

# 7.1 Detention Files

## I. Purpose and Scope

This detention standard contributes to efficient and responsible facility management by maintaining, for each detainee booked into a facility for more than 24 hours, a file of all significant information about that detainee. This standard also addresses security for electronic files.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

## II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. A detention file shall be maintained on each detainee admitted to a detention facility for more than 24 hours.
2. Each detention file shall include all documents, forms and other information specified herein.
3. The security and confidentiality of each detention file and its contents shall be maintained.
4. Staff shall have access to detention files as needed for official purposes only.
5. Information from a detention file shall be released to an outside third party only with the detainee’s signed release-of-information consent form, consistent with the resources and security of the facility. Any release of information shall be in accordance with applicable federal and state regulations.
6. Electronic record-keeping systems and data shall be protected from unauthorized access.
7. Field Offices shall maintain detention files for a minimum of 18 months after release of the detainee, for auditing purposes.
8. Closed detention files shall be properly archived.

## III. Standards Affected

This detention standard replaces “Detention Files” dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-

ALDF-7D-19, 7D-20, 7D-21. 7D-22.

Privacy Policy Guidance Memorandum Number 2007-1 “DHS Privacy Policy Regarding Collection, Use, Retention and Dissemination of Information on Non-U.S. Persons” from the DHS chief privacy officer (1/19/2007).

ICE/ERO *Performance-based National Detention Standards 2011*: “2.5 Funds and Personal Property.”

## V. Expected Practices

### A. Creation of a Detainee Detention File

When a detainee is admitted to a facility, staff shall create a detainee detention file as part of admissions processing.

1. For every new arrival whose stay shall exceed 24 hours, a designated officer shall create a detainee detention file.
2. The officer completing the admissions portion of the detention file shall note that the file has been activated. The note may take the form of a generic statement in the acknowledgment form described below in this standard.
3. The facility administrator shall develop procedures to ensure the admissions processing unit always has on hand all necessary supplies and that equipment is maintained in good working order, including photocopier(s) and paper. The equipment shall have the capacity to handle the volume of work generated.
4. The facility shall always have on hand a paper shredder where defective and/or extra photocopies not placed in the

detainee’s detention file should be shredded, or a locked paper bin in which such defective and/or extra photocopies that are not placed in the detention file should be placed to be shredded or otherwise destroyed.

### B. Required Contents of File

1. The detainee detention file shall contain either originals or copies of all forms and other documents generated during the admissions process. Defective or extra copies shall be disposed of properly. If necessary, the detention file may include copies of material contained in the detainee’s A-File.

The file shall, at a minimum, contain the following documentation:

- a. I-385, Alien Booking Record, with one or more original photograph(s) attached;
- b. Classification Work Sheet;
- c. Personal Property Inventory Sheet;
- d. Housing Identification Card;
- e. G-589, Property Receipt or facility equivalent; and
- f. I-77, Baggage Check(s).

The file shall also contain the following original documents, if used in the facility:

- g. acknowledgment form, documenting receipt of handbook, orientation, locker key, etc.;
- h. work assignment sheet;
- i. identifying marks form; and
- j. original detainee summary form.

2. The detainee's detention file shall also contain documents generated during the detainee's time in the facility.

### C. Additions to File

During the course of the detainee's stay at the facility, staff shall add documents associated with normal operations to the detainee's detention file. Such documentation may include, but is not limited to, the following:

1. special requests;
2. any G-589s or facility equivalent, or I-77s closed-out during the detainee's stay;
3. disciplinary forms;
4. grievances, except medical grievances which are maintained in the medical file, complaints and their disposition;
5. all forms associated with disciplinary or administrative segregation;
6. strip search forms;
7. other documents, as needed, e.g., staff reports about the detainee's behavior, attitude, commendations; and
8. any privacy waivers, including release-of-information consent forms.

### D. Location of Files

Detainee detention files shall be located and maintained in a secured area.

