

ICE/DRO DETENTION STANDARD

RECREATION

I. PURPOSE AND SCOPE. This Detention Standard ensures that each detainee has access to recreational and exercise programs and activities, within the constraints of safety, security and good order.

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. Detainees will have daily opportunities to participate in leisure-time activities outside their respective cells or rooms.
2. Detainees will have access to exercise opportunities and equipment, including at least one hour daily of physical exercise outside the cell, and outdoors, when practicable.
3. Any detainee housed in a facility that cannot meet minimum standards for indoor and outdoor recreation will be considered for voluntary transfer to a facility that does.
4. Each detainee in an SMU will receive (or be offered) a minimum of one hour of exercise per day, five days a week, unless documented security or safety considerations dictate otherwise.
5. Each citizen volunteer who provides or participates in facility recreational programs will complete an appropriate, documented orientation program and sign an acknowledgement of his or her understanding of the applicable rules and procedures and agreement to comply with them.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Recreation** dated 9/20/2000.

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-5C-01, 5C-02, 5C-03, 5C-04, 2A-66, 5A-01, 6B-04, 7B-03, 7C-02, 7F-05.

V. EXPECTED PRACTICES

A. Indoor and Outdoor Recreation

It is expected that every ICE/DRO detainee will be placed in a facility that provides indoor and outdoor recreation. However, in exceptional circumstances, a facility lacking outdoor recreation or any recreation area may be used to provide short-term housing.

If a facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight shall be provided.

If a detainee is housed for more than 45 days in a facility that provides neither indoor nor outdoor recreation, he or she may be eligible for a voluntary transfer to a facility that does provide recreation.

Likewise, if a detainee is housed for more than six months in a facility that provides only indoor recreation, he or she may be eligible for a voluntary transfer to a facility that also provides outdoor recreation.

Procedures for such voluntary transfers for recreational opportunities are detailed later in this Detention Standard.

All new or renegotiated contracts and IGSA's shall stipulate that ICE/DRO detainees have access to an outdoor recreation area.

ACA Expected Practice 4-ALDF-5C-03 requires 15 square feet per detainee for the maximum number of detainees expected to use an **outdoor** or **indoor** ("covered/enclosed") recreation/exercise area at the same time:

- Each **outdoor** exercise area must provide a minimum of 750 square feet of unencumbered space – or 1,500 square feet of unencumbered space if 100 or more detainees are expected to use the space at the same time.
- Each **indoor** exercise area must provide a minimum of 500 square feet of unencumbered space -- or 1,000 square feet of unencumbered space if 100 or more detainees are expected to use the space at the same time. Also, indoor areas must provide at least 18-foot ceilings.

B. Recreation Schedule

If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, weather permitting. Detainees shall have access to clothing appropriate for weather conditions.

If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light.

Under no circumstances shall the facility require detainees to forgo basic law library privileges for recreation privileges. (See the Detention Standard on **Law Libraries and Legal Materials**.)

In SPCs and CDFs, detainees shall generally have access to outdoor recreation at least one hour every day, including weekends.

C. Recreation Specialist

All facilities shall have an individual responsible for the development and oversight of the recreation program.

In SPCs and CDFs:

- 1. Every facility housing more than 350 detainees shall employ a full-time Recreation Specialist with special training in implementing and overseeing a recreation program.*
- 2. Every facility with a rated capacity of 500 or more detainees shall employ a minimum of one Recreation Specialist and one Recreation Assistant.*
- 3. The Recreation Specialist shall be responsible for development and oversight of the recreational program.*
- 4. The Recreation Specialist shall assess the needs and interests of the detainees.*

D. General Requirements

1. All facilities shall provide recreational opportunities for detainees with disabilities.
2. Exercise areas shall offer a variety of equipment. Weight training, if offered, must be limited to fixed equipment. Free weights are prohibited.
3. Cardiovascular exercise shall be available to detainees for whom outdoor recreation is unavailable.
4. Recreational activities shall be based on the facility's size and location. With the facility administrator's approval, recreational activities may include limited-contact sports, such as soccer, basketball, volleyball, and table games, and may extend to intramural competitions among units.

Dayrooms in general population housing units shall offer board games, television, and other sedentary activities. Detention personnel shall supervise dayroom activities, distributing games and other recreation materials daily.

