration & Customs Enforcement (ICE)

Secret Service (USSS)

TSA-Office of Law Enforcement/Federal Air Marshals (OLE/FAMS)

4. Discussion of Issues/Obstacles/Challenges facing DHS components

5. Solutions/Next Steps

6. Review/Closing



1616 N. Ft. Myer Drive
Arlington, VA 22209
Conference Room 1890, 18th Fl
March 1, 2011 (9:00 a.m. – 11:00 :)

AGENDA

Welcome and Introductions – (b)(6), (b)(7)(C) *Deputy Assistant
for Business Policy & Planning*

Working Group Overview – (b)(6), (b)(7)(C) *Policy Section Ch*

- Purpose of the working group
- US-VISIT and the Age Range
- Changing mission needs
- Review of Authorities – (b)(6), (b)(7)(C) *OGC*

Open Discussion – (b)(6), (b)(7)(C)

- Review mission needs of DHS Components and Stakeho
at the ports of entry

Next Steps and Conclusion – (b)(6), (b)(7)(C)

- Next Steps / Action Items

February 15, 2011

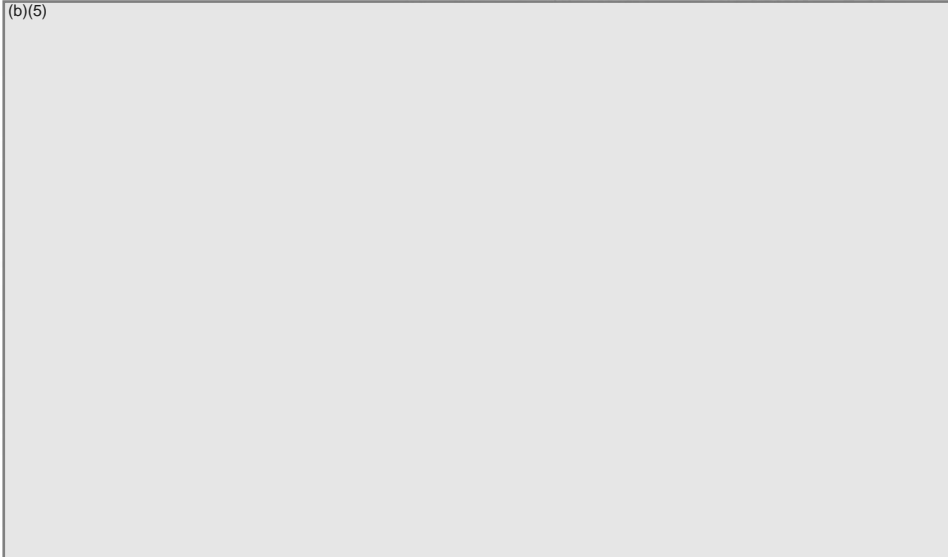
Purpose

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Background

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Authority

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MEMBERS

CBP
CBP

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

ICE
ICE
ICE
ICE
ICE
ICE

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USCIS
USCIS
USCIS

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FEMA
FEMA

USSS

DHS SCO

DHS-S&T

DHS-I&A

DHS FPS

DOS

DoD
DoD

USV
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Argentina

Collects fingerprint biometrics from citizens ages 6 and older specified, for issuance of national identity cards.

Source: <http://www.migraciones.gov.ar/accesible/>

Canada

Collects fingerprint biometrics from asylum seekers ages 18 . specify an upper age limit.

Source: Citizenship and Immigration Canada

Chile

Collects fingerprint biometrics from citizens ages 18 and older specified, for issuance of national identity cards.

Source: http://www.registrocivil.cl/f_cedula.html

Dominican Republic

Collects fingerprint biometrics from citizens ages 17 and older specified, for issuance of national identity cards.

Source: <http://www.jce.do/>

Mexico

Collects fingerprint biometrics from citizens in the first year : upper age limit specified, for issuance of national identity card

Source: <http://www.secureidnews.com/2010/02/17/episode-4>

Region: Asia Pacific**Australia**

Captures fingerprint biometrics from foreign nationals ages 1 age limit specified, in visa processing and benefits issuance.

Sources:

<http://www.immi.gov.au/media/fact-sheets/84biometric.htm>

<http://www.immi.gov.au/gateways/agents/news/2011/february/bior>

China, People's Republic of

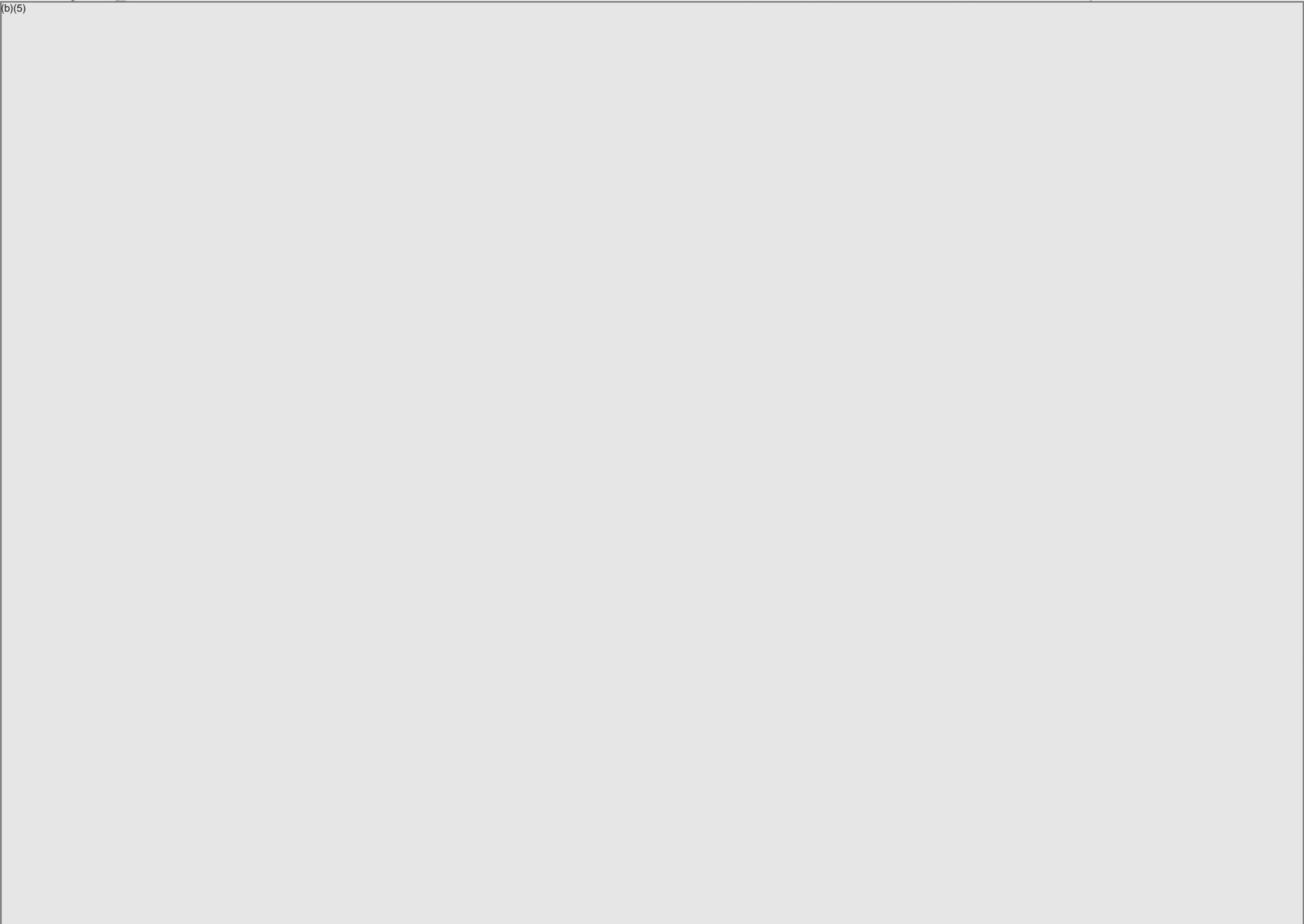
Collects fingerprint biometrics from its citizens ages 16 and older limit specified, for the issuance of national identity cards.

Source: <http://www.gov.cn/english/laws/2005-09/06/content>

Hong Kong

Automated border clearance system allows for fingerprint verification of foreign nationals ages 11 and older, with no upper age limit specified for permanent identity card.

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**U.S. Immigration
and Customs
Enforcement**

OESIMS Folder No.:	37981	Date Received:	6/25/2009 1:49:00 PM
Originator:	Susan Cullen	Folder Create Date:	6/25/2009 2:13:26 PM
Primary Owner:	(b)(6), (b)(7)(C)	Folder Due Date:	6/30/2009 12:00:00 AM
Primary Type:	Action Memo	Signature Office:	(b)(6), (b)(7)(C)
		Secondary Type:	

Subject:	Implementation of DOJ final Rule DNA Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction
Instructions:	Document is for AS Morton's approval.

Program Assignments

Assignee	Office:	Assign Date/Time	Due Date/Time	Status	Completed Date/Time
(b)(6), (b)(7)(C)	OAS	6/25/2009 2:25:53 PM	6/25/2009 12:00:00 AM	Current	(b)(6), (b)(7)(C)
	OAS			FYI	
Dorsey, Sarah B	OAS			FYI	
(b)(6), (b)(7)(C)	OAS			Pending	

Office of the Assistant Secretary Reviews

Name:	Assign Date/Time:	Initial:	Completed Date/Time:	Comments:
John Torres				
--David Shaw				
--Dan Ragsdale				
John Morton		(b)(6), (b)(7)(C)		
--Beth Gibson				
--Suzie Barr				
(b)(6), (b)(7)(C)	6/29/09			Policy revised memo -ole to clare

Returned to program office for incomplete information: Office: _____

June 25, 2009

**TO: John Morton, Assistant Secretary
Beth Gibson, OAS**

THROUGH: OESIM (b)(6), (b)(7)(C)

From (Requesting Office): Susan Cullen, Director, Office of Policy

Assignment Due Date: June 30, 2009

Instructions: Policy requests AS Morton's approval of ICE's response to DHS Office of General Counsel, Operations and Enforcement Law Division.

BACKGROUND: OESIM 37981 - Implementation of DOJ Final Rule, "DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction."

