

ICE/DRO RESIDENTIAL STANDARD

SEARCHES OF RESIDENTS

I. PURPOSE AND SCOPE. Contraband is detected, controlled, and/or properly disposed of, protecting residents and staff and enhancing facility good order and security.

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

1. Residents will live and work in a safe and orderly environment.
2. Contraband will be controlled.
3. Searches of residents, housing and work areas will be conducted without unnecessary force and in ways that, insofar as is practical, preserve the dignity of residents.
4. When body searches are conducted, the least intrusive practicable search method will be employed, as determined by the type of contraband and the method of suspected introduction or concealment.
5. A pat-down search will be conducted only when there is reasonable belief or suspicion that contraband may be concealed on the person, or a good opportunity for concealment has occurred, and, if required, when properly authorized by a supervisor.
6. Contraband that may be evidence of a criminal law violation will be preserved, inventoried, controlled, and stored so as to maintain and document the chain of custody.
7. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
8. The standard complies with federal laws and with DHS regulations regarding residents with special needs.

III. DIRECTIVES AFFECTED

None.

IV. REFERENCES

The First Edition National Residential Standards were written using a variety of methodologies including previous and current practices, review and comment from various subject matter experts, review and comment from various government and non-government organizations, and a review of current state codes in Pennsylvania and Texas. Each standard is written in a manner that affords each resident admission and continuous housing to a family residential facility in a dignified and respectful manner. There are no specific codes, certifications, or accreditations that deal specifically with unique management requirements of families awaiting the outcome of their immigration proceeding in a non-secure custodial environment.

American Correctional Association Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-2C-01, 2C-02, 2C-03, 2C-04, 2C-05, 2C-06, 2A-20, 6C-19.

October 15, 2007, Memorandum from DRO Director John Torres, "Change Notice: Admission and Release- National Detention Standard Strip Search Policy."

V. EXPECTED PRACTICES

1. Written Policy and Procedures Required

All facilities shall have written policy and procedures for:

- a. Employment of the least intrusive method of search practicable, as determined by the type of contraband and the method of suspected introduction or concealment;
- b. Conduct of body searches, including frisks ("pat-downs"), visual searches ("strip searches"), body cavity searches, and x-rays;
- c. Avoidance of unnecessary force and efforts to preserve the dignity of residents during searches, to the extent practicable;
- d. Avoidance of unnecessary disorder during a search of housing or work areas; such searches shall not be conducted on a routine basis;
- e. Handling of contraband;
- f. Preservation of evidence.

2. Staff Training

Staff shall receive initial and annual training on effective search techniques.

3. Search of Resident Housing and Work Areas

The purpose for searching resident housing and work areas is to ensure a safe living environment for families. Periodically, staff may search a resident's housing and work area as well as personal items contained within those areas, without notice to, or approval from the resident. However, search of a resident's personal items should include notification to the resident and require their presence unless exigent circumstances exist. The facility is required to notify ICE weekly of all physical plant searches conducted. ICE shall immediately be notified of any instance in which hard contraband is found. Each facility shall establish procedures to ensure all housing units and work areas are searched at least daily, however, search times shall be at irregular intervals to prevent staging of contraband. Inspections are primarily designed to:

- a. Detect contraband;
- b. Prevent escapes;
- c. Maintain sanitary standards, and;
- d. Eliminate fire and safety hazards.

Staff shall maintain written documentation of each area search. The Assistant

Facility Administrator for Operations shall maintain the inspectors' documentation.

4. Searches of Residents

Staff shall document all searches, authorizations, and the reasons for the searches in any logs used to record searches and in the resident's residential file.

a. Pat Search

During admission to a facility, or at any time thereafter, pat-downs shall not be conducted on any resident unless reasonable and articulable suspicion can be documented. No child resident fourteen years old or younger may be the subject of a pat-down search without the explicit authorization of the facility administrator or the assistant facility administrator.

A pat-down is an inspection of a resident, using the hands. The inspector uses his or her sense of touch when patting or running the hands over the clothed resident's body. It is considered the least intrusive of the body searches and should only be conducted by a staff member of the same gender.

A pat-down does not require the resident to remove clothing, although the inspection includes a search of the resident's clothing and personal effects.

A hand-held and/or stationary metal detector shall be available and will be used in lieu of a pat-down.

b. Strip/Visual Search

Description: A strip search, also referred to as a visual search may not be authorized or conducted without the explicit consent of the ICE facility administrator. A strip search shall only be conducted by two ICE staff members of the same gender as the resident and only under circumstances where it can be shown that a life or public safety issue is clearly established. A strip search may never be conducted on a child under age fourteen without the authorization of the Field Office Director and JFRMU.

In any instance where a parent must be searched, the search shall not be performed in the presence of any child. In any instance where a child must be searched, the parent must be present.

A strip search is a visual inspection of all body surfaces and body cavities. The inspector shall not touch any skin surface of the resident. However, the inspector may request that the resident move parts of the body to permit visual inspection. It is considered more intrusive than a pat-down and shall be made in a manner designed to ensure as much privacy to the resident as practicable.

A strip search requires the removal or rearrangement of some or all of the resident's clothing to examine the clothing or to permit the inspection of exterior skin surfaces of the body, including breasts and exterior anal and genital areas, inside of the nose, ears, and mouth. If items are discovered that protrude from a body cavity, the removal of those items are governed by the procedures applicable to body cavity searches, addressed below.

c. Body Cavity Searches

In every instance where it is established that a foreign object is located within a body cavity, only a qualified medical authority shall be authorized to locate and remove the object. Only the Chief JFRMU in conjunction with the Field Office Director can authorize this type of search.

5. PRESERVATION OF EVIDENCE

Contraband that may be evidence of a criminal law violation shall be preserved, inventoried, controlled, and stored so as to maintain and document the chain of custody, and shall be reported to the appropriate law enforcement authority for action and possible seizure and prosecution.

Standard Approved:



John P. Torres
Director
Office of Detention and Removal

DEC 21 2007

Date