

ICE/DRO DETENTION STANDARD

CORRESPONDENCE AND OTHER MAIL

I. PURPOSE AND SCOPE. This Detention Standard ensures that detainees will be able to correspond with their families, the community, legal representatives, government offices, and consular officials consistent with the safe and orderly operation of the facility.

It applies to the following types of facilities housing DRO detainees:

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

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Detainees will be able to correspond with their families, the community, legal representatives, government offices, and consular officials.
2. Detainees will be notified of the facility's rules on correspondence and other mail through the Detainee Handbook, or supplement, which is provided to each detainee upon admittance.
3. The amount and content of correspondence detainees send at their own expense will not be limited except to protect public safety or facility security and order.
4. Indigent detainees will receive a specified postage allowance to maintain community ties and necessary postage for privileged correspondence.
5. Detainees will have access to general interest publications.
6. Incoming and outgoing mail, with the exception of Special Correspondence and Legal Mail, will be opened to inspect for contraband and to intercept cash, checks, and money orders.
7. General correspondence will be read or rejected only to protect the safe, secure and orderly operation of the facility, and detainees will be notified in writing when correspondence is withheld in part or in full.

8. Detainees will be permitted to send Special Correspondence and Legal Mail to a specified class of persons and organizations, and incoming mail from these persons will be opened only in the presence of the detainees (unless waived) to check for contraband (except when contamination is suspected).
9. Incoming and outgoing letters will be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends, holidays, or exceptional circumstances.
10. Detainees in SMUs will have the same correspondence privileges as detainees in the general population.
11. The applicable content and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Correspondence and Other Mail** dated 9/12/2008.

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-5B-05, 5B-06, 5B-07, 5B-08, 5B-09, 5B-10, 2A-27, 2A-60, 6A-09.

V. EXPECTED PRACTICES

A. General

Each facility shall have written policy and procedures concerning detainee correspondence and other mail.

The quantity of correspondence a detainee may receive or send at his or her own expense shall not be limited. For reasons of safety, security and the orderly operation of the facility, non-correspondence mail, such as packages and publications, shall be subject to certain restrictions.

B. Indigent Detainees

Ordinarily, a detainee is considered "indigent" if he or she has less than \$15.00 in his or her account.

Indigent detainees will be permitted to mail a reasonable amount of mail each week at government expense, as determined by the Facility Administrator, including the following:

- At least five pieces of Special Correspondence or Legal Mail.
- Three pieces of general correspondence.
- Packages as deemed necessary by ICE.

C. Detainee Notification

The facility shall notify detainees of its rules on correspondence and other mail through the Detainee Handbook, or supplement, provided to each detainee upon admittance.

At a minimum, the notification shall specify:

1. That a detainee may receive mail; the mailing address of the facility; and instructions on how envelopes should be addressed;
2. That a detainee may send mail; the procedure for sending mail; and instructions on how outgoing mail must be addressed;
3. That general correspondence and other mail addressed to detainees will be opened and inspected in the detainee's presence, unless the facility administrator authorizes inspection without the detainee's presence for security reasons.
4. The definition of Special Correspondence and Legal Mail, including instructions on the proper labeling as "Special Correspondence" or "Legal Mail" to ensure that it is treated as privileged mail. The notification shall clearly state that it is the detainee's responsibility to inform senders of the labeling requirement;
5. That incoming Special Correspondence and Legal Mail may only be opened in the detainee's presence, and may be inspected for contraband, but not read, and that outgoing Special Correspondence and Legal Mail shall not be opened, inspected, or read;
6. That packages may neither be sent nor received without advance arrangements approved by the facility administrator, as well as how to obtain such approval;
7. A description of mail which may be rejected by the facility and which the detainee will not be permitted to keep in his or her possession.
8. That identity documents, such as passports, birth certificates, etc., in a detainee's possession are contraband and may be used by ICE/DRO as evidence against the detainee or for other purposes authorized by law; however, upon request, the detainee will be provided a copy of each document, certified by an ICE/DRO officer to be a true and correct copy; (The facility should consult ICE/DRO with any and all requests for identity documents.)
9. The procedure to obtain writing implements, paper, and envelopes; and
10. The procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.

In addition, in SPCs and CDFs, the rules notification shall be posted in each housing area.

The facility shall provide key information to detainees in languages spoken by any significant portion of the facility's detainee population.

D. Processing

Detainee correspondence and other mail shall be delivered to the detainee and to the postal service on regular schedules.