8/7/09

OIG - DNA Sampling Mtg

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

-FPS

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

Compliance Enforce Unit

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

-01

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met w/USCG, TSA, USSS this week

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MEMORANDUM FOR THE SECRETARY

FROM: Ivan Fong
General Counsel

SUBJECT: Implementation of DNA Sample Collection Rule

On March 25, 2009, you sent a memorandum to Department of Homeland Security (DHS) component agencies regarding DHS implementation of newly-imposed DNA sample collection requirements. You requested that each component devise an implementation plan for the new requirements, and identify any activities or programs warranting consideration or consultation under one or more of the exemptions provided for in the rule. The rule provides for certain stated exceptions and also authorizes you to identify, in consultation with the Attorney General, other circumstances in which non-U.S. persons are detained that you have determined that the collection of DNA samples is "not feasible because of operational exigencies or resource limitations." In addition, the rule also authorizes the Attorney General to approve other limitations or exceptions to the DNA collection requirements applicable to all arrestees or detainees, including U.S. persons.

The Office of General Counsel has coordinated the collection of the implementation plans, analyzed the proposed plans and identified relevant information relating to this process for your review, described herein. Based on this analysis, OGC has drafted a proposed letter to the Attorney General for your signature setting forth a summary of the overall DHS implementation plan for these collection requirements and identifying certain proposed exceptions from the collection requirements.

Background

On December 10, 2008, the Department of Justice (DOJ) published in the Federal Register a final rule entitled "DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction." See 73 FR 74932, attached for your reference. This rule, which took effect on January 9, 2009, implements the requirements of section 1004 of the *DNA Fingerprint Act of 2005*, P.L. 109-162, and section 155 of the *Adam Walsh Child Protection and Safety Act of 2006*, P.L. 109-248.

Over the course of the last several months we solicited and analyzed information regarding the proposed implementation of these requirements by DHS component agencies. Also during this period, at the invitation of Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigations (FBI) visited several DHS sites, including Customs and Border Protection and ICE facilities in the Southwest region, for the purpose of better understanding the environments in which



DHS officers charged with sample collection will utilize the collection kits. Furthermore, DHS components consulted with the Department of Justice and FBI representatives in interagency discussions regarding the implementation of the new collection requirements, including discussions regarding the test kits, the analysis being performed by FBI labs, and other associated matters.

Scope

Under the December 2008 rule, with certain exceptions and limitations discussed further below, DNA samples must be collected from “individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States.”¹ 28 C.F.R. § 28.12(b).

Specifically, the rule exempts the collection of DNA samples from the following classes of persons, in cases in which they are detained rather than arrested:

1. Aliens lawfully in, or being processed for lawful admission to, the United States;
2. Aliens held at a port of entry during consideration of admissibility and not subject to further detention or proceedings; and
3. Aliens held in connection with maritime interdiction.

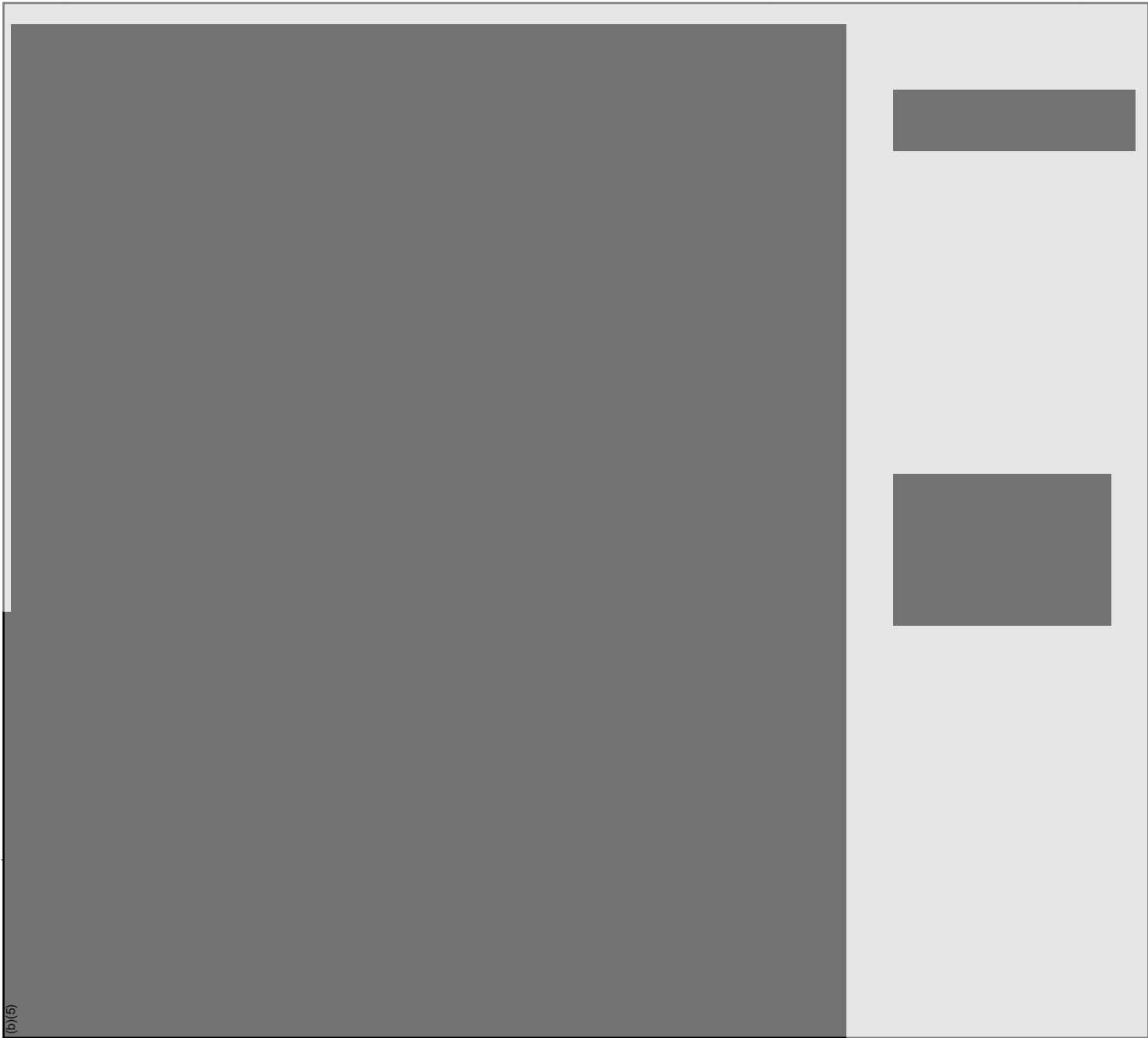
See 28 C.F.R. § 28.12(b). Further, in cases in which individuals are detained rather than arrested, the collection of DNA samples is also not required from “other aliens with respect to whom the Secretary of Homeland Security, in consultation with the Attorney General, determines that the collection of DNA samples is not feasible because of operational exigencies or resource limitations.” Id. at § 28.12(b)(4).

Finally, by its terms, the rule provides that collection of DNA samples “may be limited to individuals from whom an agency collects fingerprints and may be subject to other limitations or exceptions approved by the Attorney General.”

Brief Summary of Proposed Implementation Plans



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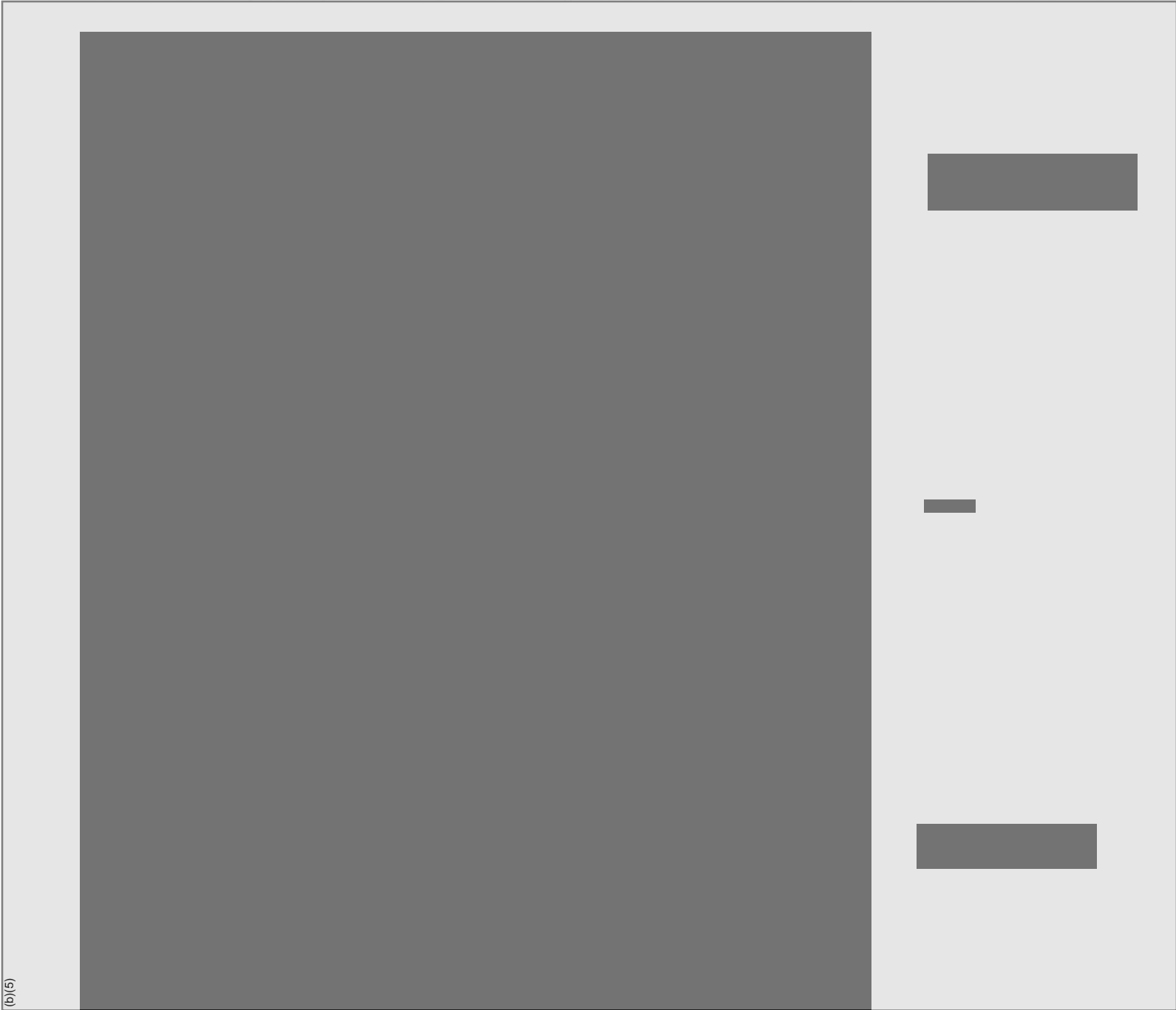
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[Sign proposed letter to Attorney General]

[Others to be determined]

Attachment – Draft Letter to Attorney General

CHAPTER 66 ENFORCEMENT PROCEDURES

Subchapter 664 Arrest/Fugitive

6641.6 DNA COLLECTION

6641.61 GENERAL. The collection of deoxyribonucleic acid (DNA) from individuals implicated in unlawful activities provides a powerful tool for law enforcement identification and the solution and prevention of crimes. This subsection delineates DEA policy governing the collection and processing of DNA samples.

