EXHIBIT MM

To:	Dana Salvano-Dunn, Director of Compliance Branch
From:	(b)(6)
Date:	July 24, 2014
Complaint Number:	13-09-CBP-0275
Complainant Name(A#):	(b)(6)

Finding(s) for Closure without Recommendations - (*check all that apply*):

☐ Insufficient information to investigate ☐ Withdrawal of complaint ☐ Lack of jurisdiction ☐ Allegation(s) overtaken by events ☐ Component and/or facility has already corrected the problem ☐ Allegation(s) against component, individual, and/ or facility unfounded ☒ Allegation(s) against component, individual, and/ or facility unsubstantiated	☐ Allegation(s) substantiated but does not warrant recommendations ☐ No finding of detention standards violations ☐ No finding of policy or procedure violations ☐ Complaint being handled as part of a related complaint (Related) ☐ Other (*provide details*):

Reason for Closing:

Mr. (b)(6) wrote to CRCL of two inspections:

- May 4, 2013 - seven customs agents allegedly boarded the cargo ship the (b)(6) (b)(6) at the **Port of Mobile**, Alabama. Heavily armed customs officials escorted Mr. (b)(6) to his cabin and asked to see his computer and hard drives. Mr. (b)(6) states he signed a consent form to the search because he felt intimidated. The officials cut the locks of his bunks locker, said they were there because of what happened in Canada, and they were to make sure Mr. (b)(6) didn't have anything (CRCL confirmed this in (b)(7)(E) which contained information that in March 2013, Mr. (b)(6) was arrested for possession of child pornography in Canada).
- May 26, 2013 – allegedly when the (b)(6) was at **Port Elizabeth**, New Jersey, Customs asked to clear Mr. (b)(6) last and had him stand in the hallway outside his room while waiting for them to get to his inspection. Mr. (b)(6) was called into the captain's office, which Customs was using, and Mr. (b)(6) alleges that the customs officer "asked me if I was a male or female…where (sic) you born a man or a woman. I said I am FTM transgender. He then asked me if I have had surgery. I said yes I have. He then looked down with his eyes and said I mean downstairs." Mr. (b)(6) notes that he is legally male. The customs official said the questions were being asked to positively identify Mr. (b)(6) as the subject of interest. Customs then went through his suitcases, phone and computer.

(b)(6) sent the referral to CBP. The Port Elizabeth response was returned quickly, the Port of Mobile response required additional follow up requests by (b)(6) after (b)(6) was removed as the secondary.

CBP's responses to the inquiry:

- General – CBP states that their general standards of conduct were the policy that applied to this interaction. This statement tracks generally with CBP's statement that they prefer to tackle questioning issues like this in training, rather than a specific policy. CBP policy states "employees will not make abusive, derisive, profane or harassing statements or gestures, or engage in any other conduct evidencing hatred or invidious prejudice to or about another person or group on account of race, color, religion, national origin, sex, sexual orientation, age, or disability." The personal search handbook has additional information re: personal searches of transgendered individuals, but Mr. (b)(6) was not subjected to a personal search.
- May 4, 2013 – **Port of Mobile** – CBP and ICE HSI conducted the search due to the (b)(7)(E) CBP states that he was asked to sign HSI consent forms in accordance with their policies and procedures, and that he was not pressured in any way to sign the consent form. CBP reports that Mr. (b)(6) was not questioned about his gender during this inspection.
- May 26, 2013 – **Elizabeth** – the interaction (b)(7)(E) (b)(7)(E) His baggage was searched with consent according to CBP. Specifically on the questioning, "according to the inspecting officers there were no questions or references to gender, sexually suggestive or derogatory comments made regarding transgender during the May 26 encounter by the officers. According to the officers, Mr. (b)(6) made a comment as his bag was being searched, 'you know that I am changing gender from man to woman.'"

As a policy matter, we should (b)(5)
(b)(5)
(b)(5)

Special Circumstances

Mr. (b)(6) is a frequent caller to the hotline. He is anxiously awaiting a close letter. (b)(6) has the most established relationship with him.

Recommend Office of General Counsel (OGC) Review

No.

Suggested Closure Method(s) (*check all that apply*):

☒ Close Letter to Complainant ☐ Phone call (a description of which is documented in Writing ☐ No notification necessary ☐ Other (provide details)	☐ Close email/memo to component ☐ High level component communication ☐ Close memo (No contact information)

Supporting Documents Attached:

CBP Management Inquiry Reports (2)	Draft Close letter

***For Completion by Reviewer*:**
Closure Recommendation Accepted X **Not Accepted** ☐

(b)(6)

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