

INS DETENTION STANDARD

RECREATION

I. POLICY:

All facilities shall provide INS detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.

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. Requirements for Recreation

1. Every effort shall be made to place a detainee in a facility that provides outdoor recreation. If a facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight will be provided. (This does not meet the requirement for outdoor recreation).
2. In exceptional circumstances, a facility lacking any recreation area may be used to provide short-term housing for detainees.
3. All new or renegotiated contracts and IGSAs will stipulate that INS detainees have access to an outdoor recreation area.
4. All facilities shall provide recreational opportunities for detainees with disabilities.

B. Recreation Schedule

1. 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, five days a week, weather permitting.
2. 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 will the facility require detainees to forgo basic law library privileges for recreation privileges (see “Access to Legal Materials” standard).

In SPCs/CDFs, if practical considerations permit, detainees will have access to outdoor recreation every day, including weekends.

C. Transfer Option Where Only Indoor Recreation Is 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. This review will determine the detainee’s eligibility to transfer to a facility where the required outdoor recreation is available. The case officer will use the following criteria, all three of which must be met, to determine transfer eligibility:
 - a. The detainee has been in custody for six months without regular access to outdoor recreation (for reasons other than inclement weather);
 - b. The detainee has completed proceedings before the Immigration Judge (IJ), and the IJ has issued a decision concerning deportability or excludability; and
 - c. The detainee will likely have been in custody for a total of nine months before removal or release without regular access to outdoor recreation.

These criteria will apply in cases where an appeal has been filed, where obtaining a travel document in the foreseeable future is unlikely, where the detainee’s status as an aggravated felon precludes his/her release; or under other circumstances likely to cause the detainee to remain in INS custody for an indeterminate amount of time.

A detainee whose departure or release is imminent is ineligible for transfer. Examples include detainees awaiting travel or other documents from a third party (bureaucracy, relative, friend, or other source) in a position to produce them expeditiously, upon request (before the period without outdoor recreation exceeds nine months); and detainees with the reasonable expectation of securing a bond or other legal means of release from custody within the nine-month window.

The OIC shall base his/her decision, in writing, on the case officer’s written determination. This decision supporting or denying eligibility for transfer will be consistent with the criteria listed above.

Where 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.

A detainee's stay in a facility providing no regular opportunities for outdoor recreation will exceed nine months only if the detainee has read and signed a voluntary waiver, as described below.

2. If the OIC determines in favor of eligibility, the detainee shall have the choice of remaining in the facility or transferring to another facility (selected by INS) as soon as appropriate space becomes available. The case officer shall provide the detainee with this choice in written form. The detainee will, in turn, in writing, accept or waive the voluntary transfer.

Documentation concerning the transfer decision shall remain in the detainee's A-file.

3. When a 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. The legal representative shall also be notified of the detainee's option to waive a voluntary transfer when offered by the INS.
4. Should a detainee's case be remanded to the IJ for further proceedings after the detainee's transfer, the detainee shall be returned at the expense of the District where case venue is established for the continuation of proceedings.

All transfers shall be made in a way that ensures sufficient time for the detainee to meet with his/her legal representative, if any, to prepare for the hearing.

5. This policy does not in any way address or limit the right of the INS to transfer a detainee involuntarily when, in the judgment of INS, it is in the best interest of the government or the detainee; nor does it preclude INS from seeking a change of venue if recommended by the District Counsel.

D. Transfer Option When No Recreation Opportunities Are Available

1. When neither the required indoor or outdoor recreational opportunities is available at a facility, a detainee will be eligible for a transfer to a facility providing recreational opportunities after 45 days. A 45-day period affords the detainee time to contact legal representation, if necessary; request a bond redetermination; or request an expeditious deportation or exclusion hearing.

In exceptional circumstances, the 45-day time limit may be extended by 15 days. This may occur, for example, when the detainee's removal or release is imminent, or to conclude a deportation or exclusion hearing.

In no case will the total time in detention exceed 60 days in a detention facility where no recreational opportunities are available, unless the detainee has been declined the opportunity of transferring to a facility that provides recreation.

2. As in section III.C, above, any detainee eligible for a transfer shall have the option of voluntarily transferring to another detention facility (selected by INS) as soon as appropriate space becomes available.
3. The case officer shall provide the opportunity of accepting or waiving a voluntary transfer in written form to the detainee. The detainee will accept or waive the transfer in writing. The detainee's written decision will be placed in his/her A-file. When a detainee has legal representation, and a G-28 or EOIR-28 has been filed, the facility shall notify the representative of record, in writing, of the intent to transfer the detainee. The legal representative shall also be notified of the detainee's option of waiving the transfer opportunity.
4. When a detainee has retained legal representation, the District shall consult with District Counsel to minimize interference with the detainee's legal representation. The detainee will be transferred to the nearest facility with suitable space available, and returned as needed for administrative hearings before the IJ if venue has not been changed. If the detainee must be returned for administrative hearings, sufficient time will be allowed for the detainee to meet with his/her legal representative before the hearing.
5. The District where venue was originally established shall be responsible for costs incurred in returning the detainee to that venue for continuation of proceedings.
6. This policy does not in any way address or limits the right of INS to transfer a detainee involuntarily when, in the judgment of INS, it is in the best interest of the government or the detainee. Nor does this policy preclude the INS from seeking a change of venue, if appropriate, after review by the District Counsel.

