

Appointment

From:

Sent:

To:

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

CC:

Subject: NARA Unauthorized Destruction Letter: WhatsApp / Wickr

Attachments: RE: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense; 2021-10-26_UD-2022-0001_DHS-CBP_Open Letter-1301-1b.pdf

Location: Microsoft Teams Meeting

Start: 11/3/2021 2:00:00 PM

End: 11/3/2021 3:00:00 PM

Show Time As: Tentative

Required

Attendees:

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

Optional

Attendees:

Please see attachments

Meeting Purpose:

*** Review NARA Letter and obtain responses and/or identify additional USBP POCs based on instruction from NARA: NARA instructed DHS/CBP to provide a response that addresses the following (as contained in the attached letter):

1. Ensure that Records Management regulations are being adhered to
2. Ensure that the CBP is regulating the use of these messaging applications consistent with NARA's and the Department's records management policies
3. Ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules
4. The final response from CBP must include:
 - a. a complete description of the records with volume and dates if known
 - b. a description of the office maintaining the records
 - c. a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records
 - d. a statement of the safeguards established to prevent further loss of documentation
 - e. details of the actions taken to salvage, retrieve, or reconstruct the records
5. DHS/CBP's response must also include Records Management corrective actions that CBP will be required to implement as a result of the OIG investigation
6. Additionally, the response must include any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of Wickr, WhatsApp, or similar messaging applications.

*** Identify which OIG Audit recommendations USBP is responding to and information from CAP that is relevant for inclusion in DHS/CBP response to NARA Letter

Recommendation 1: Update Customs Directive No. 4320-003, July 1990 (TECS Directive) to clarify the appropriate bases for placing lookouts and provide training to all CBP officials who have the authority to place lookouts.

CBP Response to Recommendation 1: Concur. CBP will update lookout placement procedures in the TECS Directive. Additionally, CBP will modify existing training to inform users that lookouts should only be created for law enforcement purposes. CBP expects to complete these actions by December 31, 2021.

Recommendation 2: Develop and implement procedures to ensure CBP officials update and remove lookouts in accordance with the TECS Directive.

CBP Response to Recommendation 2: Concur. CBP will update lookout placement procedures in the TECS Directive. In addition, CBP will issue a memorandum and muster to remind CBP officers of their responsibilities to remove and update lookouts in accordance with policy. CBP expects to complete these actions by December 31, 2021.

Recommendation 3: Develop and issue a policy regarding asking, advising, or otherwise communicating with foreign governments about denying entry to U.S. citizens. At a minimum, the policy should specify the appropriate circumstances for such communications, who is authorized to approve such communications, and the procedures to follow when making such communications.

CBP Response to Recommendation 3: Concur. CBP will revise Directive No. 4320-025A, "Disclosure of Official Information to Foreign Authorities," dated April 2014, by adding a provision on sharing U.S. persons' information with foreign governments. CBP component offices will collaborate to revise and issue the policy. CBP expects to complete these actions by July 29, 2022.

Recommendation 4: Conduct a review of all instances in which CBP, as part of its response to the migrant caravan, disclosed U.S. citizens' Sensitive Personally Identifiable Information to Mexican officials, between October 2018 and March 2019, to identify any instances that did not comply with foreign disclosure requirements and take remedial actions. Remedial actions may include rescinding requests to deny entry to U.S. citizens, retroactively instructing foreign authorities to hold CBP information in confidence and use CBP information only for the purpose for which CBP provided it, ensuring disclosures are properly documented in CBP's systems of records, and any other steps necessary to ensure that all foreign disclosures comply with *CBP Directive No. 4320-025A, Disclosure of Official Information to Foreign Authorities, DHS Sensitive Systems Policy Directive 4300A, DHS Handbook for Safeguarding Sensitive Personally Identifiable Information*, and all other applicable policies and procedures.

CBP Response to Recommendation 4: Concur. CBP will identify and review disclosures of U.S. citizens' Personally Identifiable Information to Mexican officials that occurred as part of its response to the migrant caravans between October 2018 and March 2019, to ensure compliance with foreign disclosure requirements (specifically established policies and delegations of authority). To the extent remedial actions are required, CBP will remediate each noncompliant disclosure. CBP expects to complete these actions by March 31, 2022.

Recommendation 5: Provide training to all CBP personnel on the process for sharing information with foreign nations, covering all applicable policies and procedures, including which CBP personnel are authorized to make foreign disclosures.

CBP Response to Recommendation 5: Concur. CBP's Privacy and Diversity Office, in coordination with various CBP components, will identify individuals and work units that regularly disclose PII to foreign partners, and will provide virtual training regarding all applicable policies and procedures by March 31, 2022. The Privacy and Diversity Office, in coordination with the Office of Training and Development, will also develop a new course focused on domestic and foreign information sharing in the DHS Performance and Learning Management System. CBP expects to complete these actions by December 30, 2022.

Recommendation 6: Take immediate action to end the use of WhatsApp for operational purposes or to ensure that WhatsApp messages are retained in compliance with legal and policy requirements including records retention schedules.