1. Active detainee detention files shall be maintained in the admissions processing area, unless the facility administrator designates another area;
2. The cabinet containing the files does not

need to be securable if located in a controlled access area; however, if the cabinet is located in a congested work area or in a high traffic area, it must be locked;

3. The Chief of Security or equivalent shall determine the key distribution for file cabinets that lock; and
4. Archived files shall be placed in storage boxes, with the dates covered clearly marked (e.g., from [mm/dd/yy] to [mm/dd/yy]). The facility administrator shall designate a restricted access storage space.

### E. Archiving Files

Each detention file shall remain active during the detainee's stay at a facility, and shall be closed and archived upon the detainee's transfer, release or removal. When requested, IGSA facilities shall make inactive detention files available to ICE/ERO personnel.

1. Upon the detainee's release from the facility, staff shall add final documents to the file before closing and archiving the file and after inserting the following:
  - a. copies of completed release documents;
  - b. the original closed-out receipts for property and valuables; and
  - c. the original I-385 and other documentation.
2. The officer closing the detention file shall make a notation (on the acknowledgement form, if applicable) that the file is complete and ready for archiving.
3. The closed detention file shall not be

transferred with the detainee to another facility. However, staff may forward copies of file documents at the request of supervisory personnel at the receiving facility or office. When forwarding requested documents, staff at the sending office shall update the archived file, noting the document request and the name and title of the requester.

4. The archival and disposal of files must be done in accordance with agency policies and regulations.

## F. Access to File

1. Detention file contents are subject to the same Privacy Act regulations as A-file contents. Unless release of information is required by statute or regulation, a detainee must sign a release-of-information consent form prior to the release of any information, and a copy of the form shall be maintained in the detainee's detention file. This information contained in the form shall be explained to the detainee in a language or manner which he/she understands.

The Privacy Act of 1974 provides statutory privacy rights to U.S. citizens and Legal Permanent Residents (LPRs), but the law does not cover aliens who are not legal permanent residents. As a matter of policy, however, DHS treats any personally identifiable information (PII) that is collected, used, maintained or disseminated in a DHS records system as being subject to the Privacy Act regardless of whether the information pertains to a U.S. citizen, LPR or alien. Treating such

records systems as covered by the Privacy Act establishes efficient and uniform business practices for handling PII without necessitating maintenance of two parallel records systems.

2. Appropriate staff or other law enforcement agencies with ICE approval may have access to the detention file for official purposes.
3. Staff shall accommodate all requests for detainee detention files from other departments that require the material for official purposes, such as disciplinary hearings. A representative of the department requesting the file is responsible for obtaining the file, logging it out and ensuring its return. Unless the Chief of Security or equivalent determines otherwise, each borrowed file must be returned by the end of the administrative workday.

At a minimum, a logbook entry recording the file's removal from the cabinet shall include the following information:

- a. the detainee's name and A-File number;
  - b. date and time removed;
  - c. reason for removal;
  - d. signature of person removing the file, including title and department;
  - e. date and time returned; and
  - f. signature of person returning the file.
4. Upon request by the detainee, the detention file shall be provided to the detainee or his/her designated attorney of record.

## **G. Electronic Files**

Electronic record-keeping systems and data shall be protected from unauthorized access. All electronic data on individual detainees is subject to the same Privacy Act regulations as the contents of traditional paper detention files and A-files.

Unless release of information is required by statute or regulation, a detainee must sign a release-of-information consent form prior to the release of any information, and a copy of the form shall be maintained in the detainee's detention file.

## **H. Field Office Responsibilities**

Field Offices shall maintain files as needed to carry out their responsibilities, and shall retain all inactive files for a minimum of 18

months for auditing purposes. Generally, such records contain information about more than one detainee, and are most easily retrieved by process or subject, rather than by individual detainee.

For some purposes, records are most easily retrieved by the detainee's name. While some such material may duplicate materials maintained in the facility detention files, there is no intention to create a duplicate file for IGSA contract facilities.

Some detention standards require that copies of certain documents on individual detainees be sent to Field Offices. Especially where approval of the Field Office Director or designee is required, records of correspondence and approvals or denials are to be maintained in the A-file.