

ICE/DRO DETENTION STANDARD

CONTRABAND

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

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. Contraband will be identified, detected, controlled, and disposed of properly.
2. Detainee personal property that would be considered contraband within the facility will be mailed to a third party or stored until the detainee'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. 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 **Contraband** dated 9/20/2000.

This Detention Standard incorporates the restrictions on the use of canines originally communicated via a memorandum dated 11/18/2004 from the Acting Director of U.S. Immigration and Customs Enforcement.

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 2C-01, 2C-02, 2C-06.

V. EXPECTED PRACTICES

A. "Hard" and "Soft" Contraband

Contraband is anything detainees are not authorized to have in their possession.

1. **Hard contraband** includes, but is not limited to, any item that:

- Is inherently dangerous such as weapons (knives, guns, "zip guns," ammunition, explosives, flammable liquids, brass knuckles, poisons);
- Is a tool or device that could be used to escape (ropes, bolt cutters, keys); or
- Could otherwise interfere with security, safety, or the good order of facility operations (intoxicants, prohibited currency, sensitive or confidential facility documents).

A detainee found in possession of hard contraband could face disciplinary action or criminal prosecution.

Examples of hard contraband include:

- Tools that could aid in an escape (for example, ropes, keys);
- Ammunition or explosives;
- Combustible or flammable liquids;
- Hazardous or poisonous chemicals and gases;
- Weapons;
- Intoxicants;
- Currency (where prohibited); and
- Narcotics and other controlled substances not dispensed or approved by the medical department, not used as prescribed, or in the possession of a detainee other than the person 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 detainee brings into the facility upon arrival shall be forwarded to the facility medical staff for disposition. Replacement medication duly approved by the facility medical staff shall be returned to the detainee.

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

If authorized excess legal materials are creating a fire hazard, the facility shall provide an alternate storage area accessible to the detainee.

B. Procedures for Handling Contraband

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

In SPCs and CDFs:

1. **Seizure of Contraband.** *Staff shall seize contraband:*

- *Found in the physical possession or living area of a detainee (including a detainee awaiting voluntary return);*
- *From common areas;*
- *From incoming or outgoing mail; and,*
- *Discovered during admission in-processing.*

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

2. **Religious Items.** *The facility administrator shall ordinarily consult a religious authority before the confiscation of a religious item that is “soft” contraband.*

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

- *Inventory and store item pending verification of ownership;*
- *Provide the detainee a copy of the inventory as soon as practicable and place a second copy in the detainee's detention file. The detainee 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.*
 - *For any item acquired without authorization from another detainee.*

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

4. **Detainee Property That Is Contraband.** *Staff shall seize all hard and soft 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 at the detainee's request mail it to a third party, or store it with the detainee's other stored personal property, in accordance with the Detention Standard on **Funds and Personal Property**. If the detainee chooses not to provide an appropriate mailing address within 30 days, or is unable to pay the postage, the facility administrator -- after providing the detainee with written notice of the intent to destroy the property and how to prevent that outcome -- may dispose of the property in accordance with the section on **Destruction of Contraband** below.*

5. **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 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.

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

- *Returned to the issuing authority,*
- *Returned to normal stock for reissue, or*
- *Destroyed, with approval of the facility administrator.*

C. Destruction of Contraband

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

In SPCs and CDFs, contraband may be destroyed when no longer needed for disciplinary action or criminal prosecution. It may also be kept for official use, such as a training tool, if secured in the facility armory when not in use.

1. *The chief of security, or equivalent, shall determine whether an item shall be destroyed.*
2. *The chief of security shall send the facility administrator a memorandum through official channels describing what is to be destroyed and why.*
3. *The facility administrator shall require that an item of questionable ownership be held for 120 days before considering its destruction, to afford the detainee ample opportunity to obtain proof of ownership and appeal the decision in accordance with the Detention Standard on the **Grievance System**.*

Where disciplinary action is appropriate, the facility administrator 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 is given to the detainee and a copy is placed in the detainee's detention file.*

D. Canine Units

Canine units (in facilities that have them) may be used for contraband detection, but their use for force, control, or intimidation of detainees is prohibited, in accordance with the Detention Standard on **Use of Force and Restraints**.

Any facility that has a canine unit shall have clear and detailed written policy and procedures that govern the circumstances in which canine units may be used in regard to ICE/DRO detainees.

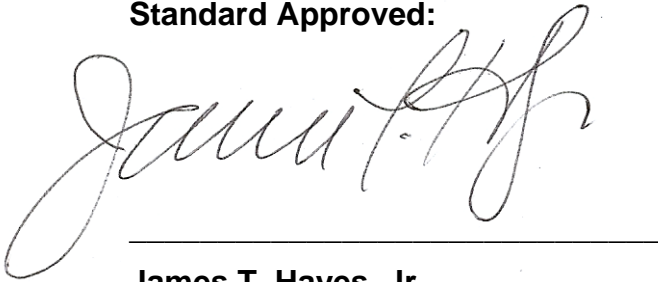
Canines shall not be used in the presence of ICE detainees.

E. Notice to Detainees

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

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

Standard Approved:

A handwritten signature in cursive script, appearing to read "James T. Hayes, Jr.", written in black ink. The signature is positioned above a horizontal line.

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

September 12, 2008

Date