CBP Response to Recommendation 6: Concur. CBP's Office of Information and Technology will explore the viability of the continued operational use of WhatsApp, which will include looking for a replacement. Office of Information and Technology is currently piloting a managed messaging platform to replace WhatsApp. CBP is currently working on an operational pilot. CBP expects to complete these actions by December 31, 2021.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

(b)(7)(E)

United States, Arlington

Phone Conference ID: (b)(7)(E)

[Find a local number](#) | [Reset PIN](#)

This Teams Meeting is hosted on a U.S. Government information system and is provided for U.S. Government-authorized use only. Unauthorized or improper use or access of this system may result in disciplinary action as well as civil and criminal penalties.

[Learn More](#) | [Meeting options](#)



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

October 26, 2021

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

Chief Information Officer
Senior Agency Official for Records Management
Customs and Border Protection
301 7th Street, SW
Washington, DC 20024

Dear **(b)(6),(b)(7)(C)**

The National Archives and Records Administration (NARA) has become aware, through multiple media reports and the recent Office of Inspector General (OIG) report, “CBP Targeted Americans with the 2018-2019 Migrant Caravan,” that the Customs and Border Protection (CBP) has been using the messaging software *WhatsApp* and is deploying the encrypted messaging application *Wickr* across all components of the agency. Accordingly, I wanted to reach out to ensure that records management regulations are being adhered to and to ensure that the CBP is regulating the use of these messaging applications consistent with NARA’s and the Department’s records management policies. I also wanted to ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules.

With respect to *WhatsApp*, the OIG report notes that their ability to determine whether proper processes and procedures were followed was hampered by a failure to retain communication records, including records in *WhatsApp* (page 4). Further, the OIG report states that there are “instances of CBP officers not documenting information they obtained during caravan-related inspections” (page 12); that CBP officials did not retain communication records (page 17); and that “the CBP officials failure to retain *WhatsApp* messages likely violated DHS and CBP records retention policies because the messages were information that CBP created or received in carrying out its mission and contained substantive information that was necessary to adequately and properly document the activities and functions of the CBP officials” (page 28).

Additionally, the OIG report found that during this operation, it is not even clear if CBP policies permit the use of *WhatsApp*.

With respect to *Wickr*, NARA is concerned about the use of this messaging application as it has the capability to auto-delete messages after a specified period of time has passed. In light of the information in the OIG report, NARA is concerned about agency-wide deployment of a messaging application that has this functionality without appropriate policies and procedures governing its use.

DHS employees using these applications without complying with established recordkeeping requirements expose the Department to the risk of potential unauthorized destruction of records. As a reminder, all actual or impending instances of unauthorized disposition must be reported to NARA per the requirements in 36 CFR Part 1230.

In accordance with 36 CFR Part 1230.14, CBP must respond to this letter with a report documenting the unauthorized disposition of the federal records that were identified in the OIG report. At a minimum, this report must include a complete description of the records with volume and dates if known; description of the office maintaining the records; a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records; a statement of the safeguards established to prevent further loss of documentation; and details of the actions taken to salvage, retrieve, or reconstruct the records. This report must also include any records management corrective actions that CBP will be required to implement as a result of the OIG investigation.

Additionally, please include in your report any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of *Wickr*, *WhatsApp*, or similar messaging applications.

Please provide your report within 30 days of the date of this letter. I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at (b)(6),(b)(7)(C)

Sincerely,

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

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

Chief Records Officer
for the U.S. Government

cc **(b)(6),(b)(7)(C)** Department Records Officer, Department of Homeland Security

(b)(6),(b)(7)(C) Agency Records Officer, Customs and Border Protection

Appointment

From:

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

Sent:

11/2/2021 11:26:25 AM

To:

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

CC:

Subject: NARA Unauthorized Destruction Letter: WhatsApp / Wickr

Attachments: RE: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense; 2021-10-26_UD-2022-0001_DHS-CBP_Open Letter-1301-1b.pdf

Location: Microsoft Teams Meeting

Start: 11/2/2021 1:15:00 PM

End: 11/2/2021 2:00:00 PM

Show Time As: Tentative

Required

Attendees:

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

Optional

Attendees:

Please see attachments

Meeting Purpose:

*** Review NARA Letter and obtain responses and/or identify additional OFO POCs based on instruction from NARA: NARA instructed DHS/CBP to provide a response that addresses the following (as contained in the attached letter):

1. Ensure that Records Management regulations are being adhered to
2. Ensure that the CBP is regulating the use of these messaging applications consistent with NARA's and the Department's records management policies
3. Ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules
4. The final response from CBP must include:
 - a. a complete description of the records with volume and dates if known
 - b. a description of the office maintaining the records
 - c. a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records
 - d. a statement of the safeguards established to prevent further loss of documentation
 - e. details of the actions taken to salvage, retrieve, or reconstruct the records
5. DHS/CBP's response must also include Records Management corrective actions that CBP will be required to implement as a result of the OIG investigation
6. Additionally, the response must include any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of Wickr, WhatsApp, or similar messaging applications.