5. All detainees participating in outdoor recreation shall have access to drinking water and toilet facilities.
6. Detention or recreation staff shall search recreation areas before and after their use to detect altered or damaged equipment, hidden contraband, and security breaches. They shall also issue all portable equipment items and check each item for damage and general condition upon its return.

7. Programs and activities are subject to the facility's security and operational guidelines and may be restricted at the facility administrator's discretion.
8. Recreation areas shall be under continuous supervision by staff equipped with radios or other communication devices to maintain contact with the Control Center.
9. Contraband searches of detainees who are moving from locked cells or housing units to recreation areas shall be conducted in accordance with the Detention Standard on **Searches of Detainees**.
10. Detainees may engage in independent recreation activities, such as board games and small-group activities, consistent with the safety, security and orderly operation of the facility.
11. The facility administrator shall establish facility policy concerning television viewing in dayrooms. All television viewing schedules shall be subject to the facility administrator's approval.

E. Recreation for a Special Management Unit (SMU)

Recreation for detainees housed in the SMU shall be separate from the general population.

As necessary or advisable to prevent assaults and reduce management problems, recreation for some individuals will be alone and separate from all other detainees. The facility administrator shall develop and implement procedures to ensure that detainees who must be kept apart never participate in activities in the same location at the same time. For example, recreation for detainees in protective custody shall be separate from other detainees.

Detainees in the SMU shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least five days per week. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire.

The recreation privilege shall be denied or suspended only if the detainee's recreational activity would unreasonably endanger safety or security:

1. A detainee may be denied recreation privileges only with the facility administrator's written authorization that documents why the detainee poses an unreasonable risk even when recreating alone; however, when necessary to control an immediate situation for reasons of safety and security, SMU staff may deny an instance of recreation, upon verbal approval from the shift supervisor, and document the reasons in the unit logbook(s). The supervisor may also require additional written documentation for the facility administrator. When a detainee in an SMU is deprived of recreation (or any usual authorized items or activity), a written report of the action is forwarded to the facility administrator. Denial of recreation must be evaluated daily by a shift supervisor.
2. A detainee in Disciplinary Segregation may temporarily lose recreation privileges upon a disciplinary panel's written determination that he or she poses an unreasonable risk to the facility, himself or herself, or others.

3. When recreation privileges are suspended, the disciplinary panel or facility administrator shall provide the detainee written notification, the reason for the suspension, any conditions that must be met before restoration of privileges, and the duration of the suspension provided the requisite conditions are met for its restoration.
4. The case of a detainee denied recreation privileges shall be reviewed at least once each week as part of the reviews required for all detainees in SMU status.
5. In accordance with the procedures, and using the forms, required in the Detention Standard on **Special Management Units**, the reviewer(s) shall state, in writing, whether the detainee continues to pose a threat to self, others, or facility security and, if so, why.
6. Denial of recreation privileges for more than 15 days requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.
7. The facility shall notify the ICE/DRO Field Office in writing when a detainee's denied recreation privileges exceeds 15 days.

F. Volunteer Program Involvement

A volunteer group may provide a special recreational or educational program, consistent with security considerations, availability of detention personnel to supervise participating detainees, and sufficient advance notification to the facility administrator.

The Detention Standard on **Visitation** details requirements that must be met for a volunteer to be approved to visit with or provide religious activities for detainees, including advance notice, identification, a background check, an orientation to the facility, and a written agreement to comply with applicable rules and procedures.

G. Transfer Option Where Only Indoor Recreation Is Available

Where outdoor recreation opportunities are not available:

1. The case officer shall review the case of any detainee without the required access to outdoor recreation for a period of six months to determine the detainee's eligibility to transfer to a facility where the required outdoor recreation is available. To be eligible for transfer, three criteria must be met:
 - The detainee has been in custody for six months without regular access to outdoor recreation (for reasons other than inclement weather);
 - An Immigration Judge has completed proceedings on the detainee and has issued a decision concerning deportability or excludability; and
 - The detainee will likely be without regular access to outdoor recreation for a total of nine months before removal or release.

A detainee is ineligible for transfer when his or her departure or release is likely to occur within the nine-month window. Examples include:

- Detainees awaiting travel or other documents from a third party (foreign government official, relative, friend, or other source) who is likely to produce them expeditiously, and
- Detainees with a reasonable expectation of securing a bond or other legal means of release from custody.

2. Based on the case officer's written determination, consistent with the transfer eligibility criteria, ICE/DRO shall decide on the transfer.