6641.62 Authority

1. Pursuant to 42 United States Code (U.S.C.) § 14135a(a)(1)(A) and 28 Code of Federal Regulation (CFR) § 28.12, DEA and other federal law enforcement agencies are authorized and directed to collect DNA samples from individuals who are arrested, facing charges, or convicted and from non-United States persons who are detained under federal authority. In light of this requirement, DEA will normally collect DNA samples from individuals whom DEA arrests.
2. Unless otherwise directed by the Attorney General, an agency is only required to collect DNA samples from individuals in the classes described in paragraph 1 from whom the agency collects fingerprints. DEA personnel, including Special Agents and Task Force Officers, accordingly will only collect DNA samples from such individuals whom DEA fingerprints. Both adults and juveniles who are fingerprinted are subject to DNA sample collection.
3. In rare cases, DEA may detain an individual without making an arrest. When this occurs, the requirement to collect a DNA sample applies only if:
 - a. the individual is a non-United States person (i.e., not a U.S. citizen and not an alien lawfully admitted for permanent residence); and
 - b. the individual is fingerprinted.
4. In addition to the required collection of DNA samples pursuant to 28 CFR § 28.12, DNA samples may be collected by DEA personnel from confidential sources and submitted to the FBI for analysis.

6641.63 Exceptions to the DNA Sample Collection Requirement.

Pursuant to 28 CFR § 28.12(e), DEA may, but need not, collect a DNA sample from an individual if:

1. another federal agency, a state or local agency, or a private entity has collected or will collect a DNA sample from that individual pursuant to an agreement or arrangement with DEA; or

2. the Combined DNA Index System (CODIS) already contains a DNA profile of that individual.

6641.64 DNA Collection Process.

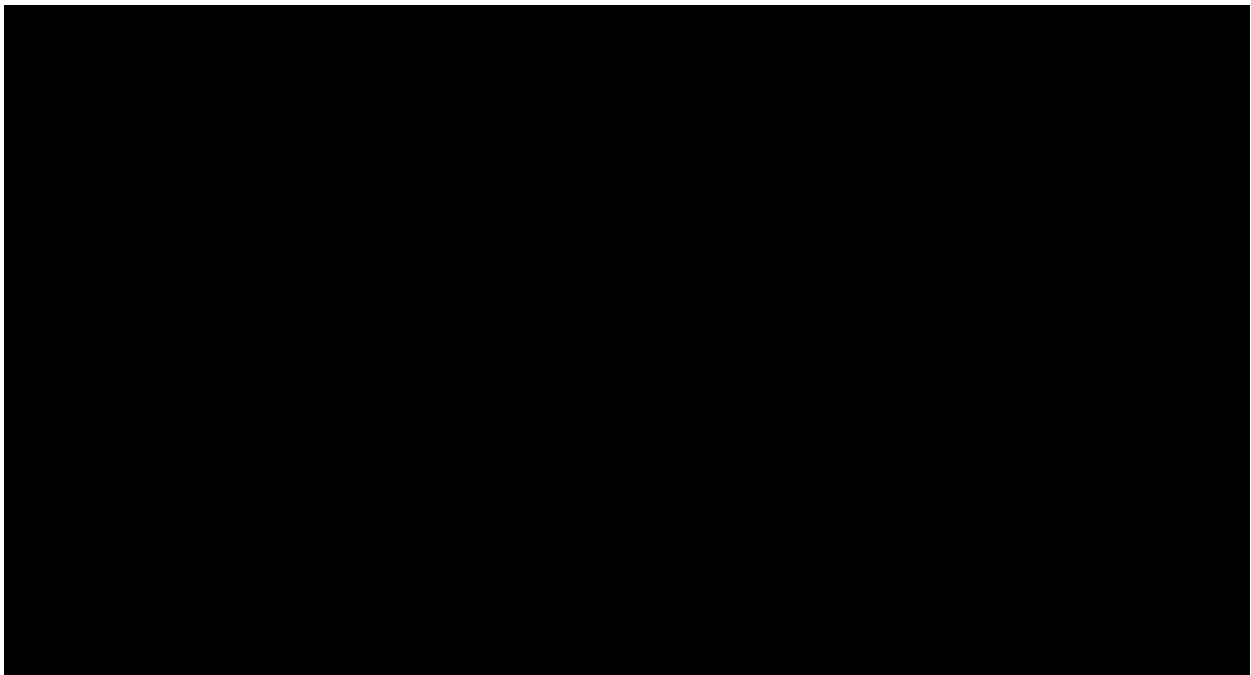
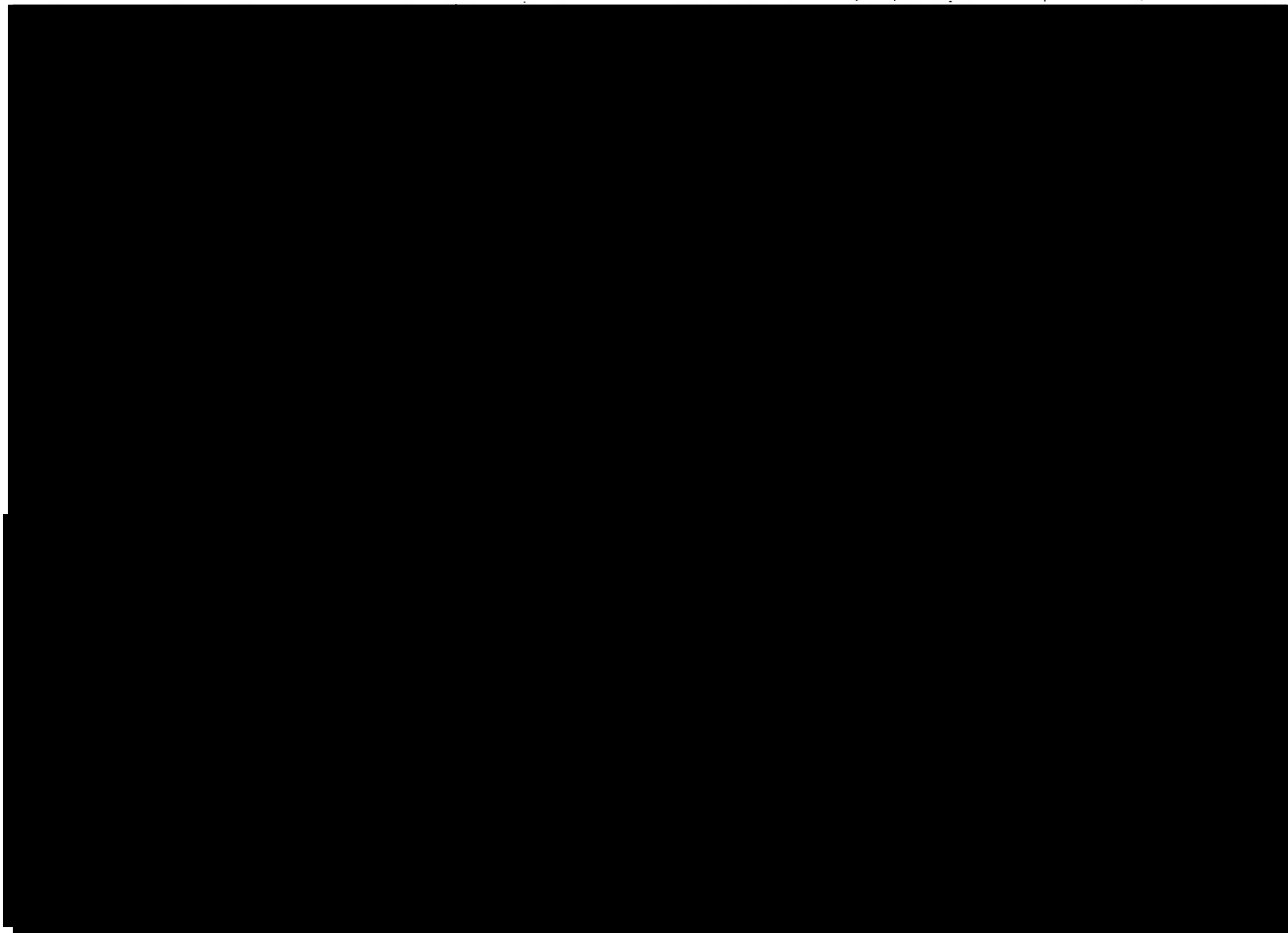
1. DEA will collect samples using DNA sample collection kits provided by the FBI, and will follow the procedures specified by the FBI in collecting the samples, completing the kits, and sending the completed kits to the FBI for analysis. The FBI's instructions for ordering and using the DNA sample collection kits are included as an Appendix to this policy, and may be found online at www.fbi.gov/hq/lab/html/dnau1.htm.
2. Upon submission of a DNA sample to the FBI by DEA, the FBI Laboratory will normally analyze the sample and enter the resulting profile into CODIS without further notice to DEA concerning the receipt or processing of the sample. However, the FBI may notify DEA if the sample collection process was not properly carried out or did not yield a satisfactory result. DEA will repeat DNA sample collection from an individual who remains or becomes again subject to DEA's jurisdiction or control if DEA is informed that a sample collected from the individual does not satisfy the requirements for analysis or for entry of the results of the analysis into CODIS.
3. It is a federal offense for an individual from whom DNA sample collection is authorized to refuse to cooperate in the collection of a sample, and cooperation in such collection is a mandatory condition of pretrial release. (See 42 U.S.C. § 14135a(a)(5); 18 U.S.C. § 3142(b), (c)(1)(A).) An individual who resists DNA sample collection may be advised of these legal consequences as a means of inducing cooperation. The use of such other means as are reasonably necessary to detain, restrain and collect a DNA sample from an individual who refuses to cooperate in DNA sample collection is also authorized. (See 28 CFR § 28.12(d).)

