

# ICE/DRO DETENTION STANDARD

## SEARCHES OF DETAINEES

**I. PURPOSE AND SCOPE.** This Detention Standard protects detainees and staff and enhances facility security and good order by detecting, controlling, and properly disposing of contraband.

It applies to the following types of facilities housing ICE/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; however, IGSA facilities may also find them useful as guidelines. IGSAs may adopt, adapt or establish alternatives to the italicized procedures, provided they meet or exceed the intent represented by those 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 live and work in a safe and orderly environment.
2. Contraband will be controlled.
3. Searches of detainees, housing, and work areas will be conducted without unnecessary force and in ways that preserve the dignity of detainees.
4. When body searches are conducted, the least intrusive practicable search method will be employed, as indicated by the type of contraband and the method of suspected introduction or concealment.
5. Pat searches of detainees and metal detector screening will be conducted routinely to control contraband.
6. A strip search will be conducted only when there is reasonable suspicion that contraband may be concealed on the person, or when there is a reasonable suspicion that a good opportunity for concealment has occurred, and when properly authorized by a supervisor.
7. A body cavity search will be conducted by designated health personnel only when authorized by the facility administrator on the basis of reasonable suspicion that contraband may be concealed in or on the detainee's person.

8. “Dry cells” will be used for contraband detection only when there is reasonable suspicion of concealment, with proper authorization, and in accordance with required procedures.

9. Contraband that may be evidence in connection with a violation of a criminal statute will be preserved, inventoried, controlled, and stored so as to maintain and document the chain of custody.

10. Canine units (in facilities that have them) may be used for contraband detection when detainees are not present, but canine use for force, intimidation, control, or searches of detainees is prohibited.

11. The applicable contents 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 is a new Detention Standard.

### **IV. REFERENCES**

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

Notice Admission and Release – National Detention Standard Strip Search Policy (10/15/2007)

This Detention Standard incorporates the restrictions on the use of canines originally communicated via a memorandum on ICE use of canines in support of ICE detention operations dated 11/18/2004 from the Acting Director of Detention and Removal Operations.

ICE/DRO Detention Standard on **Admission and Release**

ICE/DRO Detention Standard on **Contraband**

ICE/DRO Detention Standard on **Hold Rooms in Detention Facilities**

ICE/DRO Detention Standard on **Visitation**

### **V. EXPECTED PRACTICES**

#### **A. Written Policy and Procedures Required**

All facilities shall have written policy and procedures consistent with this Standard for:

- Searches of detainee housing and work areas;
- Body searches, including pat searches (“pat downs”), strip searches, body cavity searches, and x-rays;
- Close observation in “dry cells” to detect contraband;
- Employing the least intrusive method of search practicable, as indicated by

the type of suspected contraband and the method of suspected introduction or concealment;

- Avoiding unnecessary force during searches and to preserve the dignity of the detainee being searched, to the extent practicable;
- Leaving a searched housing or work area and detainee property in its original order, to the extent practicable;
- Handling of contraband;
- Use of canine units (in facilities that have them); and
- Preservation of evidence.

## **B. Staff Training**

All staff who do housing or work area searches or body searches shall receive initial training regarding search procedure prior to entering on duty, and annual training in effective techniques thereafter.

## **C. Search of Detainee Housing and Work Areas**

Staff may search a detainee's housing and work area, and personal items contained within those areas, without notice to or approval from the detainee and without the detainee's presence.

Each facility shall establish procedures to ensure all housing units and work areas are searched routinely, but irregularly, since such inspections are primarily designed to:

- Detect contraband,
- Prevent escapes,
- Maintain sanitary standards, and
- Eliminate fire and safety hazards.

Staff shall maintain written documentation of each housing unit search within the individual housing unit. Work areas shall be searched each workday by shop supervisors, and these inspections shall be supplemented with periodic searches by designated search teams. When property is taken during a housing search, a receipt should be given to the detainee. The chief of security shall maintain documentation of search team inspections.

Facilities shall have written procedures to provide for basic correctional services during lockdowns, such as delivery of food services, toilet access, medication delivery, etc.

## **D. Body Searches of Detainees**

### **1. Pat Search**

A pat search (or “pat down”) is a physical inspection of a detainee, using the hands. The inspector uses his or her sense of touch when patting or running the hands over the clothed detainee’s body.

