

ICE/DRO RESIDENTIAL STANDARD

CONTRABAND

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

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

1. Contraband will be identified, detected, controlled, and disposed of properly.
2. Resident personal property that would be considered contraband within the facility will be mailed to a third party or stored until the resident's release, unless that property is illegal or a threat to safety or security
3. 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.
4. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
5. 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 4th Edition Standards for Adult Local Detention Facilities: 2C-01, 2C-02, 2C-06.

V. EXPECTED PRACTICES

1. "Hard" and "Soft" Contraband: "Contraband is anything residents are not authorized to have in their possession.

a. Hard contraband includes any item that:

- 1) Is inherently dangerous, including but not limited to weapons (knives,

guns, "zip-guns," ammunition, explosives, flammable liquids, brass knuckles, poison, etc.)

- 2) Is a tool or device that could be used to escape (rope, bolt cutters, keys, etc.)
- 3) Could otherwise interfere with security, safety, or the good order of facility operations (intoxicants, prohibited currency, sensitive or confidential facility documents, etc)
- 4) Is a narcotic and/or other controlled substances not dispensed or approved by the medical department, not used as prescribed, or in the possession of a resident other than for whom it was prescribed. Staff shall consult the facility pharmacist or other health services staff when uncertain about whether a prescribed medication represents contraband. Medicine the resident brings into the facility upon arrival shall be forwarded to the facility medical staff for disposition.

A resident found in possession of hard contraband could face corrective action or criminal prosecution.

b. Soft contraband includes "nuisance" items that do not pose a direct and immediate threat to safety but has the potential to create dangerous or unsanitary conditions in the facility, such as excess papers that create a fire hazard, inappropriate written materials, food items that are spoiled or retained beyond the point of safe consumption, etc.

2. Procedures for Handling Contraband

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

a. Seizure of Contraband. Staff shall seize contraband:

- 1) Found in the physical possession or living area of a resident including that of a resident awaiting voluntary return.
- 2) From common areas,
- 3) From incoming or outgoing mail,
- 4) Discovered during admission in-processing,

Exceptions may occur only upon written authorization of the facility administrator.

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

c. Disputed Ownership. When a resident's claimed ownership of potential contraband material is in question, staff shall:

- 1) Inventory and store item pending verification of ownership;
- 2) Provide the resident a copy of the inventory as soon as practicable and place a second copy in the resident's Residential file. The resident shall have seven days following receipt of the inventory to verify ownership of the listed items.

3) Staff shall deny claims:

- a) Arising from the unauthorized use of government property.
- b) For any item acquired without authorization from another resident.

If the resident cannot establish ownership, staff shall attempt to resolve the situation, but if ownership cannot be reasonably established, the property may be destroyed, as described below.

3. Resident Property That Is Contraband. Staff shall seize any soft contraband and/or hard contraband. As long as the contraband is not illegal under criminal statutes and would not otherwise pose a threat to security, staff shall inventory and receipt the property and mail to a third party, or store with the resident's other stored personal property, in accordance with the Residential Standard on "Funds and Personal Property." If the resident chooses not to provide an appropriate mailing address, or is financially able but unwilling to pay the postage, the facility administrator – after providing the resident with written notice of the intent to destroy the property and how to prevent that outcome -- may dispose of the property in accordance with **Destruction of Contraband** below.

4. Evidence of a Crime. 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. Many types of hard contraband are illegal under 18 U.S.C. Section 1791.

5. Government Property. Contraband that is government property shall be retained as evidence for possible corrective action or criminal prosecution, after which, as is appropriate, it may be:

- a. Returned to the issuing authority,
- b. Returned to normal stock for reuse, or
- c. Destroyed, with approval of the facility administrator.

6. Destruction of Contraband

Hard contraband may be destroyed when no longer needed for corrective action or criminal prosecution. It may also be kept for official use (for example, as a training tool) if secured in a designated secure room when not in use. The facility administrator shall establish a procedure for the destruction of contraband items.

Procedures shall include at a minimum:

- a. The Assistant Facility Administrator for Operations, or equivalent, determines whether an item shall be destroyed.
- b. The Assistant Facility Administrator for Operations sends the facility administrator a memorandum through official channels, describing what is to be destroyed and why.
- c. The facility administrator generally holds an item of questionable ownership for 120 days before considering its destruction, to afford the resident ample opportunity to obtain verification of ownership and/or appeal the decision in

accordance with the Residential Standard on "Grievance Procedures."

Where disciplinary action is appropriate, the facility administrator shall defer his/her decision about the property until the disciplinary case, including appeals, is resolved.

- d. The staff member who physically destroys the property and at least one official observer shall attest, in writing, to having witnessed the property's destroyed
- e. A copy of the property disposal record is placed in the resident's Residential file. Records of property disposal shall remain on file for at least two years to ensure its availability for any subsequent investigation of a tort claim.

7. Canine Units

While canine units maybe used for contraband detection with the written approval of JFRMU, canine units will not be maintained at or near the facility. A canine search will never be conducted in the presence of residents. Their use for force, control, or intimidation of residents is prohibited.

8. Notice to Residents

The resident handbook, or equivalent, shall notify residents of the following:

- a. The facility's rules and procedures governing contraband.
- b. The applicability of the Residential Standard on **Funds and Personal Property**, as it relates to contraband.

Standard Approved:



John P. Torres
Director
Office of Detention and Removal

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Date