- Incoming correspondence shall be distributed to detainees within 24 hours (one business day) of receipt by the facility.

- Outgoing correspondence shall be delivered to the postal service no later than the day after it is received by facility staff or placed by the detainee in a designated mail depository, excluding weekends and holidays.
- An exception may be made for correspondence or other mail that requires special handling for security purposes. For example, in exceptional circumstances, Special Correspondence may be held for 48 hours, to verify the status of the addressee or sender.

In SPCs and CDFs, as a routine matter, incoming mail shall be distributed to detainees on the day received by the facility. Incoming priority, overnight, certified mail, and deliveries from a private package delivery service, etc. shall be recorded in a logbook maintained by the facility with detainee signatures.

E. Packages

Each facility shall implement policies and procedures concerning detainee packages.

In SPCs and CDFs, detainees shall not be allowed to receive or send packages without advance arrangements approved by the facility administrator. The detainee shall pay postage for packages and oversized or overweight mail.

F. Inspection of Incoming Correspondence and Other Mail

1. General Correspondence and Other Mail

All facilities shall implement procedures for the inspection of all incoming general correspondence and other mail (including packages and publications) for contraband. *In SPCs and CDFs, staff shall open and inspect incoming general correspondence and other mail (including packages and publications) in the presence of the detainee. Incoming general correspondence may be read to the extent necessary to maintain security, as authorized by the facility administrator.*

Inspection is generally for the purpose of detecting contraband. The reading of mail, which requires approval of the facility administrator, may be conducted at random. Mail may also be read when a specific security concern arises with respect to an individual detainee, including, but not limited to, to obtain such information as escape plots, plans to commit illegal acts, and plans to violate institution rules.

2. Special Correspondence and Legal Mail

“Special Correspondence and Legal Mail” is the term for detainees’ written communications to or from private attorneys and other legal representatives; government attorneys; judges, courts; embassies and consulates; the President and Vice President of the United States, members of Congress, the Department of Justice (including the DOJ Office of the Inspector General), the Department of Homeland Security Office for Civil Rights and Civil Liberties, the Department of Homeland Security (including U.S. Immigration and Customs Enforcement, the Office of Detention and Removal Operations, and the DHS Office of the Inspector General,); the U.S. Public Health Service including the Division of Immigration Health Services; health care practitioners; administrators of grievance systems; and representatives of the news media.

Correspondence shall only be treated as Special Correspondence and Legal Mail if the title and office of the sender (for incoming correspondence) or addressee (for outgoing correspondence) are unambiguously identified as a court or consular office or official on the envelope, and the envelope is labeled as "Special Correspondence" or "Legal Mail"

All facilities shall implement procedures for inspecting Special Correspondence and Legal mail for contraband in the presence of the detainee. Detainees shall sign a logbook upon receipt of Special Correspondence and/or Legal Mail to verify that the Special Correspondence or Legal Mail was opened in their presence.

Staff shall neither read nor copy Special Correspondence and Legal Mail. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as Special Correspondence or Legal Mail.

G. Inspection of Outgoing Correspondence and Other Mail

1. General Correspondence and Other Mail

Outgoing general correspondence and other mail may be inspected or read if:

- The addressee is another detainee,
- There is reason to believe the item might present a threat to the facility's secure or orderly operation, endanger the recipient or the public or facilitate criminal activity.

In SPCs and CDFs, the detainee must be present when the correspondence or other mail, including packages, is inspected, unless otherwise authorized by the facility administrator.

2. Special Correspondence and Legal Mail

Outgoing Special Correspondence and Legal Mail shall not be opened, inspected, or read.

Staff shall treat outgoing correspondence as Special Correspondence and Legal Mail only if the name, title, and office of the recipient are clearly identified on the envelope and the envelope is labeled as "Special Correspondence" or "Legal Mail."

H. Rejection of Incoming and Outgoing Mail

All facilities shall implement policies and procedures addressing acceptable and non-acceptable mail. Detainees may receive as correspondence any material reasonably necessary for the detainee to present his or her legal claim, in accordance with this standard.

Incoming and outgoing general correspondence and other mail may be rejected to protect the security, good order, or discipline of the institution; to protect the public; or to deter criminal activity.

When incoming or outgoing mail is confiscated or withheld (in whole or in part), the detainee shall be notified and given a receipt.

The facility administrator shall ordinarily consult a religious authority before the confiscation of a religious item that is "soft" contraband.