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

A hand-held and/or stationary metal detector, when available, may be used in conjunction with a pat search.

Staff may conduct a pat search of a detainee on a routine or random basis to control contraband without a threshold level of suspicion.

### **2. Strip search**

#### **a. Description**

A strip search is a visual inspection of all body surfaces and body cavities. Staff shall not routinely require a detainee to remove clothing or require a detainee to expose private parts of his or her body to search for contraband. To the extent reasonably possible, the inspector refrains from touching the skin surface of the detainee; however, the inspector may request that the detainee move parts of the body to permit visual inspection. It is considered more intrusive than a pat search and shall be made in a manner designed to assure as much privacy to the detainee as practicable.

A strip search requires the removal or rearrangement of some or all of the detainee’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, as well as 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.

The articulable facts supporting the conclusion that reasonable suspicion exists should be documented.

*During all strip searches, a Form G-1025 (Record of Search) or its equivalent will be completed.*

#### **b. Gender of Inspector**

Staff of the same gender as the detainee shall perform the search. Except in the case of an emergency, a staff member may not perform strip searches of detainees of the opposite gender. When members of the opposite gender perform a strip search, it is mandatory that two staff members must be present, and it should be done in private.

Where staff of the opposite gender makes a strip search, staff shall document the reasons for the opposite gender search in any logs used to record searches and in the detainee's detention file.

### **c. Reasonable Suspicion**

Staff may conduct a strip search only where there is reasonable suspicion that contraband may be concealed on the person. Officers must obtain supervisory approval before conducting strip searches. "Reasonable suspicion" means suspicion that would lead a *reasonable correctional officer* to believe that a detainee is in possession of contraband. It is a more permissive (lower) standard than probable cause, but it is more than a mere hunch. It must be based on specific and articulable facts—along with reasonable inferences that may be drawn from those facts—that the officer should document in Form G-1025 (or contractor equivalent).

Reasonable suspicion is determined under the totality of the circumstances. There is no simple, exact, or mathematical formula for reasonable suspicion. It may be based on one, or a combination of, the following factors:

- Observation of unusual, surreptitious, or suspicious appearance or behavior;
- Evasive or inconsistent responses to questions by law enforcement officers;
- Discovery of a weapon or other contraband during a pat search, metal detector scan, or other non-intrusive search;
- The detainee's criminal history, particularly prior felony or misdemeanor for convictions of crimes involving violence, weapons, contraband, or illegal substances. Ordinarily, convictions for minor or non-violent offenses should not be the only basis for reasonable suspicion;
- Whether the detainee was detained concurrently with an arrest for a crime of violence; or whether the detainee was arrested in possession of a weapon, or in possession of contraband such as illegal drugs;
- Information from law enforcement databases or from other reliable sources suggesting that the detainee has affiliations with terrorist organizations, criminal gangs, or organized crime;
- The detainee's history during confinement, particularly of violence, or of possession of contraband; or
- The lack of identity documents, or the possession of multiple or fraudulent identity documents, making it difficult to verify the detainee's criminal or institutional confinement history.

Before strip searching a detainee to search for contraband, an officer should first attempt to resolve his or her suspicions through less intrusive means, such as a thorough examination of reasonably available ICE, CBP, and other

law enforcement records; a pat-down search; a detainee interview; or (where available) the use of a magnetometer or Boss chair. The officer should document the results of those other, less intrusive, search methods on Form G-1025 (or contractor equivalent).

### **3. Body Cavity Searches**

A body cavity search is an inspection for contraband or any other foreign item in a body cavity of a detainee by use of fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forceps. Therefore, a body cavity is considered the most intrusive type of search.

DIHS staff is not authorized to collect or participate in the collection of specimens or other information that will be used for forensic purposes except in the case of drawing blood for toxicology studies and DNA testing. Documented consent must be granted by the detainee and documented in the medical record before the blood sample is drawn. Requests for forensic studies should be referred to the medical facility HSA who is authorized to facilitate arrangement for these services off-site.