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DNA Sampling Questions/Issues for DoJ

Issue: Scope





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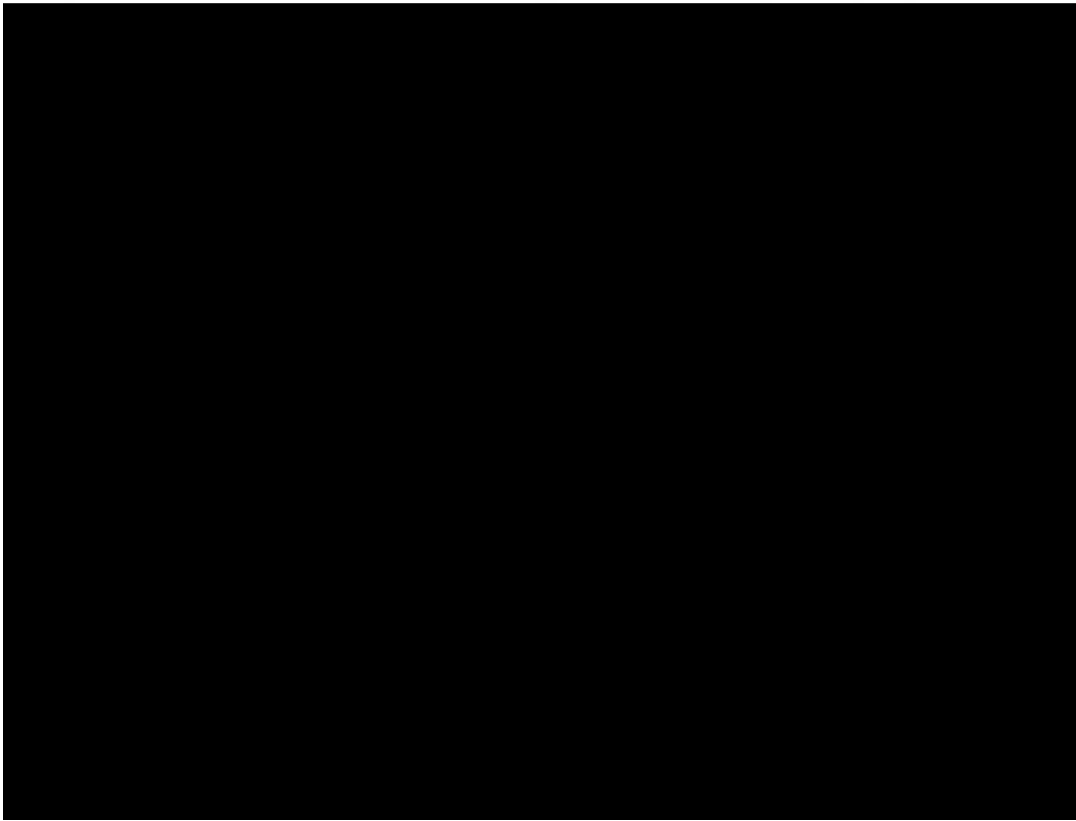
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U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: Ellen McClain
Assistant General Counsel (Enforcement)
Office of the General Counsel
Department of Homeland Security

THROUGH: Susan M. Cullen
Director, ICE Policy

FROM: Sarah B. Dorsey
Senior Policy Advisor

SUBJECT: Implementation of DOJ Final Rule "DNA-Sample Collection and
Biological Evidence Preservation in the Federal Jurisdiction"

Purpose

To respond to the Secretary's request that U.S. Immigration and Customs Enforcement (ICE) provide an implementation plan for the Department of Justice's (DOJ) Final Rule on DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction.¹

Background

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¹ DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction, 73 Fed. Reg. 74932 (Dec. 10, 2008).

² The term "non-U.S. persons" includes "persons who are not United States citizens and who are not lawfully admitted for permanent residence as defined in 8 CFR 1.1(p)." 28 CFR § 28.12(b).

³ 28 CFR § 28.12(b).

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Discussion

This discussion tracks the enumerated topics requested by the Secretary in her memorandum.

1. Timetable for Implementation



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2. Cost Estimates




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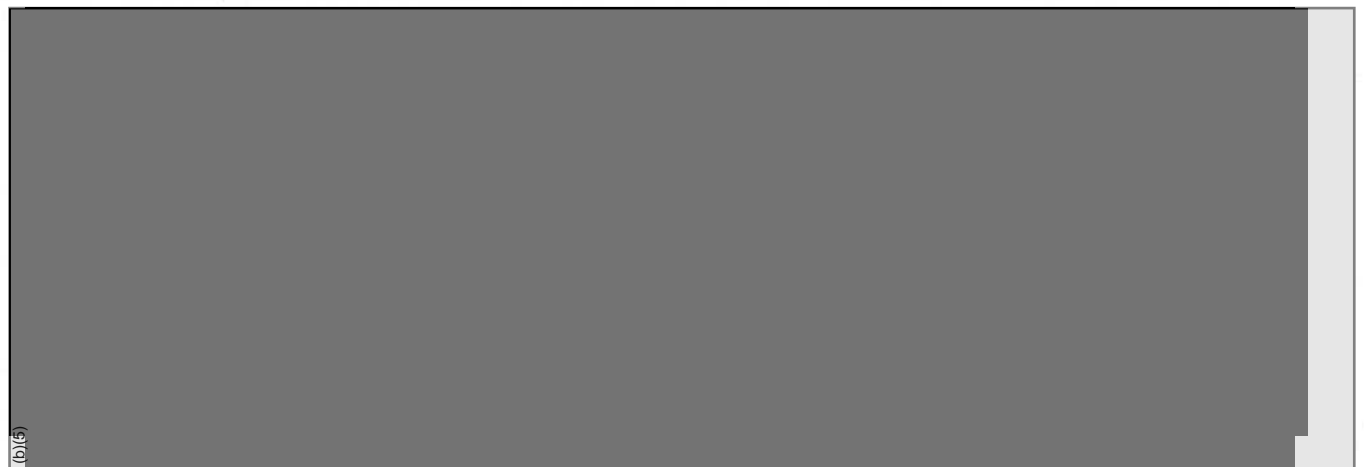
3. Training

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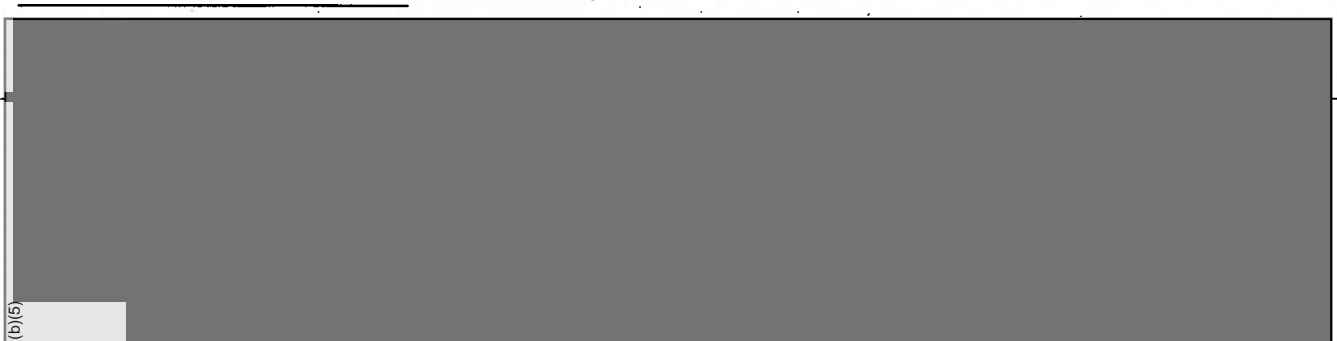
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4. Interagency Agreements