In SPCs and CDFs, correspondence and publications that may be rejected include, but are not limited to:

- 1. Material depicting activities that present a significant risk of physical violence or group disruption, for example, material dealing with the subjects of self-defense or survival, weaponry, armaments, explosives, or incendiary devices;*
- 2. Information regarding escape plots, plans to commit illegal activities or to violate ICE/DRO rules or facility guidelines;*
- 3. Information regarding the production of drugs or alcohol;*
- 4. Sexually explicit material that is obscene or prurient in nature;*
- 5. Threats, extortion, obscenity, or gratuitous profanity;*
- 6. A cryptographic or other surreptitious code that may be used as a form of communication;*
- 7. Other contraband. A package received without the facility administrator's prior authorization is considered contraband.*

Both sender and addressee shall be provided written notice, signed by the facility administrator, with explanation, when the facility rejects incoming or outgoing mail.

A detainee may appeal rejection of correspondence through the Detainee Grievance System.

Rejected mail shall be considered contraband and handled as detailed below.

I. Contraband Recording and Handling

When an officer finds an item that must be removed from a detainee's mail, he or she shall make a written record that includes:

- The detainee's name and A-number,
- The name of the sender and recipient,
- A description of the mail in question,
- A description of the action taken and the reason for it,
- The disposition of the item and the date of disposition, and
- The officer's signature.

Prohibited items discovered in the mail shall be handled as follows:

- A receipt shall be issued to the detainee for all cash, which shall be safeguarded and credited to the detainee's account in accordance with the Detention Standard on **Funds and Personal Property**.
- Identity documents, such as passports, birth certificates, etc., shall be placed in the detainee's A-file. Upon request, the detainee shall be provided with a copy of the document, certified by an ICE/DRO officer to be a true and correct copy.
- Other prohibited items found in the mail shall be handled in accordance with the Detention Standard on **Contraband**. However, at the discretion of the facility administrator, soft contraband may be returned to the sender.

- The facility administrator shall ensure that facility records of the discovery and disposition of contraband are accurate and current.

J. Postage Costs

The facility shall generally not limit the amount of correspondence detainees may send at their own expense, except to protect public safety or facility security and order.

The facility shall provide a postage allowance at government expense under two circumstances:

- To indigent detainees, and
- To all detainees, if the facility does not have a system for detainees to purchase stamps.

Free postage is generally limited to letters weighing one ounce or less, with exceptions allowed for Special Correspondence; however, in compelling circumstances, the facility may also provide free postage for general correspondence and other mail.

Detainees, who qualify for a postage allowance as defined above, shall be permitted to mail at government expense:

- A reasonable amount of mail each week, including at least five pieces of Special Correspondence and three pieces of general correspondence.
- A reasonable amount of correspondence related to a legal matter, including correspondence to a legal representative, potential legal representative, and any court, as determined by the Facility Administrator.
- Packages containing personal property, when the facility administrator determines that storage space is limited and that mailing the property is in the government's best interest. See the Detention Standard on **Funds and Personal Property** for detailed information.

K. Writing Implements, Paper, and Envelopes

The facility shall provide writing paper, writing implements and envelopes at no cost to detainees.

L. Detainees in Special Management Units

All facilities shall have written policy and procedures regarding mail privileges for detainees housed in a Special Management Unit.

Detainees in administrative or disciplinary segregation shall have the same correspondence privileges as detainees in the general population.

M. Correspondence with Representative of the News Media

A detainee may use Special Correspondence to communicate with representatives of the news media.

A detainee may not receive compensation or anything of value for correspondence with the news media, including, but not limited to, publishing under a byline. A detainee may not act as a reporter.

Representatives of the news media may initiate correspondence with a detainee; however, it shall be treated as Special Correspondence only if the envelope is properly addressed with the name, title, and office of the media representative with reporter name, title, office and publication and clearly labeled as "Special Correspondence."

N. Notaries, Certified Mail, and Miscellaneous Needs Associated With Legal Matters

If a detainee without legal representation requests certain services in connection with a legal matter, such as notary public or certified mail, and has no family member, friend, or community organization to provide assistance, the facility shall assist the detainee in a timely manner.

If it is unclear whether the requested service is necessary in pursuit of a legal matter, the respective Chief Counsel should be consulted.

O. Facsimile Communication

When timely communication through the mail is not possible, the Facility Administrator may in his or her discretion allow for a reasonable amount of communication by means of facsimile device between the detainee and his or her designated legal representatives.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr
Director
Office of Detention and Removal Operations

Date