1. A body cavity search may be conducted by authorized medical personnel only upon approval of the facility administrator or acting facility administrator and only if that person has reasonable suspicion that contraband may be concealed in or on the detainee's person.
2. The articulable facts supporting the conclusion that reasonable suspicion exists shall be documented.
3. Often a body cavity search is advisable to protect the health and safety of a detainee.
4. Only designated qualified health personnel may conduct a digital or simple instrument search (for example, physicians, physician assistants, and nurses), in a licensed medical setting.
- ~~5.~~ The detainee's health and welfare will be considered prior to any digital or simple instrument search conducted.
6. The detainee's written consent should be obtained prior to conducting a digital or simple instrument search; however, the detainee's consent is not required.
7. Staff of the opposite gender from the detainee may not observe the digital or simple instrument search.
8. If located, the contraband or foreign item may be removed immediately by medical staff if such removal can easily be effected by use of fingers or the simple medical instruments.

Staff shall document all digital and simple instrument searches, the authorizations, and the reasons for the searches in any logs used to record searches and in the detainee's detention file.

## **E. Close Observation in a "Dry Cell"**

### **1. Description and Authorization**

When there is reasonable suspicion that a detainee may have ingested contraband or concealed contraband in a body cavity, and the methods of search specified above are inappropriate or likely to result in physical injury to the detainee, the facility administrator or designee may authorize the placement of the detainee in a room or cell to be closely observed by staff until the detainee has voided or passed the contraband or until sufficient time has elapsed to preclude the possibility that the detainee is concealing contraband.

Such placement is commonly referred to as "dry cell" status, which may be approved:

- During regular duty hours by the facility administrator or designee, and
- At other times by the shift supervisor.

### **2. Requirements for "Dry Cells"**

It is recommended that one or more rooms or cells be identified as dry cells that meet the following requirements:

- The room should be free of hiding places and be equipped with only a bed.
- Doors should have proper observation panels to protect staff and to allow unobstructed observation.
- Windows in the dry cell shall have a security screen to prevent loss of contraband.
- If the designated area is equipped with a toilet and/or sink, the water to the cell should be shut off, and removed prior to the detainee's being allowed into the room. The water should remain off for the duration of the dry cell process.
- Prior to placement of a detainee in dry cell status, the room to be used shall be completely searched and determined to be free of contraband. Potential hiding places, if any, for the contraband shall be noted.

### **3. Advising the Detainee**

The supervisor responsible for initiating the close observation watch shall advise the detainee of the conditions and of what is expected, and document the notification on an Administrative Segregation Order (*form I-885 in SPCs and equivalents in CDFs*). The detainee will be advised of the reasons he or she is being placed in a dry cell, the purpose of this placement, the conditions he or she can expect, and the means by which he or she can request items and services including, but not limited to, food and water, medical care, hygiene products, and bedpans.

#### 4. Conditions of “Dry Cell” Status

- For the detainee’s safety, he or she shall be required to provide a urine sample within two hours of placement under close observation. A second urine sample shall be required prior to releasing the detainee from close observation.
- The light shall be kept on at all times.
- The detainee will have regular access to water.
- The detainee shall be provided telephone access.
- The detainee may not be allowed to come in contact with another detainee.
- Ordinarily, the detainee may not be allowed personal property, except legal and personal mail and a reasonable amount of legal materials.
- Personal hygiene items shall be controlled by staff. When the detainee requests to shave, brush teeth, etc., a wash pan and container of water is to be provided for use in the cell.
- When the detainee is lying on a bed, the detainee shall be required to lay on top of the mattress in full view, weather and room temperature permitting. When necessary for the detainee to use covers, hands must remain visible at all times so that staff can observe any attempt to move contraband.
- A detainee might attempt to remove and/or insert contraband from or into a body cavity, so it is important to constantly observe his or her hands.
- Ordinarily, the detainee shall not be permitted to leave the cell or room.
- The detainee shall be served the same meals as the general population, unless medically contraindicated. All meals are to be inspected for contraband prior to delivery to the detainee, and any food remaining after the meal, as well as the utensils and tray, are to be thoroughly inspected before their return to food service.
- Only medications prescribed and administered directly to the detainee by medical personnel may be given the detainee. No laxatives may be given except natural ones like coffee, prune juice, etc.
- When the detainee needs to urinate and/or defecate, he or she shall be furnished an empty hospital bedpan, which shall afterward be closely inspected to ascertain whether any contraband is present.
- Since the detainee is in Administrative Segregation status even if not actually housed in the SMU, the requirements for **Supervisory and Staff Visits** in the Detention Standard on **Special Management Units** apply.