*** Identify which OIG Audit recommendations OFO is responding to and information from CAP that is relevant for inclusion in DHS/CBP response to NARA Letter

Recommendation 1: Update Customs Directive No. 4320-003, July 1990 (TECS Directive) to clarify the appropriate bases for placing lookouts and provide training to all CBP officials who have the authority to place lookouts.

CBP Response to Recommendation 1: Concur. CBP will update lookout placement procedures in the TECS Directive. Additionally, CBP will modify existing training to inform users that lookouts should only be created for law enforcement purposes. CBP expects to complete these actions by December 31, 2021.

Recommendation 2: Develop and implement procedures to ensure CBP officials update and remove lookouts in accordance with the TECS Directive.

CBP Response to Recommendation 2: Concur. CBP will update lookout placement procedures in the TECS Directive. In addition, CBP will issue a memorandum and muster to remind CBP officers of their responsibilities to remove and update lookouts in accordance with policy. CBP expects to complete these actions by December 31, 2021.

Recommendation 3: Develop and issue a policy regarding asking, advising, or otherwise communicating with foreign governments about denying entry to U.S. citizens. At a minimum, the policy should specify the appropriate circumstances for such communications, who is authorized to approve such communications, and the procedures to follow when making such communications.

CBP Response to Recommendation 3: Concur. CBP will revise Directive No. 4320-025A, "Disclosure of Official Information to Foreign Authorities," dated April 2014, by adding a provision on sharing U.S. persons' information with foreign governments. CBP component offices will collaborate to revise and issue the policy. CBP expects to complete these actions by July 29, 2022.

Recommendation 4: Conduct a review of all instances in which CBP, as part of its response to the migrant caravan, disclosed U.S. citizens' Sensitive Personally Identifiable Information to Mexican officials, between October 2018 and March 2019, to identify any instances that did not comply with foreign disclosure requirements and take remedial actions. Remedial actions may include rescinding requests to deny entry to U.S. citizens, retroactively instructing foreign authorities to hold CBP information in confidence and use CBP information only for the purpose for which CBP provided it, ensuring disclosures are properly documented in CBP's systems of records, and any other steps necessary to ensure that all foreign disclosures comply with *CBP Directive No. 4320-025A, Disclosure of Official Information to Foreign Authorities, DHS Sensitive Systems Policy Directive 4300A, DHS Handbook for Safeguarding Sensitive Personally Identifiable Information*, and all other applicable policies and procedures.

CBP Response to Recommendation 4: Concur. CBP will identify and review disclosures of U.S. citizens' Personally Identifiable Information to Mexican officials that occurred as part of its response to the migrant caravans between October 2018 and March 2019, to ensure compliance with foreign disclosure requirements (specifically established policies and delegations of authority). To the extent remedial actions are required, CBP will remediate each noncompliant disclosure. CBP expects to complete these actions by March 31, 2022.

Recommendation 5: Provide training to all CBP personnel on the process for sharing information with foreign nations, covering all applicable policies and procedures, including which CBP personnel are authorized to make foreign disclosures.

CBP Response to Recommendation 5: Concur. CBP's Privacy and Diversity Office, in coordination with various CBP components, will identify individuals and work units that regularly disclose PII to foreign partners, and will provide virtual training regarding all applicable policies and procedures by March 31, 2022. The Privacy and Diversity Office, in coordination with the Office of Training and Development, will also develop a new course focused on domestic and foreign information sharing in the DHS Performance and Learning Management System. CBP expects to complete these actions by December 30, 2022.

Recommendation 6: Take immediate action to end the use of WhatsApp for operational purposes or to ensure that WhatsApp messages are retained in compliance with legal and policy requirements including records retention schedules.

CBP Response to Recommendation 6: Concur. CBP's Office of Information and Technology will explore the viability of the continued operational use of WhatsApp, which will include looking for a replacement. Office of Information and Technology is currently piloting a managed messaging platform to replace WhatsApp. CBP is currently working on an operational pilot. CBP expects to complete these actions by December 31, 2021.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

(b)(7)(E)

United States, Arlington

Phone Conference ID: (b)(7)(E)

[Find a local number](#) | [Reset PIN](#)

This Teams Meeting is hosted on a U.S. Government information system and is provided for U.S. Government-authorized use only. Unauthorized or improper use or access of this system may result in disciplinary action as well as civil and criminal penalties.

[Learn More](#) | [Meeting options](#)

Message

From:

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

Sent:

11/2/2021 12:52:42 AM

To:

CC:

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

Subject:

RE: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense

Good evening: (b)(6),(b)(7)(C)

I hope you and the family are healthy and safe!

The Office of Field Operations, Admissibility and Passenger Programs Directorate, Traveler Entry Programs' subject matter expert, Director: (b)(6), (b)(7)(C) is available tomorrow at 0915 hours. Will that time be doable?

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

Director, Quality Assurance Enterprise Division
Planning, Program Analysis & Evaluation
Office of Field Operations
U.S. Customs & Border Protection

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

Cell: (b)(6),(b)(7)(C)

UnClass: (b)(6),(b)(7)(C)

HSDN: (b)(6),(b)(7)(C)

QAED Motto – "Trust but Verify"



U.S. Customs and
Border Protection

This document and any attachment(s) may contain restricted, sensitive, and/or law enforcement-sensitive information belonging to the U.S. Government. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient.

