

INS DETENTION STANDARD

HUNGER STRIKES

I. POLICY

All facilities will follow accepted standards of care in the medical and administrative management of hunger-striking detainees. Facilities will do everything within their means to monitor and protect the health and welfare of a hunger-striking detainee, consistent with legal authority and standard medical and psychiatric practice. Facilities will make every effort to obtain the hunger striker's informed consent for treatment, especially when the hunger strike is threatening his/her life or long-term health.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

A. 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. INS shall be notified of any hunger-striking detainee being housed in an IGSA facility.

In SPCs/CDFs:

1. *Staff will consider any detainee refusing food for 72 hours to be on a hunger strike, and will refer him/her to the medical department for evaluation and possible treatment.*
2. *Medical personnel will isolate the detainee in a single-occupancy observation room, denying contact with other detainees, when medically advisable. 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 a move advisable.*
4. *The OIC will immediately report the hunger strike to the Assistant District Director for Detention & Removal (ADD/DRO) responsible for that facility. The ADD/DRO will follow standard policy for reporting significant incidents to headquarters and the regional office.*

B. 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, appropriate medical action will be taken.

In SPCs/CDFs:

1. *During the initial evaluation of a hunger-striking detainee, medical staff will:*
 - 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 radiographs and or laboratory studies.*
2. *Medical staff will take and record weight and vital signs at least once every 24 hours during the hunger strike. Other procedures will be repeated as medically indicated.*
3. *The Clinical Director (CD) may modify or augment standard procedures when medically indicated.*

4. *Medical staff will record all examination results in the detainee's medical file. All physical and mental examinations, treatments, and other medical procedures require the informed consent of the detainee. If a 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.*
5. *If medically indicated, the detainee may be transferred to a community hospital or a detention facility that is appropriately equipped for treatment.*
6. *After the hunger strike, medical staff will provide follow-up medical and psychiatric care for as long as necessary. The medical officer alone may order a detainee's release from hunger strike treatment. That order will be documented in the detainee's medical record.*

C. Food and Liquid Intake and Output

After consultation with the CD, the OIC may require staff to measure and record food and water intake and output.

In SPCs/CDFs:

1. *Staff shall deliver three meals per day to the detainee's room unless otherwise directed by the medical officer. Regardless of the detainee's response to a verbally offered meal, staff will physically deliver each meal.*
2. *Staff shall provide the detainee an adequate supply of drinking water and shall offer to provide other beverages.*
3. *Staff shall remove from the hunger striker's room all food items not authorized by the medical officer. During the hunger strike, the detainee may not purchase commissary/vending machine food items but may make non-food purchases.*

After consultation with the CD, the OIC may require that food and water intake and output be measured and recorded on the Hunger Strike Monitoring Form (I-839). This measuring and monitoring will continue until ended by the CD.

D. Refusal To Accept Treatment

Before medical treatment is administered against the detainee's will, staff shall make reasonable efforts to convince the detainee to accept treatment voluntarily. Forced medical treatment shall be administered in accordance with applicable laws; and only after medical staff determines that the detainee's life or permanent health is at risk.

In SPCs/CDFs;

1. *Staff shall explain to the detainee medical risks associated with the refusal of treatment. Staff shall document their treatment efforts in the medical record of the detainee.*
2. *The CD may order involuntary treatment as follows:*
 - a. *Clinical assessment and available laboratory results indicate that the detainee's weakening condition threatens the life or long term health of the detainee.*
 - b. *The CD will notify the INS District Director in writing of the plan to force-feeding the detainee if the hunger strike continues.*
 - c. *The CD will contact the Division of Immigration Health Services (DIHS) Chief of Medical Staff, who will coordinate with the DIHS legal counsel. The CD will then contact the INS District Counsel and the U.S. Attorneys Office with jurisdiction. After discussing the case, the attorneys will recommend whether to pursue a court order.*
 - d. *If a court order will not be pursued, INS will send the CD written authorization to force-feed the detainee. At the same time, INS will notify the detainee's attorney or other legal representative and his/her consulate of this decision.*
 - e. *If a court order will be pursued, INS will 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.*
4. *Medical staff shall continue clinical and laboratory monitoring as necessary until the detainee's life or permanent health is out of danger. Treatment will typically continue until adequate oral intake of food and liquid is achieved.*
5. *Medical staff shall continue medical, psychiatric, and/or psychological follow-up as necessary.*

If the detainee is housed in an IGSA facility, the OIC of the facility shall notify INS that a detainee is refusing treatment. Under no circumstances are IGSA facilities to administer forced medical treatment unless granted permission from INS.

E. Release from Treatment

The CD may order that a detainee be released from hunger strike evaluation and treatment. That order shall be documented in the detainee's medical record.


F. Medical Judgement

None of these standards is meant to limit or override the exercise of sound medical judgment by the CD responsible for medical care. Each case must be evaluated on its own merits, taking into account individual circumstances. Treatment shall be given in accordance with accepted medical practice.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition, Standards for Adult Detention Facilities:
3-ALDF-3D-08, 4E-42


Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

Policy: All facilities will follow standard guidelines for the medical and administrative management of INS detainees engaging in hunger strikes. By monitoring of the health and welfare of the individual detainees, facilities will strive to sustain their lives.

HUNGER STRIKES			
Components	Yes	No	Remarks
1. If a detainee has refused food for 72 hours, is it standard practice for staff to refer him/her to the medical department?			
2. Does the OIC immediately report a hunger strike to the DD?			
3. Has the OIC completed referral arrangements and established implementing procedures so the facility can immediately respond to a hunger strike?			
4. Does staff isolate a hunger-striking detainee from other detainees? a. If yes, in an observation room?			
5. Are medical personnel authorized to place a detainee in the Special Management Unit or a locked hospital room?			
6. Does medical staff record the weight and vital signs of a hunger-striking detainee at least once every 24 hours?			
7. Does the OIC obtain a hunger striker's consent before medical treatment?			
8. Is a signed Refusal of Treatment form required of every detainee who rejects medical evaluation or treatment?			
9. Does staff provide the hunger-striking detainee three meals a day?			

HUNGER STRIKES

Components	Yes	No	Remarks
10. Does staff maintain the hunger striker's supply of drinking water/other beverages?			
11. Does staff remove all food items from the hunger striker's living area?			
12. When the OIC directs staff to record the hunger-striker's fluid intake and food consumption, does staff always use Hunger Strike Monitoring Form I-839?			
13. Does the medical staff have written procedures for treating hunger strikers?			
14. Have any hunger strikes occurred at the facility during the past year? a. How often did the OIC seek a court order for a hunger striker's medical treatment?			
15. Does staff document all treatment attempts, including attempts to persuade hunger striker of medical risks?			
16. Does the OIC ensure that medical staff receive early training in hunger-strike evaluation and treatment? a. After initial training, does the OIC/CD ensure that staff remain current in evaluation and treatment techniques?			

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HUNGER STRIKES

Verification Sources:

The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:

SOURCE	TIME	DATE	LOCATION
A. Facility's written policy and procedures on detainee hunger strikes			
B. Detainee and staff interviews			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

Remarks: *(Record significant facts, observations, other sources used, etc.)*

Auditor's Signature

Date