#### 5. Post Orders

The chief of security shall have Post Orders for closely observing a detainee in dry cell status. Consideration should be given to the use of a video camera.

## **6. Requirements for Close Observation**

The detainee shall be constantly observed and supervised by a staff member of the same gender.

It is the observer's responsibility to ensure the detainee does not dispose of any concealed item, or to allow an activity which would allow the detainee access to it, thereby jeopardizing the security and good order of the facility, staff, and detainees. Any questions, emergency, or other situation that arises shall immediately be brought to the attention of the shift supervisor.

The detainee shall never be allowed freedom to move around unsupervised, or be given an opportunity to dispose of any objects he or she may be concealing.

1. The observing staff member shall be issued a portable radio or telephone and flashlight, so that he or she does not have to interrupt constant observation to communicate with other staff (such as for watch calls).
2. Detainees will be monitored for changes in medical and mental health status by medical staff.
3. A daily log and Special Management Unit record shall be maintained on each detainee in dry cell status.
4. The shift supervisor shall ensure observers have reviewed the Post Orders.
5. The shift supervisor shall provide periodic staff relief to the observer and at any other time it is necessary for the observer to leave the area. The detainee must not be left unattended.
6. Trash may not be allowed to accumulate, and each item shall be thoroughly searched before disposal.
7. Periodic searches shall be conducted:
  - A strip search of the detainee when he or she is placed in the dry cell after which the detainee shall be issued a jump suit (or other suitable loose-fitting clothing).
  - A strip search of the detainee at least once each shift.
  - A search of the dry cell at least once each shift.

Searches should be conducted so as to not reveal to the detainee a predictable pattern. Prior to each search, the shift supervisor must be notified and a second person provided to ensure continual close observation and supervision of the detainee. Each search must be documented on Form G-1025 (or contractor equivalent).

8. Staff shall notify the shift supervisor when contraband is found, secure the contraband in a properly documented evidence bag, and maintain the chain of evidence.

## **7. Length of Observation**

The length of close observation status must be determined on an individual

basis. Ordinarily, the chief of security during regular work hours or the shift supervisor at other times, in consultation with qualified health personnel, shall determine when termination is appropriate.

**a. Three Days**

The status of a detainee under close observation for as long as three days must be reviewed by the Administrative Segregation review official in accordance with the Detention Standard on **Special Management Units** (irrespective of whether the observation actually takes place in the SMU).

**b. Seven Days**

Since it is unlikely that the objective of dry cell status will not be achieved within seven days, maintaining a detainee under close observation beyond seven days requires prior approval of the facility administrator and medical staff.

**F. X-RAY**

**1. Medical**

The facility physician may authorize use of an X-ray for medical reasons and only with the consent of the detainee.

**2. Security**

Only the facility administrator, upon approval of the respective Field Office Director (or persons officially acting in that capacity) may authorize the facility physician to order a non-repetitive X-ray examination for the purpose of determining if contraband is concealed in or on the detainee (for example: in a cast or body cavity).

Such approval and authorization shall be based on their determination that:

- An X-ray examination is necessary for the security, safety, good order, or discipline of the facility,
- No reasonable alternative exists, and
- The examination is not likely to result in serious or lasting medical injury or harm to the detainee, based on the determination of qualified medical staff.

Staff shall place documentation of the examination, the authorizations, and the reasons for the examination in the detainee's detention file and medical file.

An X-ray examination may not be performed on a detainee without the detainee's consent. Staff shall solicit the detainee's consent and cooperation prior to the X-ray examination; but force may never be used.

**3. Objects**

The facility administrator may direct X-rays of inanimate objects where the

detainee is not exposed.

**G. MAJOR INSTRUMENT, FLUOROSCOPE, OR SURGICAL INTRUSION**

Only a physician may authorize use of a fluoroscope, major instrument (including anoscope or vaginal speculum), or surgical intrusion **for medical reasons only** and only with the detainee's consent.

**H. PRESERVATION OF EVIDENCE**

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

**Standard Approved:**

**James T. Hayes, Jr. /s/**

**12/5/2008**

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

\_\_\_\_\_  
**Date**