

ICE/DRO DETENTION STANDARD

HUNGER STRIKES

I. PURPOSE AND SCOPE. This Detention Standard protects detainees' health and well-being by monitoring, counseling, and providing appropriate treatment to any detainee who is on a hunger strike.

Nothing in this Detention Standard is intended to limit or override the exercise of sound medical judgment by the clinical medical authority responsible for a detainee's medical care. Each case must be evaluated on its own merits and specific circumstances, and treatment shall be given in accordance with accepted medical practice.

This Detention Standard 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. Any detainee who does not eat for 72 hours will be referred to the medical department for evaluation and possible treatment.
2. When medically advisable, a detainee on a hunger strike will be isolated for close supervision, observation, and monitoring.
3. The ICE/DRO Field Office Director (FOD) will be notified when a detainee is on a hunger strike.
4. The detainee's health will be carefully monitored and documented, as will the detainee's intake of foods and liquids.
5. A detainee on a hunger strike will be counseled and advised of the medical risks and will be encouraged to end the hunger strike or accept medical treatment.
6. Involuntary medical treatment will be administered only with the medical, psychiatric, and legal safeguards specified herein.
7. A record of interactions with the striking detainee, provision of food, attempted and successful medical treatment, and communications between the Clinical Medical Authority, Facility Administrator, and ICE/DRO will be established.
8. The information in this detention standard will be communicated in a language or other manner which the detainee can understand.

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

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-2A-52, 4D-15.

National Commission on Correctional Health Care, Standards for Health Services in Jails

ICE/DRO National Detention Standard on Medical Care

V. EXPECTED PRACTICES

A. Staff Training

All staff shall be initially and annually trained to recognize the signs of a hunger strike and on the procedures for referral for medical assessment, and on the correct procedures for managing a detainee on a hunger strike.

B. Initial Referral

Procedures for identifying and referring to medical staff a detainee suspected or announced to be on a hunger strike shall include obtaining from qualified medical personnel an assessment of whether the detainee's action is reasoned and deliberate or the manifestation of a mental illness. Upon medical recommendation, the detainee may be placed in isolation.

Facilities shall immediately notify the local FOD or his/her designee when an ICE/DRO detainee is on a hunger strike.

1. Staff shall consider any detainee observed to have not eaten for 72 hours to be on a hunger strike, and shall refer him or her to the clinical medical authority for evaluation and management.
2. Medical personnel shall isolate the detainee in a single-occupancy observation room when medically advisable and taking into consideration the detainee's mental health needs. If measuring food and liquid intake/output becomes necessary, medical personnel may place the detainee in the Special Management Unit or in a locked hospital room.
3. The detainee may remain in the Special Management Unit, based on the detainee's medical condition, until medical personnel determine that a move is advisable.
4. The facility administrator shall immediately report the hunger strike to the respective ICE/DRO Field Office Director, who shall follow standard policy for reporting significant incidents to headquarters.

C. Initial Medical Evaluation and Management

Medical staff shall monitor the health of a detainee on a hunger strike. If the detainee is engaging in a hunger strike due to a mental condition, or is incapable of giving informed

consent due to age or illness, appropriate medical/administrative action shall be taken in the best interest of the detainee.

1. During the initial evaluation of a detainee on a hunger strike, medical staff shall:
 - a. Measure and record height and weight;
 - b. Measure and record vital signs;
 - c. Perform urinalysis;
 - d. Conduct psychological/psychiatric evaluation;
 - e. Examine general physical condition; and
 - f. If clinically indicated, proceed with other necessary studies.
2. Medical staff shall take and record weight and vital signs at least once every 24 hours during the hunger strike and repeat other procedures as medically indicated.
3. The clinical medical authority, or designee, may modify or augment standard procedures when medically indicated.
4. Medical staff shall record all examination results in the detainee's medical file.
5. All physical and mental examinations, treatments, and other medical procedures require the documented informed consent of the detainee.
 - If the detainee refuses the initial medical evaluation, medical staff must attempt to secure the detainee's signature on a "Refusal of Treatment" form.
 - If the detainee will not cooperate by signing, staff shall note this on the "Refusal of Treatment" form.
 - Any detainee refusing medical treatment will be monitored by medical staff to evaluate whether the hunger strike poses a risk to the detainee's life or permanent health. See **V. E. Refusal to Accept Treatment**.
6. If medically necessary, the detainee may be transferred to a community hospital or a detention facility appropriately equipped for treatment.
7. After the hunger strike, medical staff shall provide appropriate medical and mental health follow-up care. Only the clinical medical authority may order a detainee's release from hunger strike treatment and shall document that order in the detainee's medical record. A notation will be made in the detention file when the detainee has ended the hunger strike.

D. Food and Liquid Intake and Output

After consultation with the clinical medical authority, the facility administrator may require staff to measure and record food and water intake and output:

1. Record Intake and output in the medical record until terminated by the clinical medical authority. A DIHS Hunger Strike Form or equivalent must be used.
2. Deliver three meals per day to the detainee's room unless otherwise directed by the clinical medical authority. Regardless of the detainee's response to an offered meal, staff shall physically deliver each meal.

3. Provide an adequate supply of drinking water or other beverages.
4. Remove from the detainee's room all food items not authorized by the clinical medical authority. During the hunger strike, the detainee may not purchase commissary/vending machine food.

E. Refusal to Accept Treatment

Before involuntary medical treatment is administered, staff shall make reasonable efforts to educate and encourage him or her to accept treatment voluntarily. Involuntary medical treatment shall be administered in accordance with established guidelines and applicable laws and only after the clinical medical authority determines the detainee's life or health is at risk.

1. Medical staff shall explain to the detainee medical risks associated with the refusal of treatment and document their treatment efforts in the detainee's medical record.
2. The clinical medical authority may recommend involuntary treatment when clinical assessment and available laboratory results indicate the detainee's weakening condition threatens the life or long term health of the detainee.
 - The administrative health authority shall notify the respective ICE/DRO Field Office Director in writing of the proposed plan to involuntarily feed the detainee if the hunger strike continues. The Field Office Director shall notify ICE/DRO Headquarters. Copies of all notifications shall be placed in the detention file.
 - The Field Office Director, in consultation with the clinical medical authority shall then contact the respective ICE Chief Counsel and the U.S. Attorneys Office with jurisdiction. After discussing the case, the attorneys shall recommend whether to pursue a court order. ICE policy is to seek a court order to obtain authorization for involuntary medical treatment. If a court determines that it does not have jurisdiction to issue such an order or a hospital refuses to administer involuntary sustenance pursuant to a court order, ICE/DRO may consider other action if the hunger strike is still ongoing.
 - If a court order is to be pursued, ICE/DRO shall ask the U.S. Attorneys Office to make the arrangements for a court hearing.
3. Medical staff shall:
 - Document all treatment efforts in the detainee's medical record.
 - Continue clinical and laboratory monitoring as necessary until the detainee's life or health is out of danger.
 - Continue medical and mental health follow-up as necessary.

For a detainee housed in an IGSA facility, the facility administrator shall notify ICE/DRO that the detainee is refusing treatment. Under no circumstances may an IGSA facility administer involuntary medical treatment without authorization from ICE/DRO.

F. Release from Treatment

Only the clinical medical authority may order that a detainee be released from hunger strike evaluation and management. That order shall be documented in the detainee's medical record.

Standard Approved:

James T. Hayes, Jr. /s/

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Director
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Date