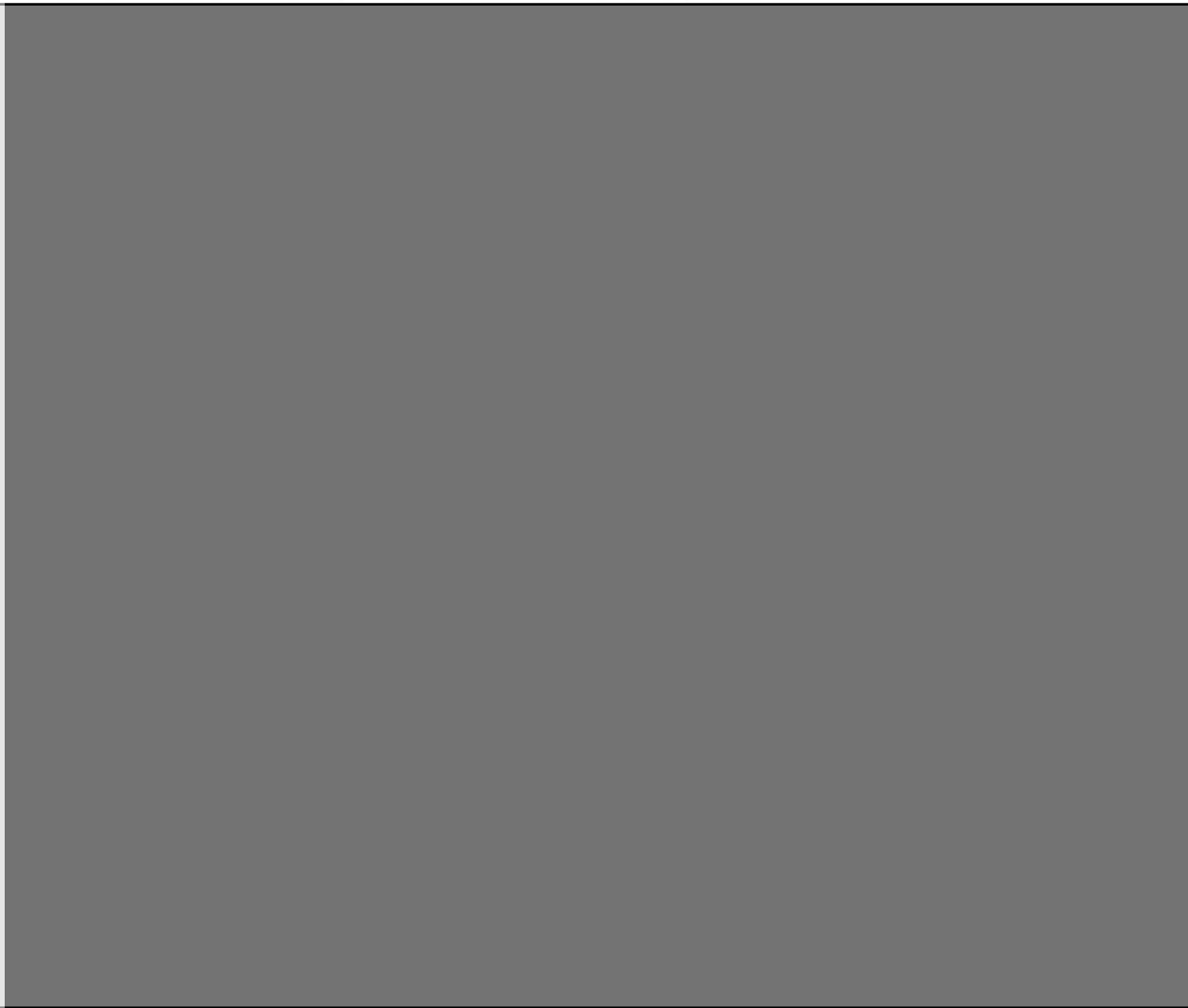
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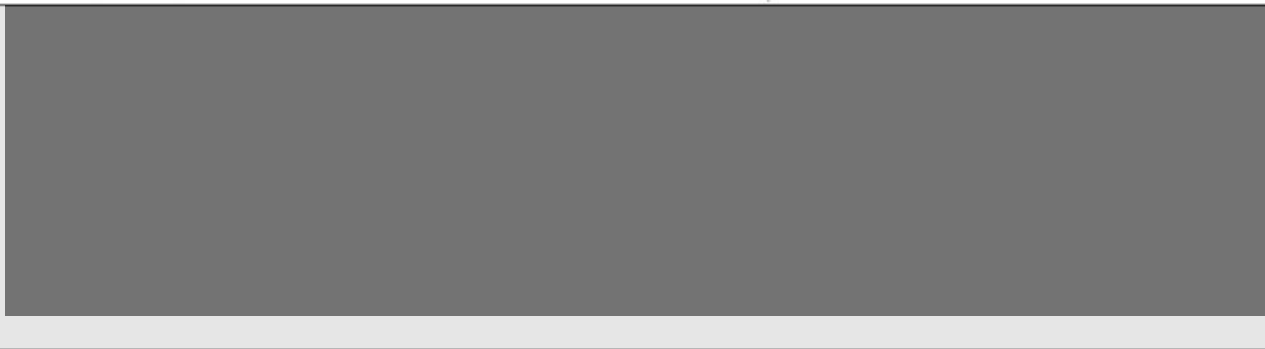
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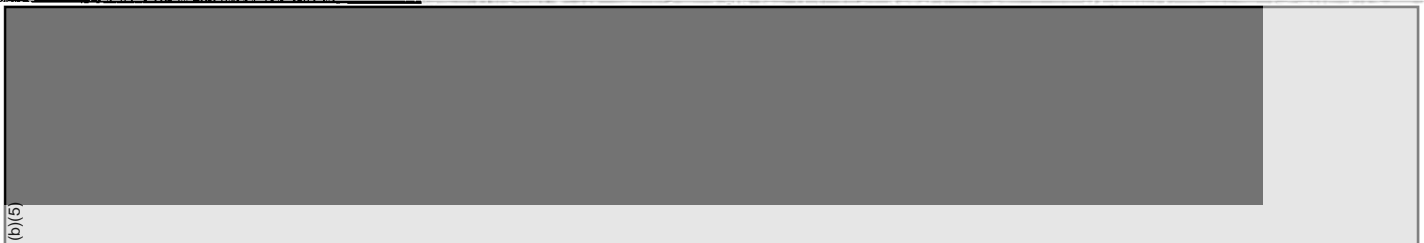
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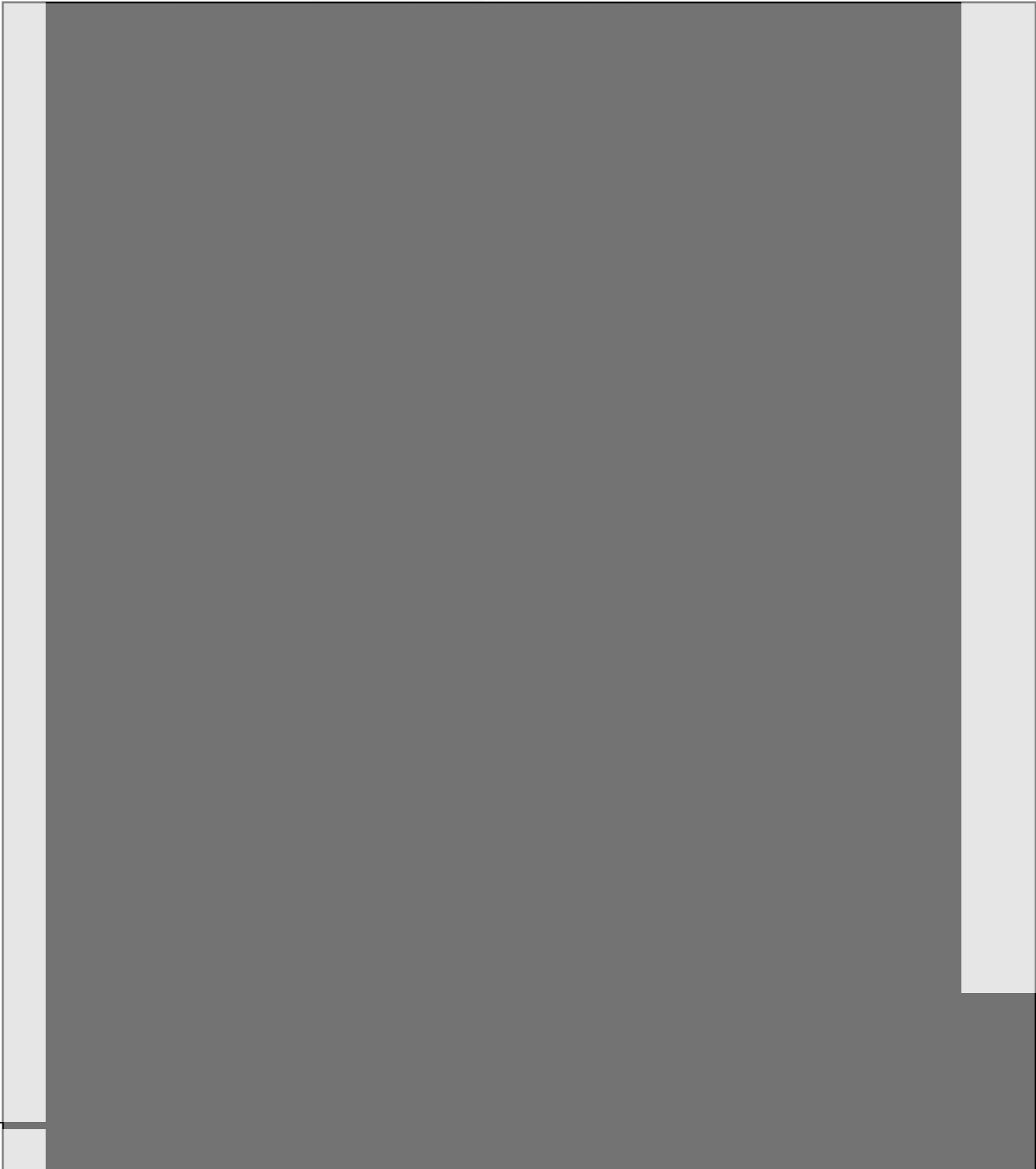
5. Exemptions

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U.S. Immigration
and Customs
Enforcement

May 22, 2009

MEMORANDUM FOR: Ellen McClain
Assistant General Counsel (Enforcement)
Office of the General Counsel
Department of Homeland Security

THROUGH: Susan M. Cullen
Director, ICE Policy

FROM: Sarah B. Dorsey *ASD*
Senior Policy Advisor

SUBJECT: Implementation of DOJ Final Rule "DNA-Sample Collection and
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Background

On December 10, 2008, DOJ published a final rule amending regulations on DNA-sample collection. Under this rule, effective January 9, 2009, all federal law enforcement agencies are required to take DNA samples from "individuals who are arrested, facing charges, or convicted, and from non-United States persons² who are detained under the authority of the United States."³ On January 12, 2009, then Deputy Secretary of the Department of Homeland Security (DHS), Paul A. Schneider, wrote to the Attorney General that DHS's implementation of the rule was not feasible due to resource limitations and operational exigencies.

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On March 25, 2009, Secretary Napolitano directed each DHS Operational Component to create an implementation plan to ensure compliance with the DNA sample collection obligations. ICE coordinated discussions among its Office of Policy, Office of the Principal Legal Advisor (OPLA), Office of Investigations (OI), Federal Protective Service (FPS), Office of Privacy, and Office of Detention and Removal Operations (DRO) on how to implement this regulation. This memorandum, in conjunction with discussions with DHS OGC and other DHS components and offices, responds to the Secretary's direction to submit an implementation plan.

Discussion

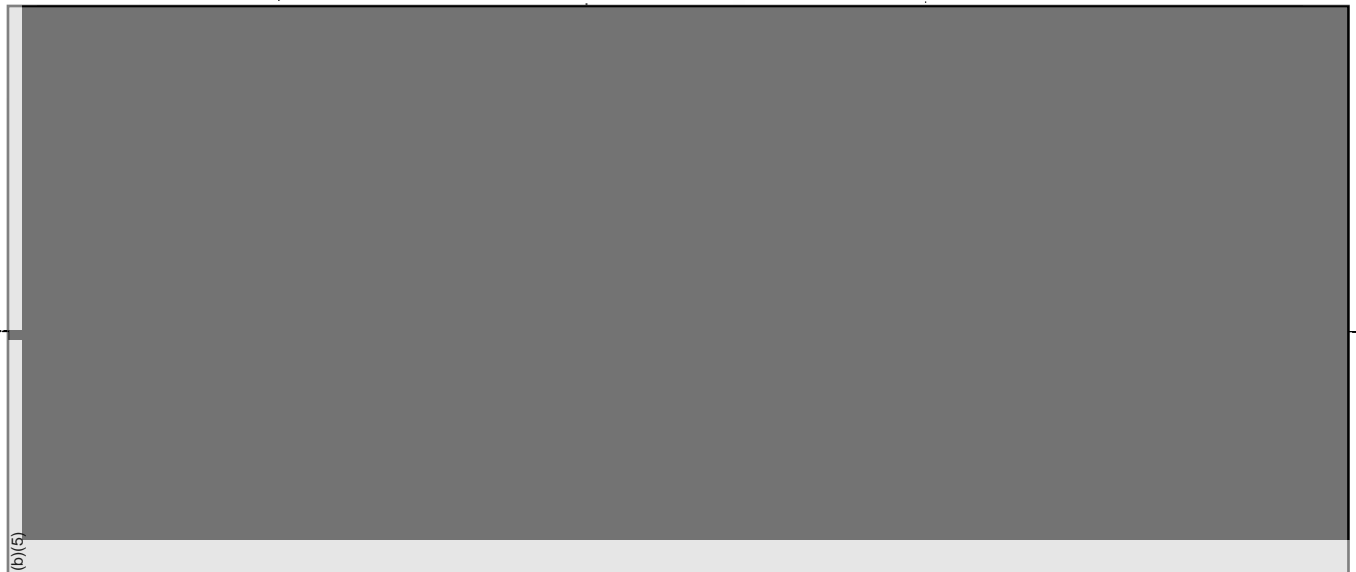
This discussion tracks the enumerated topics requested by the Secretary in her memorandum.