From: (b)(6),(b)(7)(C)

Sent: Monday, November 1, 2021 2:35 PM

To: OFO AUDITS: (b)(6),(b)(7)(C)

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

Cc: (b)(6),(b)(7)(C)

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

Subject: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense

Good afternoon

CBP RIM is seeking assistance from OFO in responding to a NARA Letter regarding the use of WhatsApp and Wickr and possible unauthorized destruction of records.

(b)(6),(b)(7)(C) Chief Records Officer for the US Government sent a letter (*see attached*) to (b)(6),(b)(7)(C) Chief Information Officer (CIO), DHS Senior Agency Official for Records Management (SAORM), and (b)(6),(b)(7)(C) CBP Chief Records Officer (CRO), regarding CBP's planned deployment of Wickr and information that NARA received in the Office of Inspector General (OIG) report, "CBP Targeted Americans with the 2018-2019 Migrant Caravan" (link to the report: [OIG-21-62 - CBP Targeted Americans Associated with the 2018-2019 Migrant Caravan \(dhs.gov\)](#)) regarding the use of WhatsApp and possible unauthorized destruction of records.

Request:

With input from OFO and other CBP Offices, CBP RIM is compiling the DHS/CBP response to the NARA letter. We were given your names as **POCs for OFO** by the *OIT Audit & Assessment Management Branch (OIT-AAMB)*, (b)(6),(b)(7)(C) *Branch Chief*. Per the information below, CBP RIM is seeking your assistance to (1) provide input to address the NARA Letter to include unauthorized destruction and (2) provide specific information related to the use of and retention practices for records created by WhatsApp and Wickr. We are also seeking to talk with the OFO POCs that participated in the OIG audit interviews and/or are working on remediation responses to the six recommendations that OIG cited in their report.

CBP has been given a short suspense for responding to the NARA Letter. Are you (or the appropriate POCs / SMEs) available to meet for approximately 1 hour during any of the following times:

Tuesday – 11/2/21 9am – 10am ~or~ 12:00 – 2:30pm
Wednesday – 11/3/21 10am – 11:30 ~or~ 2pm – 4pm

Background:

The National Archives and Records Administration (NARA) indicated in their letter that they became aware, through multiple media reports and the recent Office of Inspector General (OIG) report, "CBP Targeted Americans with the 2018-2019 Migrant Caravan," that CBP has been using the messaging software WhatsApp and is deploying the encrypted messaging application Wickr across all components of the agency.

*** NARA instructed DHS/CBP to provide a response that addresses the following (as contained in the attached letter):

1. Ensure that Records Management regulations are being adhered to
2. Ensure that the CBP is regulating the use of these messaging applications consistent with NARA's and the Department's records management policies
3. Ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules
4. The final response from CBP must include:
 - a. a complete description of the records with volume and dates if known
 - b. a description of the office maintaining the records

- c. a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records
 - d. a statement of the safeguards established to prevent further loss of documentation
 - e. details of the actions taken to salvage, retrieve, or reconstruct the records
5. DHS/CBP's response must also include Records Management corrective actions that CBP will be required to implement as a result of the OIG investigation
 6. Additionally, the response must include any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of Wickr, WhatsApp, or similar messaging applications.

Key NARA Letter citations from OIG report:

Further, the OIG report states that there are "instances of CBP officers not documenting information they obtained during caravan-related inspections" (page 12); that CBP officials did not retain communication records (page 17); and that "the CBP officials failure to retain *WhatsApp* messages likely violated DHS and CBP records retention policies because the messages were information that CBP created or received in carrying out its mission and contained substantive information that was necessary to adequately and properly document the activities and functions of the CBP officials" (page 28). This violation of policy resulted in what NARA identified as *unauthorized destruction* of records caused by use of WhatsApp and Wickr.

The OIG identified the following 6 **Recommendations** within their audit report:

Recommendation 1: Update Customs Directive No. 4320-003, July 1990 (TECS Directive) to clarify the appropriate bases for placing lookouts and provide training to all CBP officials who have the authority to place lookouts.

CBP Response to Recommendation 1: Concur. CBP will update lookout placement procedures in the TECS Directive. Additionally, CBP will modify existing training to inform users that lookouts should only be created for law enforcement purposes. CBP expects to complete these actions by December 31, 2021.

Recommendation 2: Develop and implement procedures to ensure CBP officials update and remove lookouts in accordance with the TECS Directive.

CBP Response to Recommendation 2: Concur. CBP will update lookout placement procedures in the TECS Directive. In addition, CBP will issue a memorandum and muster to remind CBP officers of their responsibilities to remove and update lookouts in accordance with policy. CBP expects to complete these actions by December 31, 2021.

Recommendation 3: Develop and issue a policy regarding asking, advising, or otherwise communicating with foreign governments about denying entry to U.S. citizens. At a minimum, the policy should specify the appropriate circumstances for such communications, who is authorized to approve such communications, and the procedures to follow when making such communications.

