



**U.S. Immigration  
and Customs  
Enforcement**

October 26, 2007

11-13-07P03:04 RCVD

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
United States House of Representatives  
H2-176 Ford House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your October 24, 2007 letter, which raised discrete questions about U.S. Immigration and Customs Enforcement's (ICE) sedation policy and procedures. First, I apologize for the delay in responding to your August 21, 2007 and September 7, 2007 letters, copies of the responses are enclosed for your information. At this time, I would like to address your most recent questions.

***According to your Senate testimony, 56 deportees had been given psychotropic drugs over a seven-month period between October 1, 2006, and April 30, 2007. Of those individuals, 33 of them had no history of psychological problems. Please provide updated figures covering the period from April 30, 2007, through September 30, 2007.***

Between April 30, 2007, and September 30, 2007, 20 aliens were administered psychotropic medication. Of those 20 aliens, 3 had no known history of psychological problems.

***Please indicate whether the diagnosis of "combativeness" was rendered by a medical professional in each instance noted in your answer to question #1.***

In each of the above instances, a medical professional decided that the alien exhibited behavior that presented a danger to himself or to others, thereby constituting combativeness in determining whether involuntary sedation was the appropriate procedure.

***Please indicate whether a court order was obtained in each instance described in your answer to question #1.***

ICE did not seek nor obtain a court order in involuntarily sedating the aliens identified above.

***If a court order was not obtained to mandate these injections, please provide the legal authority ICE relies upon that vitiates the need for such an order.***

When necessary, ICE involuntarily sedates aliens under the authority of the Immigration and Nationality Act (INA) § 241(f) and its implementing regulation at 8 CFR § 241.2(a)(2). ICE's current policy further prescribes that the agency must obtain a court order before involuntarily sedating an alien in a non-emergency situation.

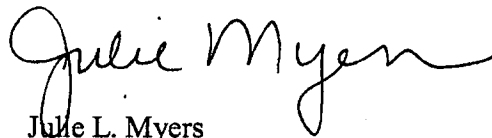
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***Please provide a narrative explaining how the involuntary administration of antipsychotic medications is consistent with the National Detention Standards utilized by ICE.***

The medical escort section of the ICE National Detention Standards (NDS) provides that only a medical professional is authorized to provide prescription medication for the treatment of a diagnosed illness. Critically, the NDS provides that a detainee may only be medicated to facilitate transport when a medical professional employed by the Division of Immigration Health Services determines that the person presents a danger to himself or herself, or to others. The NDS policy is consistent with ICE's Office of Detention and Removal Operations' medical policies.

Please be advised that I would be happy to meet with you or your staff should you have any further questions on these or other matters.

Sincerely,



Julie L. Myers  
Assistant Secretary

Enclosures



U.S. Immigration  
and Customs  
Enforcement

OCT 25 2007

The Honorable Bennie G. Thompson,  
Chairman  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, DC 20515-0004

Dear Mr. Chairman:

Thank you for your August 21, 2007, correspondence requesting information about sedation procedures and policies at U.S. Immigration and Customs Enforcement (ICE). You will find responses to each of your questions below.

**1. What policies has ICE established governing the sedation and involuntary sedation of detainees during removal? How does ICE ensure that medical personnel from the U.S. Public Health Service comply with these policies?**

ICE has a policy governing when an alien may be sedated during an escorted removal. This policy may be found in the Enforcement Standards on Use of Restraints and Escorts section of the ICE Office of Detention and Removal Operations (DRO) Policy and Procedure Manual. That policy states that only trained Department of Health and Human Services, Division of Immigration Health Services (DIHS) healthcare providers may administer the sedation according to a prescribing physician's orders. The core principle of ICE's sedation policy is that an alien will not be sedated solely to facilitate transport. An alien will only be medically sedated for removal when deemed to be a threat to himself/herself, or others; when authorized by court order; when the alien has a pre-existing medical condition necessitating sedation; or when the alien requests sedation.

The Public Health Service Officers providing the medical escort service for ICE removal officers follow the instructions of the ICE Officer-in-Charge during a removal as well as the policy of DIHS. This procedure is in accordance with ICE policy governing sedation. ICE ensures compliance of its policy by working with DIHS throughout the entirety of this process.