1. Timetable for Implementation



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2. Cost Estimates



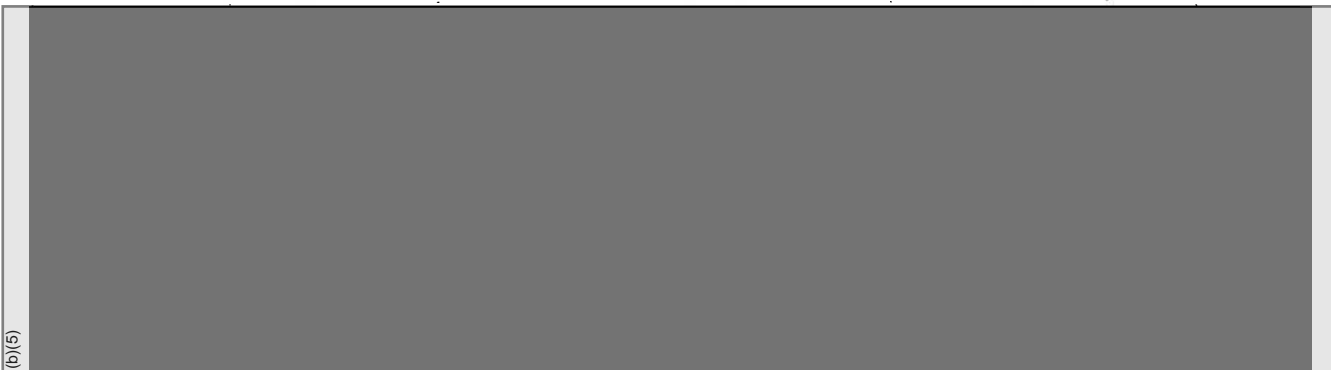
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3. Training

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4. Interagency Agreements

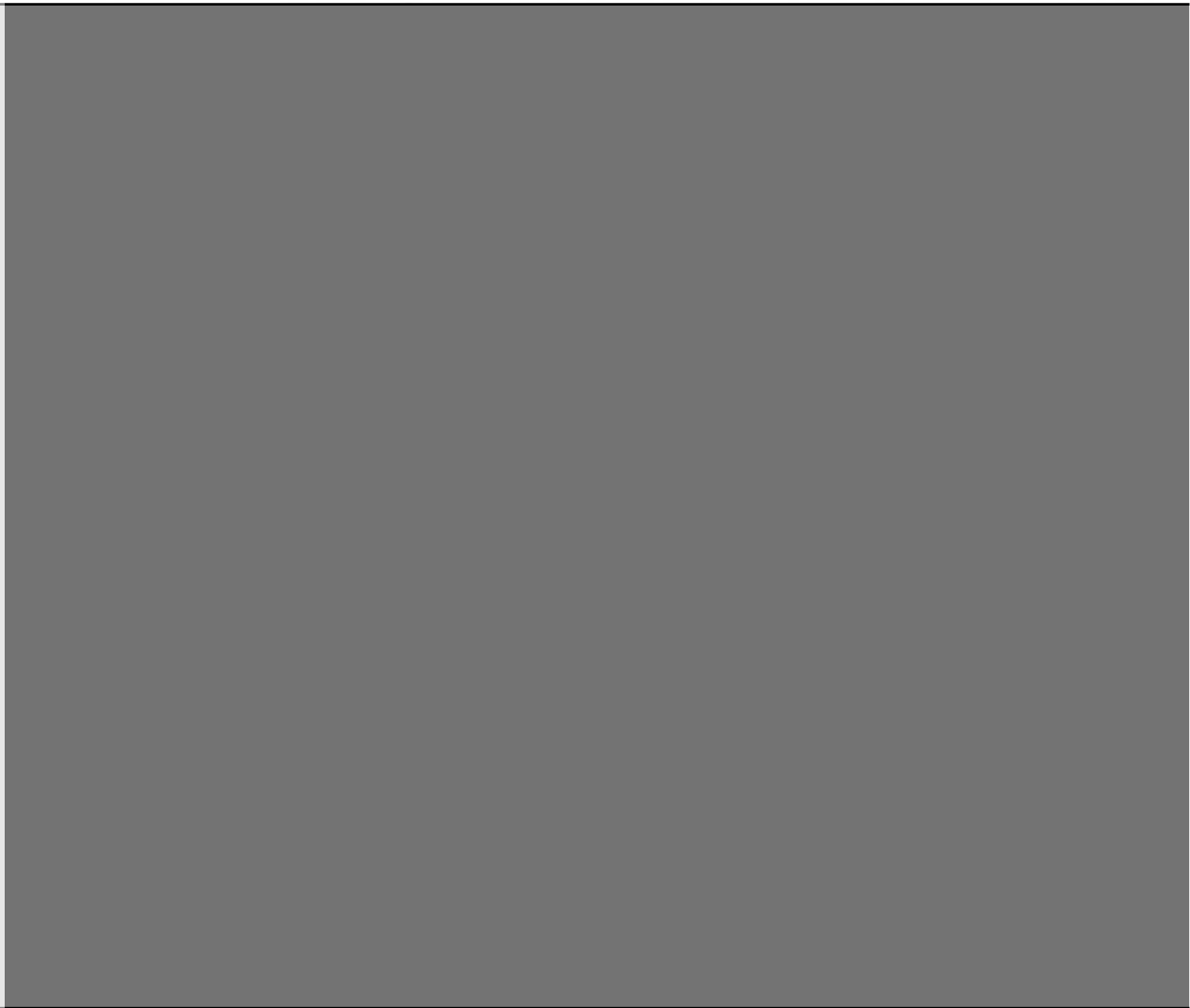
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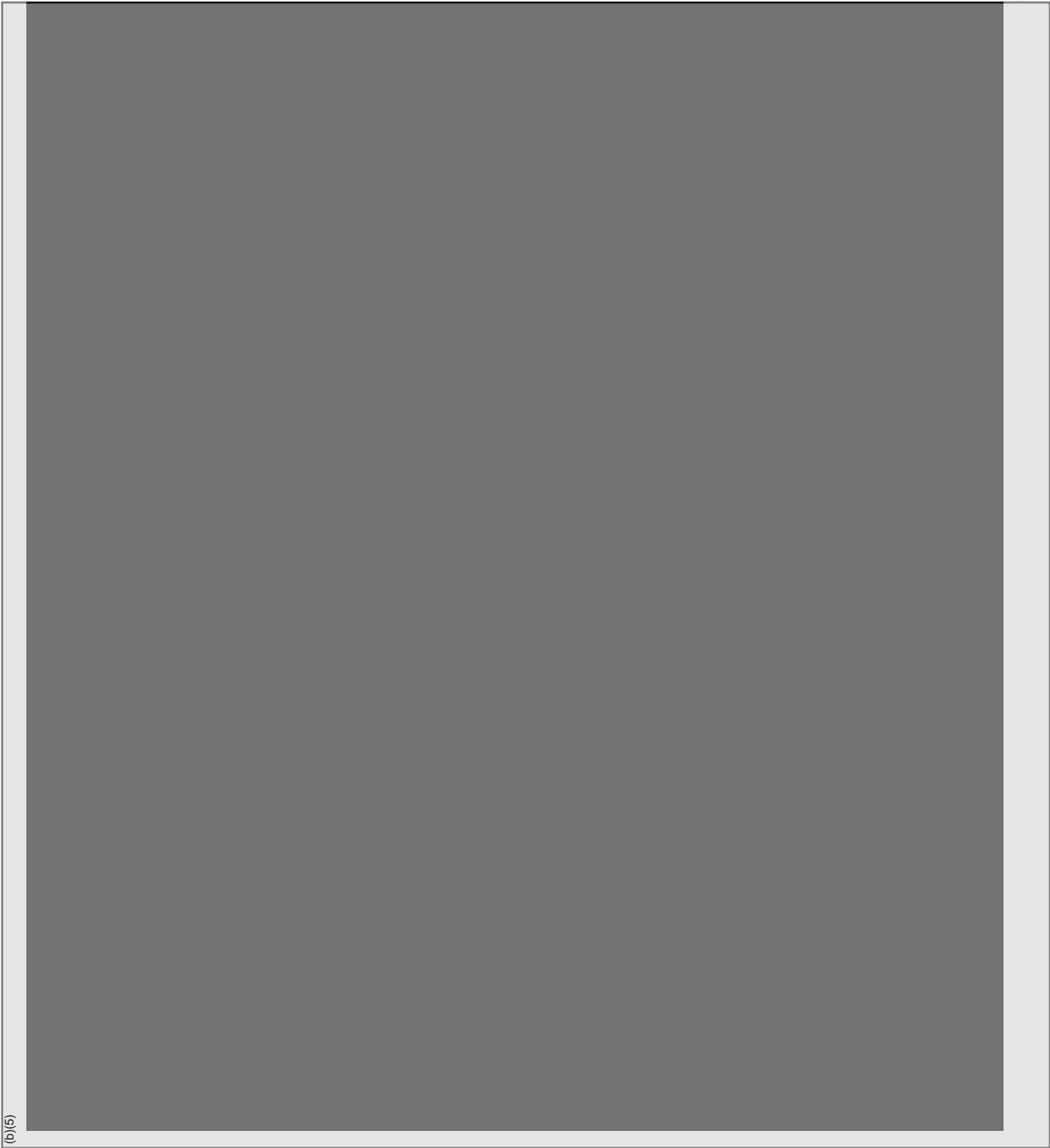
5. Exemptions

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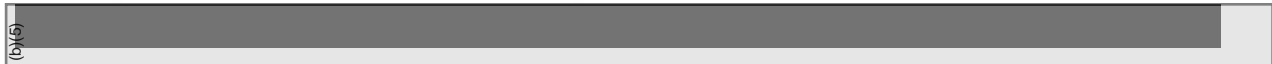
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Office of Policy

U.S. Department of Homeland Security
500 12th St, SW
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