A detainee must be denied a transfer in writing and reasons must be enumerated as to why that denial has been issued. The detainee has the opportunity to reapply for a transfer every three months, and may appeal a denial to the FOD.

When a detainee is not eligible for transfer, it is the case officer's responsibility to monitor the case for changes affecting the detainee's eligibility.

When the detainee's stay in a facility that provides no regular opportunities for outdoor recreation exceeds nine months, the detainee will be transferred unless the detainee signs a voluntary waiver, as described below.

3. If ICE/DRO determines in favor of eligibility, the case officer shall provide the detainee, in writing the choice of either:
 - Remaining at the facility, or
 - Transferring to another facility (selected by ICE/DRO)
4. The detainee shall, in writing, accept or waive the voluntary transfer.
5. Documentation concerning the transfer decision shall be maintained in both the detainee's A-file and detention file.
6. If ICE/DRO intends to transfer the detainee who is represented by legal counsel or a legal representative (and a G-28 or EOIR-28 has been filed), the representative of record shall be notified in writing in accordance with the **Transfer of Detainees** Standard of the detainee's option to waive a voluntary transfer when offered by ICE/DRO.
7. After the detainee's transfer, if his or her case is remanded to an Immigration Judge for further proceedings, the detainee shall be returned at the expense of the Field Office where the case venue is established for the continuation of proceedings.
8. Such transfers shall be affected to allow sufficient time for the detainee to meet with his or her legal representative, if any, to prepare for the hearing.

9. Nothing in regard to the voluntary transfers addressed in this section is intended to:
 - Address or limit the right of ICE/DRO to transfer a detainee involuntarily when, in the judgment of ICE/DRO, it is in the best interest of the government or the detainee; or
 - Preclude ICE/DRO from seeking a change of venue if recommended by the respective Chief Counsel.

H. Transfer Option When No Recreation Opportunities Are Available

Where neither indoor nor outdoor recreation opportunities are available:

- Upon request, ICE will attempt to relocate a detainee to a facility providing recreation opportunities within 45 days of receipt of the request.
- During the 45-day period, the detainee may contact legal representation, if necessary; request a bond redetermination; or request an expeditious deportation or exclusion hearing.
- In no case shall the total time in detention exceed 60 days in a detention facility where no recreational opportunities are available, unless the detainee has declined the opportunity of transferring to a facility that provides recreation.

The case officer shall provide the detainee, in writing the choice of either:

- Remaining at the facility, or
- Transferring to another facility (selected by ICE/DRO) as soon as appropriate space becomes available but within 60 days of the detainee's arrival at the detention facility without recreation opportunities.

The detainee shall, in writing, accept or waive the voluntary transfer. Documentation concerning the transfer decision shall be maintained in the detainee's A-file and detention file.

In the case of any detainee scheduled for transfer to a facility that provides recreational opportunities, when the detainee is represented by legal counsel or a legal representative (and a G-28 or EOIR-28 has been filed), the representative of record shall be notified in writing:

- Of the intent to transfer the detainee, and
- Of the detainee's option to waive a voluntary transfer when offered by ICE/DRO.

Also, when a detainee has legal representation, the Field Office shall consult with the Chief Counsel to minimize interference with the detainee's legal representation.

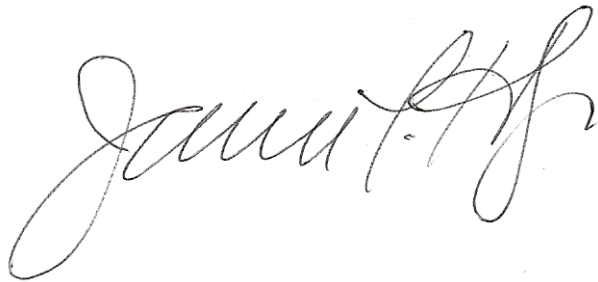
After the detainee's transfer, the detainee shall be returned at the expense of the Field Office where the case venue is established for the continuation of proceedings (unless the venue has been changed).

Any transfers returning the detainee to the original venue shall allow sufficient time for the detainee to meet with his or her legal representative, if any, to prepare for the hearing.

Nothing in regard to the voluntary transfers addressed in this section is intended to:

- Address or limit the right of ICE/DRO to transfer a detainee involuntarily when, in the judgment of ICE/DRO, it is in the best interest of the government or the detainee; or
- Preclude ICE/DRO from seeking a change of venue if recommended by the respective Chief Counsel.

Standard Approved:



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

September 12, 2008

Date