**2. Under what circumstances is ICE required to obtain a court order to sedate a detainee subject to removal? Under what circumstances, if any, does ICE seek a court order to sedate a detainee without the detainee's consent?**

ICE issued a directive, dated June 21, 2007, to all personnel involved in removals that addressed the issue of obtaining court orders to medicate aliens under non-emergent circumstances during the removal process. The memorandum provides that if an alien is likely to present a safety concern during the removal process, then the ICE Field Office in coordination with the Department of Justice will obtain a court order to authorize involuntary medical treatment.

**3. If ICE policies do not require the approval of a court prior to the sedation of a detained individual, who approves the sedation?**

DIHS staff approve the sedation. All medications are prescribed by a DIHS physician and/or psychiatrist after a thorough review of the detainee's medical records, and when appropriate, a physical examination. The decision to prescribe appropriate medications is the sole responsibility of the physician and/or psychiatrist.

**4. Who administers sedation during removal? What type of training must the persons who administer the sedation generally undergo? If sedation is not safe for a detainee subject to removal, what alternatives does ICE pursue?**

A trained DIHS healthcare provider (physician, nurse practitioner, physician's assistant, or registered nurse) administers the sedation according to the prescribing physician's orders. DIHS healthcare providers performing this service are trained to follow DIHS policies, procedures, and clinical practice guidelines. These policies may be found in DIHS National Policies and Procedures Manual, Standard Operating Procedure 8.28.1, Management of Combative Detainee During Transport and 8.28.2, In-Transit Progress Notes and Medical Summary for Medical Escort.

If sedation is not safe for a detainee, DIHS will not prescribe or administer sedation, and will notify ICE of its recommendation not to sedate.

There are no viable alternatives to sedation of detainees who may present a danger to themselves or others.

**5. What ICE policies and procedures, if any, prevent the removal of immigrant detainees prior to the entry of a Final Order of Removal?**

Sections 217, 235, 238, and 241 of the Immigration and Nationality Act (INA) gives ICE the authority to effect removals. ICE may not remove anyone unless there is a final order of removal. Section 240C of the INA governs voluntary departure. Prior to filing the charging document with the Immigration Court, within the Department of Justice, ICE may grant a voluntary return under safeguards. If an Immigration Judge grants a voluntary departure not to exceed 120 days, it is the responsibility of the alien to depart the United States on or before the date specified by the Immigration Judge. If the alien fails to depart in a timely manner and provide verification of his/her departure, the voluntary departure order reverts to an alternate order of removal. Once this happens, our authority to remove the alien will fall under Section 241 of the INA.

**6. How many immigrant detainees have died, per fiscal year, while in the administrative custody of ICE?**

As illustrated in the chart below, over the past 4 fiscal years, detainee deaths while in custody have declined overall, while the detained population has increased.

Fiscal year	Deaths	Population	Per Capita
2004	25	204,663	0.0122%
2005	16	206,600	0.0077%
2006	17	225,905	0.0075%
2007	11	254,609	0.0043%

It is important to note that during the aforementioned time periods, no detainees died or required emergency care or hospitalization due to sedation during their removal.

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On any given day, ICE detains an average of 27,500 immigration detainees in more than 325 facilities nationwide. Many ICE detainees come from third-world countries, where they have limited access to health resources and preventive care. Recent statistics provided by DHS show that up to 24 percent of ICE detainees are identified as having chronic medical conditions at the time of their initial medical screening. Some of these conditions are life-threatening and may result in death despite the intervention of quality medical care.

Thank you for your interest in ICE. Should you have any further questions, please contact my office.

Sincerely,



Julie L. Myers  
Assistant Secretary

cc: The Honorable Peter King, Ranking Member

provider in a timely manner. The sick call process allows detainees to access non-emergent medical services, and all facilities are required to have regularly scheduled times when medical personnel will be available to see detainees who have requested medical services. For emergent or urgent medical services, detainees may notify any correctional officer or other facility personnel that a problem is occurring, and medical staff or 911 will be called immediately.

**4. If an immigrant detainee is taking prescribed medication, what is the procedure to ensure that the detainee is able to continue taking his/her medication throughout detention? Does ICE have a policy that would prevent the transfer of prescribed medication from a family member to ICE personnel to subsequently provide to a detainee?**

A medical professional assesses the detainee's health and treatment, and orders any needed medications. Medical care provided at each detention facility includes access to all necessary prescription medications. Prescriptions written for detainees by the medical staff are filled either by an on-site pharmacy or a local pharmacy in the community. If a prescription medication is not readily available and the detainee has a supply of the medication or can obtain a supply of the medication from a family member, the medication may be used, as long as the facility's medical staff can verify the validity of the medication to prevent contraband from entering a facility. Under these circumstances, the detainee's own medication is used only until the facility's medical provider can obtain a secure source.