May 22, 2009

MEMORANDUM FOR: John Morton
Assistant Secretary

FROM: Susan M. Cullen
Director, Office of Policy

SUBJECT: Implementation of DOJ Final Rule "DNA-Sample Collection and
Biological Evidence Preservation in the Federal Jurisdiction"

Purpose

(b)(5)

Background

(b)(5)

(b)(5)

[Redacted]

[Redacted]

(b)(5)



(b)(5)

Recommendation

I recommend approval of the attached memorandum for the Office of the General Counsel, Operations and Enforcement Law Division. Please indicate your decision below:

Approve: _____ Disapprove: _____

Modify: _____ Needs More Discussion _____

Attachments:

Letter from DHS Deputy Secretary Paul A. Schneider (Jan. 12, 2009)

Memorandum from Secretary Napolitano (Mar. 25, 2009)

Proposed Memorandum for Office of the General Counsel, Operations and Enforcement Law Division



U.S. Immigration
and Customs
Enforcement

May 22, 2009

MEMORANDUM FOR: Ellen McClain
Assistant General Counsel (Enforcement)
Office of the General Counsel
Department of Homeland Security

THROUGH: Susan M. Cullen
Director, ICE Policy

FROM: Sarah B. Dorsey
Senior Policy Advisor

SUBJECT: Implementation of DOJ Final Rule "DNA-Sample Collection and
Biological Evidence Preservation in the Federal Jurisdiction"

Purpose

To respond to the Secretary's request that U.S. Immigration and Customs Enforcement (ICE) provide an implementation plan for the Department of Justice's (DOJ) Final Rule on DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction.¹

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Discussion

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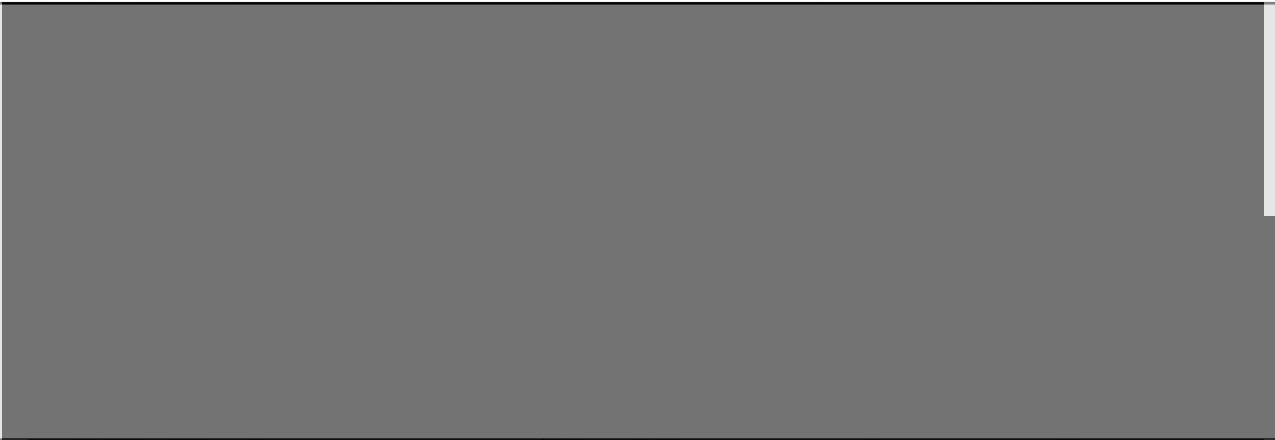
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2. Cost Estimates




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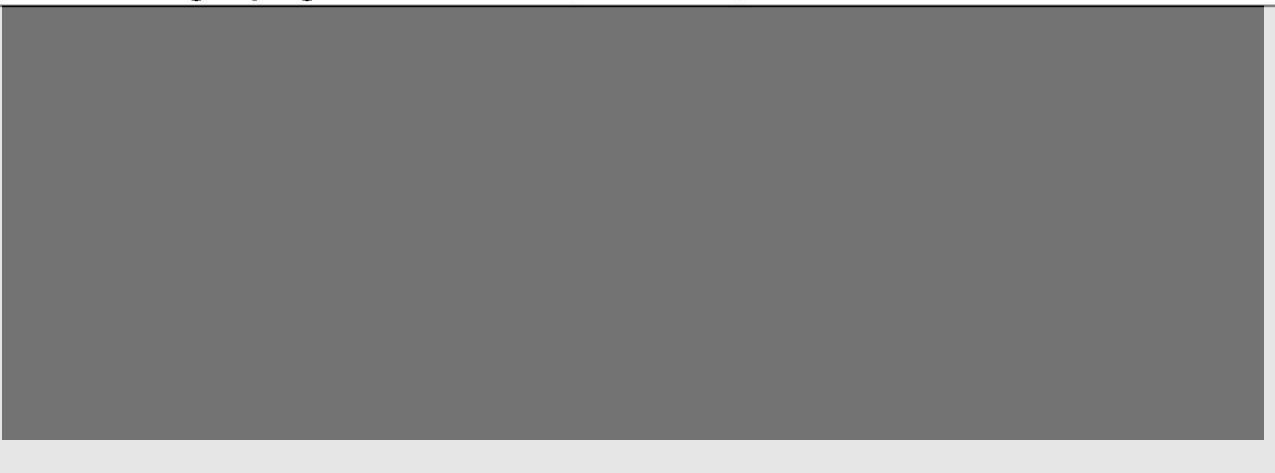
3. Training

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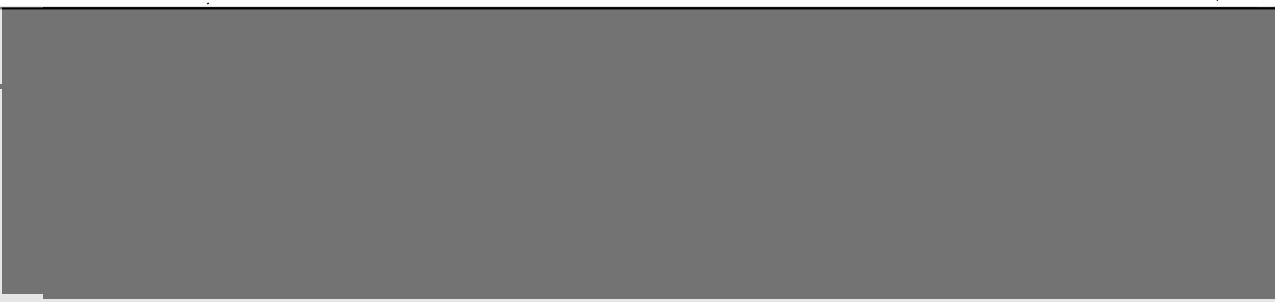
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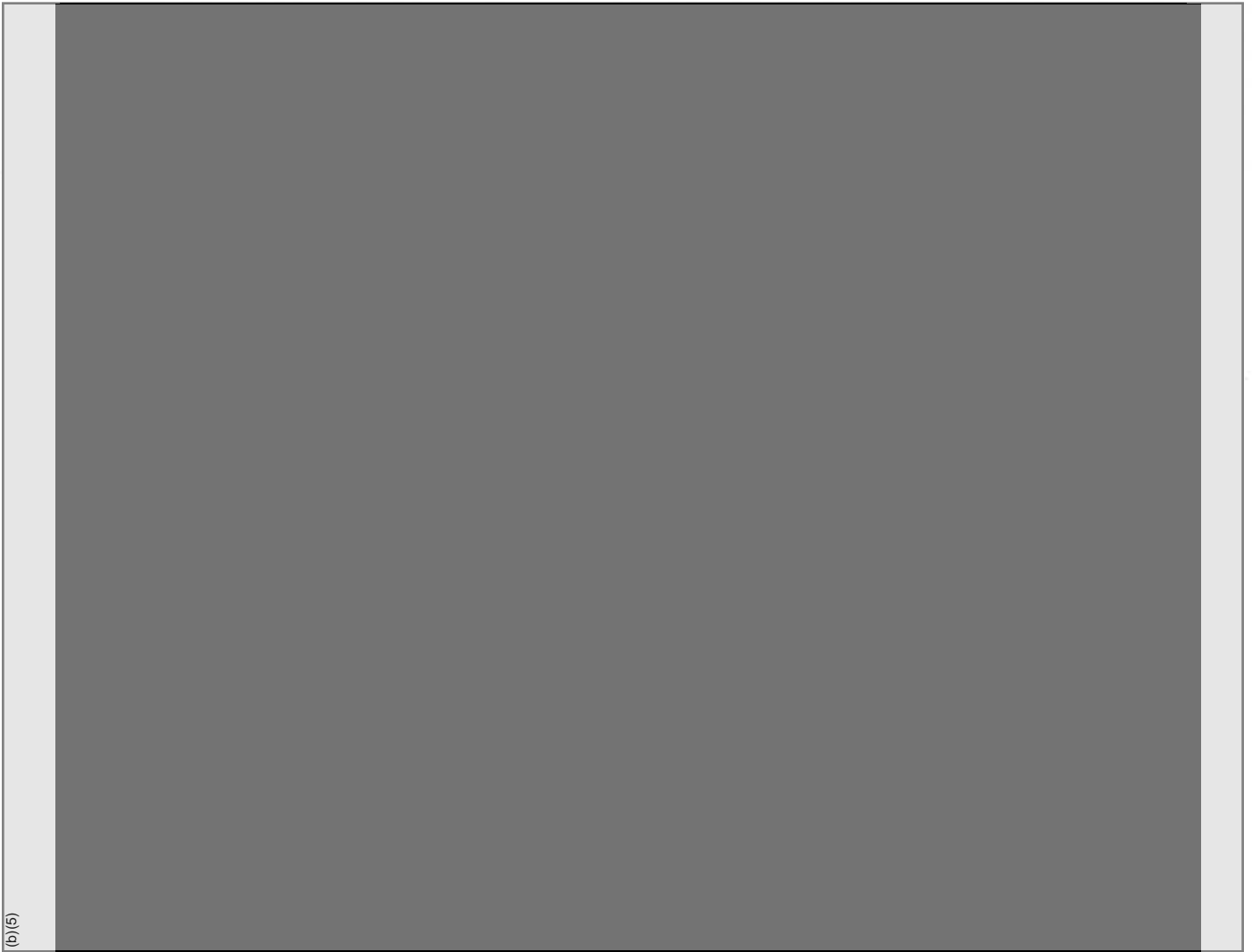
4. Interagency Agreements

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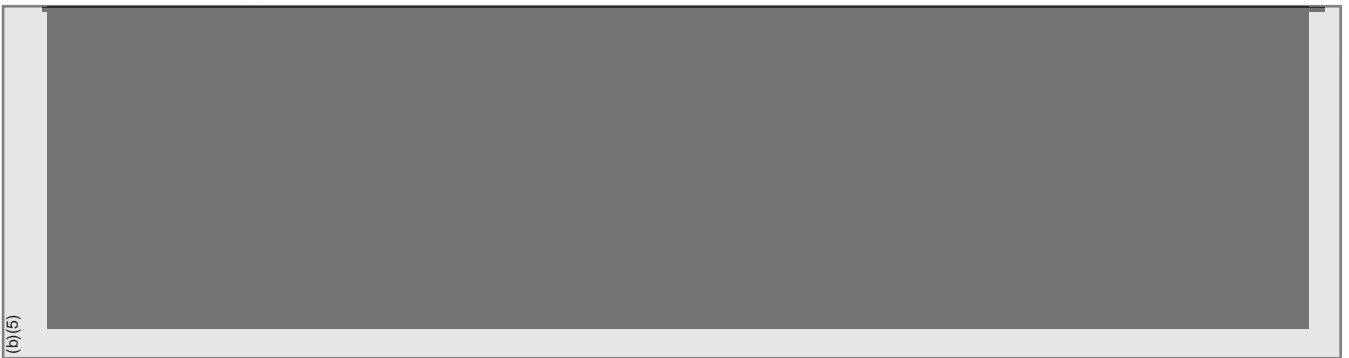
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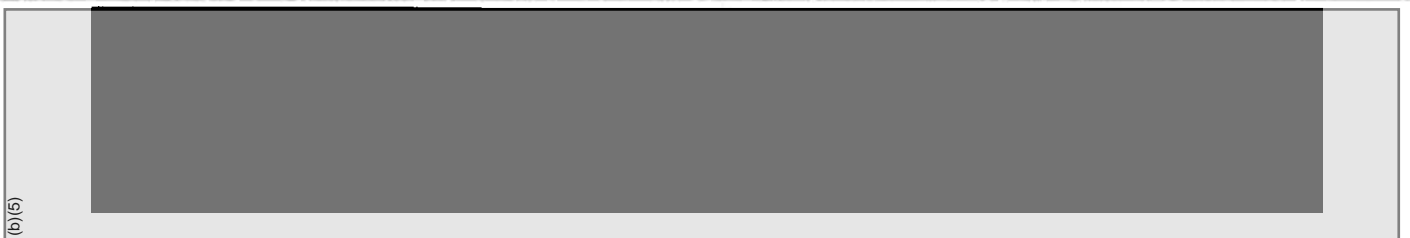


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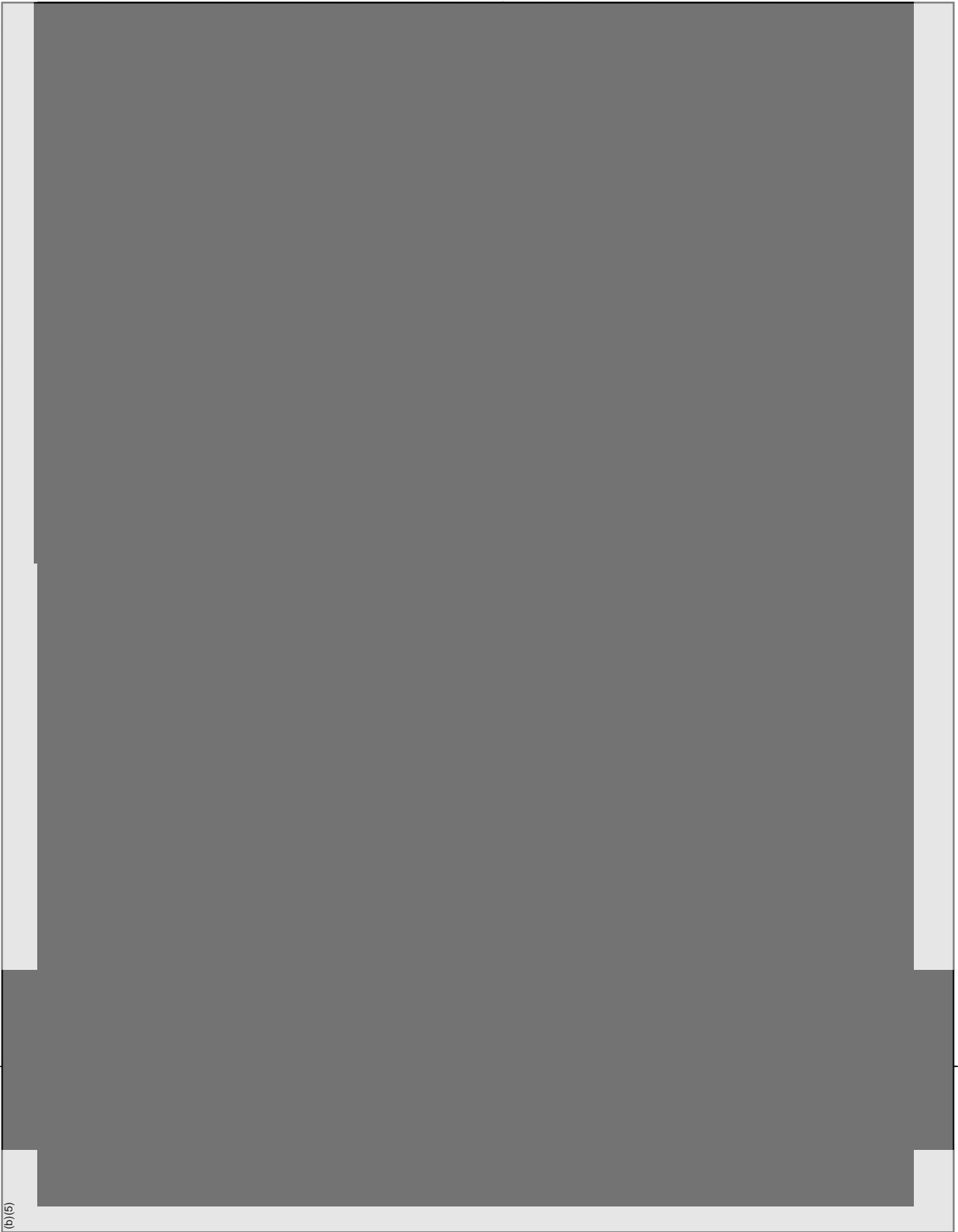
5. Exemptions



(b)(6)



(b)(6)



(b)(5)



U.S. Immigration
and Customs
Enforcement

SMC edits

May 21, 2009

MEMORANDUM FOR: Ellen McClain
Assistant General Counsel (Enforcement)
Office of the General Counsel
Department of Homeland Security

THROUGH: Susan M. Cullen
Director, ICE Policy

FROM: Sarah B. Dorsey *SB*
Senior Policy Advisor

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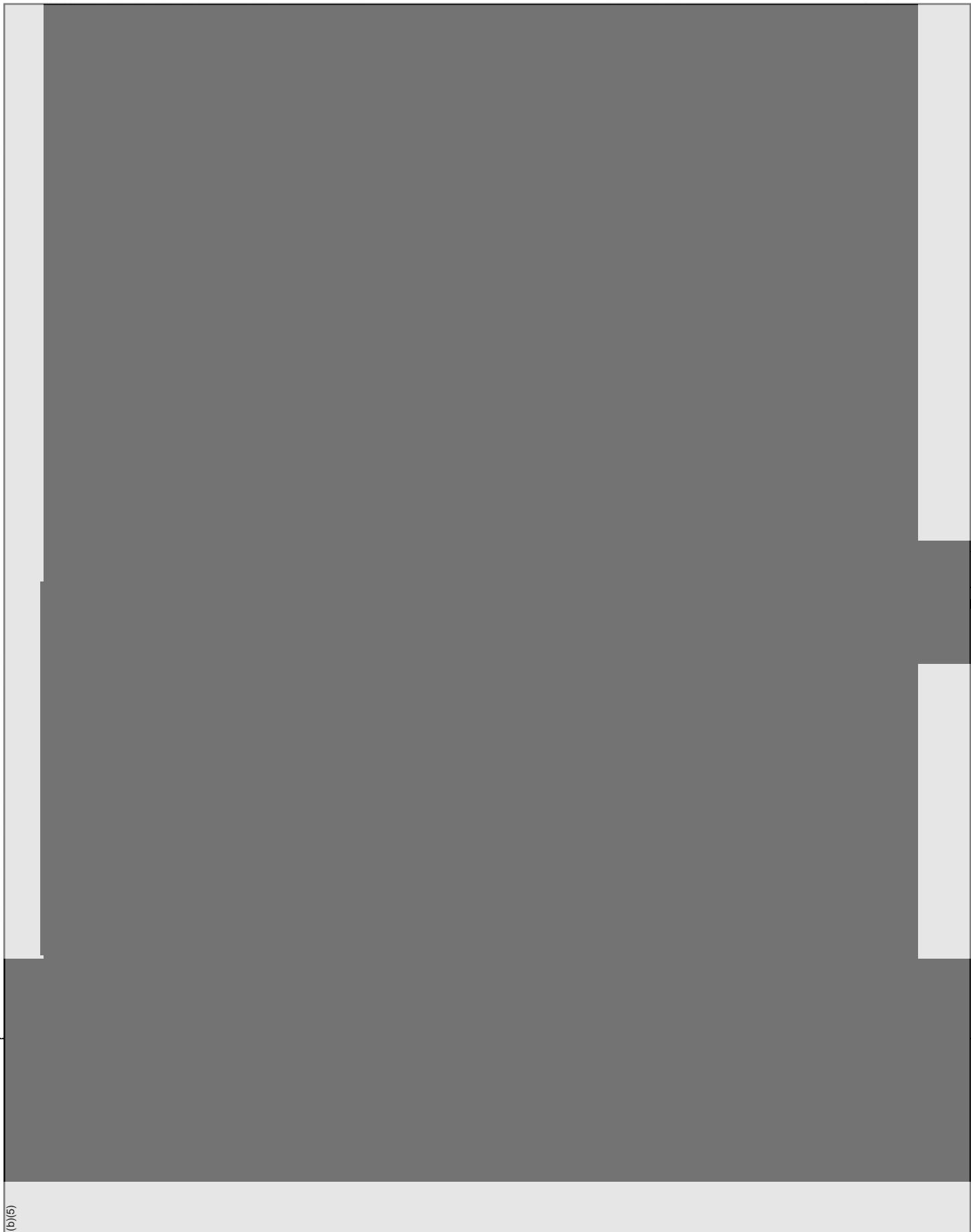
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