CBP Response to Recommendation 3: Concur. CBP will revise Directive No. 4320-025A, "Disclosure of Official Information to Foreign Authorities," dated April 2014, by adding a provision on sharing U.S. persons' information with foreign governments. CBP component offices will collaborate to revise and issue the policy. CBP expects to complete these actions by July 29, 2022.

Recommendation 4: Conduct a review of all instances in which CBP, as part of its response to the migrant caravan, disclosed U.S. citizens' Sensitive Personally Identifiable Information to Mexican officials, between October 2018 and March 2019, to identify any instances that did not comply with foreign disclosure requirements and take remedial actions. Remedial actions may include rescinding requests to deny entry to U.S. citizens, retroactively instructing foreign authorities to hold CBP information in confidence and use CBP information only for the purpose for which CBP provided it, ensuring disclosures are properly documented in CBP's systems of records, and any other steps necessary to ensure that all foreign disclosures comply with *CBP*

Directive No. 4320-025A, Disclosure of Official Information to Foreign Authorities, DHS Sensitive Systems Policy Directive 4300A, DHS Handbook for Safeguarding Sensitive Personally Identifiable Information, and all other applicable policies and procedures.

CBP Response to Recommendation 4: Concur. CBP will identify and review disclosures of U.S. citizens' Personally Identifiable Information to Mexican officials that occurred as part of its response to the migrant caravans between October 2018 and March 2019, to ensure compliance with foreign disclosure requirements (specifically established policies and delegations of authority). To the extent remedial actions are required, CBP will remediate each noncompliant disclosure. CBP expects to complete these actions by March 31, 2022.

Recommendation 5: Provide training to all CBP personnel on the process for sharing information with foreign nations, covering all applicable policies and procedures, including which CBP personnel are authorized to make foreign disclosures.

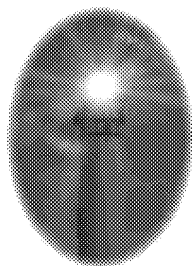
CBP Response to Recommendation 5: Concur. CBP's Privacy and Diversity Office, in coordination with various CBP components, will identify individuals and work units that regularly disclose PII to foreign partners, and will provide virtual training regarding all applicable policies and procedures by March 31, 2022. The Privacy and Diversity Office, in coordination with the Office of Training and Development, will also develop a new course focused on domestic and foreign information sharing in the DHS Performance and Learning Management System. CBP expects to complete these actions by December 30, 2022.

Recommendation 6: Take immediate action to end the use of WhatsApp for operational purposes or to ensure that WhatsApp messages are retained in compliance with legal and policy requirements including records retention schedules.

CBP Response to Recommendation 6: Concur. CBP's Office of Information and Technology will explore the viability of the continued operational use of WhatsApp, which will include looking for a replacement. Office of Information and Technology is currently piloting a managed messaging platform to replace WhatsApp. CBP is currently working on an operational pilot. CBP expects to complete these actions by December 31, 2021.

Please don't hesitate to let me know if you have any questions related to this request.
Thank you,

(b)(6),(b)(7)(C) CBP Chief Records Officer
Records and Information Management Program (RIM)
DHS/CBP/OIT/RIM
(C) (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
[RIM Website](#) | [Request RIM Service!](#) | [Email Us](#)



Shine a Light

Suicide Prevention and Awareness

National Suicide Prevention Lifeline
800-273-8255
CBP Employee Assistance Program
800-755-7002



Appointment

From:

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

Sent:

11/2/2021 11:30:48 AM

To:

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

CC:

Subject: NARA Unauthorized Destruction Letter: WhatsApp / Wickr

Attachments: RE: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense; 2021-10-26_UD-2022-0001_DHS-CBP_Open Letter-1301-1b.pdf

Location: Microsoft Teams Meeting

Start: 11/3/2021 2:00:00 PM

End: 11/3/2021 3:00:00 PM

Show Time As: Busy

Required

Attendees:

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

Optional

Attendees:

Please see attachments

Meeting Purpose:

*** Review NARA Letter and obtain responses and/or identify additional USBP POCs based on instruction from NARA: NARA instructed DHS/CBP to provide a response that addresses the following (as contained in the attached letter):

1. Ensure that Records Management regulations are being adhered to
2. Ensure that the CBP is regulating the use of these messaging applications consistent with NARA's and the Department's records management policies
3. Ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules
4. The final response from CBP must include:
 - a. a complete description of the records with volume and dates if known
 - b. a description of the office maintaining the records
 - c. a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records
 - d. a statement of the safeguards established to prevent further loss of documentation
 - e. details of the actions taken to salvage, retrieve, or reconstruct the records

DEC2200015

5. DHS/CBP's response must also include Records Management corrective actions that CBP will be required to implement as a result of the OIG investigation
6. Additionally, the response must include any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of Wickr, WhatsApp, or similar messaging applications.

*** Identify which OIG Audit recommendations USBP is responding to and information from CAP that is relevant for inclusion in DHS/CBP response to NARA Letter

Recommendation 1: Update Customs Directive No. 4320-003, July 1990 (TECS Directive) to clarify the appropriate bases for placing lookouts and provide training to all CBP officials who have the authority to place lookouts.

CBP Response to Recommendation 1: Concur. CBP will update lookout placement procedures in the TECS Directive. Additionally, CBP will modify existing training to inform users that lookouts should only be created for law enforcement purposes. CBP expects to complete these actions by December 31, 2021.

Recommendation 2: Develop and implement procedures to ensure CBP officials update and remove lookouts in accordance with the TECS Directive.

CBP Response to Recommendation 2: Concur. CBP will update lookout placement procedures in the TECS Directive. In addition, CBP will issue a memorandum and muster to remind CBP officers of their responsibilities to remove and update lookouts in accordance with policy. CBP expects to complete these actions by December 31, 2021.

Recommendation 3: Develop and issue a policy regarding asking, advising, or otherwise communicating with foreign governments about denying entry to U.S. citizens. At a minimum, the policy should specify the appropriate circumstances for such communications, who is authorized to approve such communications, and the procedures to follow when making such communications.

CBP Response to Recommendation 3: Concur. CBP will revise Directive No. 4320-025A, "Disclosure of Official Information to Foreign Authorities," dated April 2014, by adding a provision on sharing U.S. persons' information with foreign governments. CBP component offices will collaborate to revise and issue the policy. CBP expects to complete these actions by July 29, 2022.

Recommendation 4: Conduct a review of all instances in which CBP, as part of its response to the migrant caravan, disclosed U.S. citizens' Sensitive Personally Identifiable Information to Mexican officials, between October 2018 and March 2019, to identify any instances that did not comply with foreign disclosure requirements and take remedial actions. Remedial actions may include rescinding requests to deny entry to U.S. citizens, retroactively instructing foreign authorities to hold CBP information in confidence and use CBP information only for the purpose for which CBP provided it, ensuring disclosures are properly documented in CBP's systems of records, and any other steps necessary to ensure that all foreign disclosures comply with *CBP Directive No. 4320-025A, Disclosure of Official Information to Foreign Authorities, DHS Sensitive Systems Policy Directive 4300A, DHS Handbook for Safeguarding Sensitive Personally Identifiable Information*, and all other applicable policies and procedures.

CBP Response to Recommendation 4: Concur. CBP will identify and review disclosures of U.S. citizens' Personally Identifiable Information to Mexican officials that occurred as part of its response to the migrant caravans between October 2018 and March 2019, to ensure compliance with foreign disclosure requirements (specifically established policies and delegations of authority). To the extent remedial actions are required, CBP will remediate each noncompliant disclosure. CBP expects to complete these actions by March 31, 2022.

Recommendation 5: Provide training to all CBP personnel on the process for sharing information with foreign nations, covering all applicable policies and procedures, including which CBP personnel are authorized to make foreign disclosures.

CBP Response to Recommendation 5: Concur. CBP's Privacy and Diversity Office, in coordination with various CBP components, will identify individuals and work units that regularly disclose PII to foreign partners, and will provide virtual training regarding all applicable policies and procedures by March 31, 2022. The Privacy and Diversity Office, in coordination with the Office of Training and Development, will also develop a new course focused on domestic and foreign information sharing in the DHS Performance and Learning Management System. CBP expects to complete these actions by December 30, 2022.

Recommendation 6: Take immediate action to end the use of WhatsApp for operational purposes or to ensure that WhatsApp messages are retained in compliance with legal and policy requirements including records retention schedules.

CBP Response to Recommendation 6: Concur. CBP's Office of Information and Technology will explore the viability of the continued operational use of WhatsApp, which will include looking for a replacement. Office of Information and Technology is currently piloting a managed messaging platform to replace WhatsApp. CBP is currently working on an operational pilot. CBP expects to complete these actions by December 31, 2021.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

United States, Arlington

Phone Conference ID:

[Find a local number](#) | [Reset PIN](#)

This Teams Meeting is hosted on a U.S. Government information system and is provided for U.S. Government-authorized use only. Unauthorized or improper use or access of this system may result in disciplinary action as well as civil and criminal penalties.

[Learn More](#) | [Meeting options](#)

Message

From: USBP-AUDIT-TEAM: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 11/1/2021 8:16:01 PM
To: (b)(6),(b)(7)(C)
CC: (b)(6),(b)(7)(C)
Subject: RE: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense
Flag: Follow up

Good afternoon (b)(6),(b)(7)(C)

The USBP SME would be (b)(6),(b)(7)(C) and he is available Wednesday starting at 10am. Of course, USBP Audit Liaison Team would attend the meeting as well, whenever you are able to schedule it.

If you have any further questions, please let me know.

Thank you!

(b)(6),(b)(7)(C)
Assistant Chief
Policy and Compliance Division
Strategic Planning and Analysis Directorate (SPAD)
U.S. Border Patrol Headquarters

(b)(6),(b)(7)(C)
Audit Group Mailbox: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, November 1, 2021 2:29 PM
To: USBP-AUDIT-TEAM (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Subject: CBP Response due Re: NARA Unauthorized Destruction Letter tied to OIG Audit - short suspense

Good afternoon,
CBP RIM is seeking assistance from USBP in responding to a NARA Letter regarding the use of WhatsApp and Wickr and possible unauthorized destruction of records.