**5. What type of language translation services does ICE or a detention center provide, if any, during the medical examination of an immigrant detainee?**

If language difficulties prevent the healthcare provider or officer from sufficiently communicating with a detainee for purposes of completing a medical screening or health evaluation, the officer is required to obtain translation assistance. The ICE detention standard on Medical Care allows for such assistance to be provided by another officer or by a professional service. ICE most commonly provides translation services through its contracts with AT&T Language Line and Language Services Associates.

**6. Upon the death of an immigrant detainee, what is the procedure to inform immediate family members? What type of investigation and/or accounting, if any, does ICE perform to ensure a complete medical evaluation is conducted and a proper record is kept after an immigrant dies in custody? What responsibilities does ICE have with respect to human remains in its custody? Is an autopsy performed in all cases?**

ICE policy provides for chaplain involvement in communicating news of the serious illness or death of a detainee to family members. The chaplain will telephone the person named as the next of kin in the United States to communicate the circumstances surrounding the death. As soon as practical, ICE prepares a letter of condolence for the next of kin.

ICE provides seven calendar days for family members to claim the remains of a loved one. If a family wishes to claim the remains, but cannot afford the transportation costs, ICE may assist the family by transporting the body to a location in the United States. If family members cannot be located or decline to claim the body of the deceased, ICE will notify the appropriate consulate, which will also have seven days to assume responsibility for the body. In the event that neither family nor consulate claims the remains, ICE will arrange for the burial, consistent with local and federal procedures. If the detainee's records indicate U.S. military service, ICE will contact the Department of Veterans Affairs to determine the deceased's eligibility for burial benefits.

DRG reports all detainee deaths to the ICE Office of Professional Responsibility (OPR) and the DHS Office of the Inspector General (OIG) so that they have an opportunity to conduct an independent

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review or investigation into the circumstances of any detainee's passing. Deaths are also referred to the local medical examiner or coroner's office, which will decide whether to perform an autopsy.

The Division of Immigration Health Services (DIHS) performs a Root Cause Analysis for all deaths at ICE Service Processing Centers and Contract Detention Facilities. At ICE's request, DIHS performs or arranges for a medical review of the case for deaths that occur at non-DIHS-staffed facilities.

**7. What are the differences in medical care allowed or provided between DIHS Detainee Covered Services Package and the ICE Detention Standard on Medical Care?**

The primary difference between the DIHS Detainee Covered Services Package and ICE Detention Standard on Medical Care is the location where the care is received. Both the DIHS Detainee Covered Services Package and the ICE Detention Standards on Medical Care are designed to assure that ICE detainees receive appropriate and necessary medical care. The ICE Detention Standards for Medical Care describe the contracted minimum scope of services provided by a detention facility. The DIHS Detainee Covered Services Package describes additional services above and beyond those contained in the contract with the facilities. The DIHS Detainee Covered Services Package is a fiscal document describing, in general, the services for which the Federal Government will reimburse community healthcare providers who see ICE detainees. This document is directed at off-site care. ICE Detention Standards on Medical Care is a description of administrative standards which ICE requires facilities to meet when housing detainees. This document is directed at on-site care.

**8. Please confirm the number of undocumented aliens that have died while in the administrative custody of ICE since 2004, and provide: dates, last facility where the immigrant detainee was housed, number of examinations by a medical practitioner while in custody, and cause of death.**

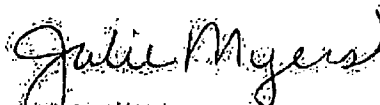
I have enclosed a roster of those detainee deaths that occurred in ICE custody. Since Fiscal Year 2004, there have been 69 detainee deaths. The number of examinations by a medical practitioner for 14 of the detainees is included. However, the remaining detainees' information would require a manual search because the Intra-Government Service Agencies keep these records, not ICE. We will provide this information to your office when it is available.

Over the past 4 fiscal years, as illustrated in the chart below, detainee deaths that occurred while in ICE custody have declined overall even though the detained population has increased.

Fiscal year	Deaths	Population	Per Capita
2004	25	204,663	0.0122%
2005	16	206,600	0.0077%
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Please contact my office if you have additional questions.

Sincerely,



Julie L. Myers  
Assistant Secretary

Enclosure: