

INS DETENTION STANDARD

CONTRABAND

I. POLICY

Detention staff will handle and properly dispose of contraband in accordance with the standard operating procedures of the facility. Contraband will be destroyed in the presence of at least one official observer, and those involved will document every instance of contraband-destruction.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

A. "Hard" and "Soft" Contraband

"Contraband" refers to all items that pose a threat to the security of people or property. A contraband item fits into either the category of "hard" contraband or the category of "soft" contraband.

Hard contraband includes any item that is inherently dangerous as a weapon or tool of violence, e.g., a knife, explosives, a "zipgun," brass knuckles, etc. Because hard contraband presents an immediate physical threat in or to the facility, a detainee found in possession of hard contraband could face disciplinary action or criminal prosecution.

Soft contraband, on the other hand, comprises “nuisance” items that do not pose a direct and immediate threat to individual safety. Nonetheless, soft contraband has the potential to create dangerous or unsanitary conditions in the facility, such as excess papers that create a fire hazard, food items that are spoiled or retained beyond the point of safe consumption, etc.

B. Procedures for Handling Contraband

All facilities shall have a written policy and procedures for the handling of contraband.

In SPCs/CDFs:

1. *The OIC shall establish a procedure for handling contraband items.*
2. *Staff shall seize any item identified as contraband, whether found in the physical possession or living area of a detainee, in a common area, or in incoming or outgoing mail.*
3. *Staff shall inventory, receipt, and store in a secure area with the detainee’s other (stored) personal property any soft contraband and/or hard contraband that is not illegal under criminal statutes possession. This property shall be held until the detainee’s release when, unless it is illegal under criminal statutes or could pose a threat to security, it will be returned to the detainee. (See the “Accountability and Safeguarding of Detainee Funds and Personal Property” standard.)*

Contraband includes material prohibited by law or regulation, or material that can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the facility. For example, the operational manual for INS's Deportable Alien Control System would, in a detainee's possession, constitute contraband. It would be contraband in those circumstances because of the inherent threat to the security, safety, and good order of the facility.

Staff shall handle items seized as contraband in accordance with the following procedures.

The procedures apply to contraband found in the physical possession or living area of a detainee, in common areas, or in incoming or outgoing mail. They also apply to contraband discovered during in-processing and in the possession of a detainee awaiting voluntary return. Exceptions to these procedures may occur only upon written authorization of the OIC.

1. *Contraband that is illegal (under criminal statutes) will be inventoried, held, and reported to the appropriate law enforcement authority for action and possible seizure. Many types of hard contraband are illegal under 18 U.S.C. Section 1791.*
2. *Contraband that is government property will be retained as evidence for possible disciplinary action or criminal prosecution. If appropriate, the property will be returned to the issuing authority if not needed as evidence or, if needed, after its use.*

Alternatively, staff may return the property to normal stock for reuse or, if the property has been altered, the OIC may order it destroyed.

3. *The OIC shall generally consult a religious authority about the handling of religious items prior to confiscation. Such consultation is not required before confiscation of religious items categorized as hard contraband.*
4. *Hard contraband that is illegal under criminal statutes may be destroyed when no longer needed for possible disciplinary action or criminal prosecution, in accordance with section III.F., below. It may also be kept for official use, e.g. as a training tool. In such cases, the items will be secured in the facility armory when not in use.*

Examples of hard contraband include:

- a. *Tools that could aid in an escape (e.g., rope);*
- b. *Ammunition or explosives;*
- c. *Combustible or flammable liquids;*
- d. *Hazardous or poisonous chemicals and gases.*
- e. *Weapons;*
- f. *Intoxicants;*
- g. *Currency (where prohibited).*

Narcotics and other controlled substances not dispensed or approved by the facility medical department constitute hard contraband. Medicine dispensed or approved by the medical department is hard contraband if found in the possession of a detainee for whom it was not prescribed, or if not used as prescribed.

Staff shall consult the facility pharmacist or other health services staff when uncertain about whether a prescribed medication represents contraband.

Medicine the detainee brings into the facility upon arrival will be forwarded to the facility medical staff for disposition. Duly approved medicine will be returned to the detainee.

5. *If the personal property of detainees exceeds storage capacity, the OIC will determine which items are excess, and arrange to ship them to the third party chosen by the affected detainee(s). The facility will pay shipping costs for a detainee who cannot afford the postage. If, however, the detainee chooses not to provide an appropriate mailing address, or is financially able but unwilling to pay the postage, the OIC may dispose of the property in accordance with section III.C., below, after providing the detainee with written notice of the intent to destroy the property and how to prevent that outcome.*

When it is clear that an appropriate mailing address does not exist, the facility will store the property for the detainee.

- 6 *The following procedures will be followed when a detainee's claimed ownership of potentially contraband material is in question:*
- a. *Inventory and store item pending verification of ownership;*
 - b. *Provide detainee(s) claiming ownership with a copy of the inventory as soon as practicable, and place a second copy in the detainee detention file(s);*
 - c. *The detainee(s) shall have seven days following receipt of the inventory to prove ownership of the listed items. Staff shall deny claims arising from the unauthorized use of government property. Staff will similarly deny a detainee's claim of ownership for an item acquired without authorization from another detainee;*
 - d. *If the detainee cannot establish ownership, staff shall attempt to resolve the question before any decision is made regarding appropriate handling. If ownership cannot be reasonably established, the property may be destroyed (see section III.C., below).*

C. Destruction of Contraband

The OIC shall establish a procedure for the destruction of contraband items.

In SPCs/CDFs, destruction shall proceed as follows:

1. *The Chief Detention Enforcement Officer (CDEO), or CDF equivalent, determines whether an item will be destroyed.*
2. *The CDEO sends the OIC a memorandum through official channels, describing what is to be destroyed, and why.*
3. *The OIC will generally hold an item of questionable ownership for 120 days before considering its destruction. This practice affords the detainee ample opportunity to obtain proof of ownership and/or appeal the decision through the detainee grievance process (see the "Detainee Grievance Procedure" standard). Where disciplinary action is appropriate, the OIC shall defer his/her decision about the property until the disciplinary case (including appeals) is resolved.*
4. *The officer who physically destroys the property and at least one official observer shall attest, in writing, to having witnessed the property's destruction.*

5. *A copy of the property disposal record shall be placed in the detainee's detention file. Records of property disposal shall remain on file for at least two years. This ensures the availability of information critical to any subsequent investigation of a tort claim*

D Notice to Detainees

The detainee handbook, or equivalent, shall notify detainees of the following:

1. The facility's rules and procedures governing contraband.
2. The applicability of the "Accountability and Safeguarding of Detainee Property and Valuables" standard, as it relates to contraband.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition, Standards for Adult Detention Facilities:
3-ALDF-2E-11, 3A-18, 4A-04.

Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
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Date

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

Policy: All detention facilities will ensure the proper handling and disposal of all contraband. Documentation of contraband destruction is required.

CONTRABAND			
Components	Yes	No	Remarks
1. Does the facility follow a procedure for handling illegal contraband? a. If yes, does staff inventory, hold, and report it to the proper authority for action/possible seizure?			
2. Is contraband that is government property retained as evidence for potential: a. Disciplinary action? b. Criminal prosecution?			
3. Does staff return property not needed as evidence to the proper authority?			
4. Do written procedures cover the return of such property?			
5. Does property go into normal stock for reuse?			
6. Is altered property destroyed?			
7. Before confiscating religious items, does OIC contact a religious authority?			
8. Does staff follow written procedures when destroying hard contraband that is illegal?			
9. Is hard contraband that is illegal (under criminal statutes) retained and used for official use, e.g. training purposes? If yes, under specific circumstances? a. Specified in written procedures? b. Secured in facility armory when not in use?			

CONTRABAND			
Components	Yes	No	Remarks
10. Are all identity documents (birth certificates, passports, etc.) held in A-files? a. Do detainees receive copies upon request? b. Does the detainee handbook (or equivalent) tell detainees that a copy of each identity document is available upon request?			
11. When ownership of a contraband item is in question, does staff attempt to resolve it? a. If yes, in accordance with written procedures?			
12. Upon admittance, do detainees receive notice of items they can and cannot keep in their possession?			
13. Do new arrivals receive copies of the rules regarding contraband?			
14. Do detainees receive notification of contraband rules and procedures in the detainee handbook (or equivalent)?			

**U.S. Immigration and Naturalization Service
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Verification Sources:

The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:

SOURCE	TIME	DATE	LOCATION
A. Detainee Handbook			
B. Contraband Logbook			
C. A-File/Detention file			
D. Review of facility policy and procedure for control and disposition of contraband			
E. Observation of contraband confiscation			
F. Detainee and staff interviews			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

Remarks: *(Record significant facts, observations, other sources used, etc.)*

Auditor's Signature

Date