(b)(6), (b)(7)(C) Chief Records Officer for the US Government sent a letter (*see attached*) to (b)(6), (b)(7)(C) Chief Information Officer (CIO), DHS Senior Agency Official for Records Management (SAORM), and (b)(6), (b)(7)(C) CBP Chief Records Officer (CRO), regarding CBP's planned deployment of Wickr and information that NARA received in the Office of Inspector General (OIG) report, "CBP Targeted Americans with the 2018-2019 Migrant Caravan" (link to the report: [OIG-21-62 - CBP Targeted Americans Associated with the 2018-2019 Migrant Caravan \(dhs.gov\)](https://www.dhs.gov/oig-21-62-cbp-targeted-americans-associated-with-the-2018-2019-migrant-caravan)) regarding the use of WhatsApp and possible unauthorized destruction of records.

Request:

With input from USBP and other CBP Offices, CBP RIM is compiling the DHS/CBP response to the NARA letter. We were given your names as **POCs for USBP** by the *OIT Audit & Assessment Management Branch (OIT-AAMB)* (b)(6), (b)(7)(C) *Branch Chief*. Per the information below, CBP RIM is seeking your assistance to (1) provide input to address the NARA Letter to include unauthorized destruction and (2) provide specific information related to the use of and retention practices for records created by WhatsApp and Wickr. We are also seeking to talk with the USBP POCs that participated in the OIG audit interviews and/or are working on remediation responses to the six recommendations that OIG cited in their report.

CBP has been given a short suspense for responding to the NARA Letter. Are you (or the appropriate POCs / SMEs) available to meet for approximately 1 hour during any of the following times:

Tuesday – 11/2/21 9am – 10am ~or~ 12:00 – 2:30pm

Wednesday – 11/3/21 10am – 11:30 ~or~ 2pm – 4pm

Background:

The National Archives and Records Administration (NARA) indicated in their letter that they became aware, through multiple media reports and the recent Office of Inspector General (OIG) report, “CBP Targeted Americans with the 2018-2019 Migrant Caravan,” that CBP has been using the messaging software WhatsApp and is deploying the encrypted messaging application Wickr across all components of the agency.

*** NARA instructed DHS/CBP to provide a response that addresses the following (as contained in the attached letter):

1. Ensure that Records Management regulations are being adhered to
2. Ensure that the CBP is regulating the use of these messaging applications consistent with NARA’s and the Department’s records management policies
3. Ensure that CBP is communicating to all employees that they cannot use these applications to circumvent their records management responsibilities and that all employees are aware that they must be retaining all messages that are federal records in accordance with agency policy and all applicable NARA-approved records schedules
4. The final response from CBP must include:
 - a. a complete description of the records with volume and dates if known
 - b. a description of the office maintaining the records
 - c. a statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records
 - d. a statement of the safeguards established to prevent further loss of documentation
 - e. details of the actions taken to salvage, retrieve, or reconstruct the records
5. DHS/CBP’s response must also include Records Management corrective actions that CBP will be required to implement as a result of the OIG investigation
6. Additionally, the response must include any documentation in the form of policies, training, approved records schedules or other resources CBP has established to mitigate the records management risk associated with the improper use of Wickr, WhatsApp, or similar messaging applications.

Key NARA Letter citations from OIG report:

Further, the OIG report states that there are “instances of CBP officers not documenting information they obtained during caravan-related inspections” (page 12); that CBP officials did not retain communication records (page 17); and that “the CBP officials failure to retain *WhatsApp* messages likely violated DHS and CBP records retention policies because the messages were information that CBP created or received in carrying out its mission and contained substantive information that was necessary to adequately and properly document

the activities and functions of the CBP officials” (page 28). This violation of policy resulted in what NARA identified as *unauthorized destruction* of records caused by use of WhatsApp and Wickr.

The OIG identified the following 6 **Recommendations** within their audit report:

Recommendation 1: Update Customs Directive No. 4320-003, July 1990 (TECS Directive) to clarify the appropriate bases for placing lookouts and provide training to all CBP officials who have the authority to place lookouts.

CBP Response to Recommendation 1: Concur. CBP will update lookout placement procedures in the TECS Directive. Additionally, CBP will modify existing training to inform users that lookouts should only be created for law enforcement purposes. CBP expects to complete these actions by December 31, 2021.

Recommendation 2: Develop and implement procedures to ensure CBP officials update and remove lookouts in accordance with the TECS Directive.

CBP Response to Recommendation 2: Concur. CBP will update lookout placement procedures in the TECS Directive. In addition, CBP will issue a memorandum and muster to remind CBP officers of their responsibilities to remove and update lookouts in accordance with policy. CBP expects to complete these actions by December 31, 2021.

Recommendation 3: Develop and issue a policy regarding asking, advising, or otherwise communicating with foreign governments about denying entry to U.S. citizens. At a minimum, the policy should specify the appropriate circumstances for such communications, who is authorized to approve such communications, and the procedures to follow when making such communications.

CBP Response to Recommendation 3: Concur. CBP will revise Directive No. 4320-025A, “Disclosure of Official Information to Foreign Authorities,” dated April 2014, by adding a provision on sharing U.S. persons’ information with foreign governments. CBP component offices will collaborate to revise and issue the policy. CBP expects to complete these actions by July 29, 2022.

Recommendation 4: Conduct a review of all instances in which CBP, as part of its response to the migrant caravan, disclosed U.S. citizens’ Sensitive Personally Identifiable Information to Mexican officials, between October 2018 and March 2019, to identify any instances that did not comply with foreign disclosure requirements and take remedial actions. Remedial actions may include rescinding requests to deny entry to U.S. citizens, retroactively instructing foreign authorities to hold CBP information in confidence and use CBP information only for the purpose for which CBP provided it, ensuring disclosures are properly documented in CBP’s systems of records, and any other steps necessary to ensure that all foreign disclosures comply with *CBP Directive No. 4320-025A, Disclosure of Official Information to Foreign Authorities, DHS Sensitive Systems Policy Directive 4300A, DHS Handbook for Safeguarding Sensitive Personally Identifiable Information*, and all other applicable policies and procedures.

CBP Response to Recommendation 4: Concur. CBP will identify and review disclosures of U.S. citizens’ Personally Identifiable Information to Mexican officials that occurred as part of its response to the migrant caravans between October 2018 and March 2019, to ensure compliance with foreign disclosure requirements (specifically established policies and delegations of authority). To the extent remedial actions are required, CBP will remediate each noncompliant disclosure. CBP expects to complete these actions by March 31, 2022.

Recommendation 5: Provide training to all CBP personnel on the process for sharing information with foreign nations, covering all applicable policies and procedures, including which CBP personnel are authorized to make foreign disclosures.

CBP Response to Recommendation 5: Concur. CBP’s Privacy and Diversity Office, in coordination with various CBP components, will identify individuals and work units that regularly disclose PII to foreign partners, and will provide virtual training regarding all applicable policies and procedures by March 31, 2022. The Privacy and Diversity Office, in coordination with the Office of Training and Development, will also develop a

new course focused on domestic and foreign information sharing in the DHS Performance and Learning Management System. CBP expects to complete these actions by December 30, 2022.

Recommendation 6: Take immediate action to end the use of WhatsApp for operational purposes or to ensure that WhatsApp messages are retained in compliance with legal and policy requirements including records retention schedules.

CBP Response to Recommendation 6: Concur. CBP's Office of Information and Technology will explore the viability of the continued operational use of WhatsApp, which will include looking for a replacement. Office of Information and Technology is currently piloting a managed messaging platform to replace WhatsApp. CBP is currently working on an operational pilot. CBP expects to complete these actions by December 31, 2021.

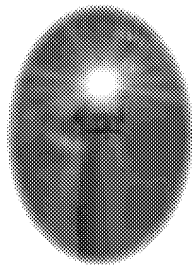
Please don't hesitate to let me know if you have any questions related to this request.

Thank you,

(b)(6),(b)(7)(C) | CBP Chief Records Officer
Records and Information Management Program (RIM)
DHS/CBP/OIT/RIM

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

[RIM Website](#) | [Request RIM Service!](#) | [Email Us](#)



Shine a Light

Suicide Prevention and Awareness

National Suicide Prevention Lifeline
800-273-8255

CBP Employee Assistance Program
800-755-7002



Appointment

From:

Sent:

To:

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

Subject: wickr FOIA request

Attachments: FOIA request: CBP-2021-110485

Location: Microsoft Teams Meeting

Start: 9/30/2021 2:00:00 PM

End: 9/30/2021 2:30:00 PM

Show Time As: Tentative

Required

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

Attendees:

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

(b)(7)(E)

United States, Arlington

Phone Conference ID: (b)(7)(E)

[Find a local number](#) | [Reset PIN](#)

This Teams Meeting is hosted on a U.S. Government information system and is provided for U.S. Government-authorized use only. Unauthorized or improper use or access of this system may result in disciplinary action as well as civil and criminal penalties.

[Learn More](#) | [Meeting options](#)

Appointment

From:

Sent:

To:

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

Subject: Review OCC comments on NARA Letter response

Attachments: RE: Extremely short suspense - RE: For OCC review - NARA letter of unauthorized disposition

Location: Microsoft Teams Meeting

Start: 11/30/2021 3:30:00 PM

End: 11/30/2021 4:00:00 PM

Show Time As: Tentative

Required Attendees:

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

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[\(b\)\(7\)\(E\)](#) United States, Arlington

Phone Conference ID: [\(b\)\(7\)\(E\)](#)

[Find a local number](#) | [Reset PIN](#)

This Teams Meeting is hosted on a U.S. Government information system and is provided for U.S. Government-authorized use only. Unauthorized or improper use or access of this system may result in disciplinary action as well as civil and criminal penalties.

[Learn More](#) | [Meeting options](#)

(b)(5)

(b)(5)

(b)(5)

(b)(5)