E. Access to Outdoor Recreation Available

Recreation considerations will not affect detention time in a facility where access to outdoor recreation is available at least one hour per day, five days per week, weather permitting.

F Recreation Specialist

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

In SPCs/CDFs:

1. *Every facility housing more than 350 detainees shall employ a full-time Recreation Specialist. The Recreation Specialist must have special training in implementation and oversight of a recreation program.*
2. *Every facility with a rated capacity of 500 or more detainees shall maintain 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.*

G. Program Content

1. Exercise areas will offer a variety of fixed and movable equipment. Weight training, if offered, will be limited to fixed equipment; free weights are prohibited.
2. Cardiovascular exercise shall be available to detainees for whom outdoor recreation is unavailable. The indoor recreation area may, therefore, be equipped with stationary bicycles, stair climbers, treadmills, and/or other cardiovascular exercise machines.
3. Recreational activities shall be based on the facility's size and location. With the OIC's approval, recreational activities may include limited-contact sports, such as soccer, basketball, volleyball, table game, and may extend to competitions between units.

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

4. All detainees participating in outdoor recreation shall have access to drinking water and toilet facilities.
5. Detention or recreation staff shall issue all portable equipment items, and shall check each item for damage and general condition upon its return. Staff shall also conduct searches of recreation areas before and after their use to detect altered or damaged equipment, hidden contraband, and security breaches.
6. Programs and activities are subject to the facility's security and operational guidelines and may be restricted at the OIC's discretion.
7. Recreation areas shall be under continuous supervision by staff. Staff supervising these areas shall be equipped with radios to maintain contact with the control center.
8. Contraband-searches of detainees moving from locked cells or housing units to recreation shall be conducted in accordance with the "Detainee Search" standard.
9. 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.
10. The OIC shall establish facility policy concerning television-viewing in dayrooms. All television-viewing schedules shall be subject to the OIC's approval.

H. Recreation for Special Management Unit (SMU)

Detainees housed in the SMU shall recreate apart from the general population. The OIC 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. Detainees in protective custody, for example, shall recreate separately from other detainees. Individual recreation shall be used as necessary to prevent assaults and reduce management problems.

Detainees in the SMU shall be offered at least one hour of recreation per day, scheduled at a reasonable time, at least five days per week. This privilege shall be waived only if the detainee's recreational activity would unreasonably endanger safety or security, as follows:

1. A detainee segregated for administrative purposes, a special-needs detainee, or a detainee in protective custody may be denied access to recreation when fulfillment of the requirement would create an immediate and serious threat to the safety or security of the detainee, other detainees, or staff. A detainee may be denied recreation privileges only with the OIC's written authorization. The written authorization must indicate why the detainee poses an unreasonable risk even when recreating alone.

NOTE: A special-needs detainee is one who's mental and/or physical condition requires special handling and treatment by staff. Special-needs detainees include, but are not limited to: drug or alcohol addicts or abusers, the emotionally disturbed, mentally retarded, suspected mentally ill, and disabled or infirm.)

2. A detainee in the SMU for disciplinary purposes may temporarily lose recreation privileges upon a disciplinary panel's written determination that he/she poses an unreasonable risk to the facility, him/herself, or others.
3. The disciplinary panel or OIC shall provide the detainee with written notification of the suspension of recreation privileges, 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
4. The case of a detainee denied recreation privileges shall be reviewed at least once each week. The reviewer(s) will state, in writing, whether the detainee continues to pose a threat to self, others, or the facility security and, if so, why. Denial of recreation privileges for more than 15 days requires the concurrence of the OIC and health care professional. It is expected that such denials will rarely occur, and only in extreme circumstances.

The facility shall notify INS when a detainee's denied recreation privileges exceeds 15 days.

I. Volunteer Program Involvement

A volunteer group may provide a special recreational or educational program or religious activity consistent with security considerations, availability of detention personnel to supervise participating detainees, and sufficient advance notification to the OIC. (For religious programs/activities, see the "Religious Practices" standard.)

In SPCs/CDFs:


All volunteers, regardless of title or position, are subject to a minimal background check that includes, but is not limited to, the following: criminal history check; verification of identity and occupation; and verification of credentials for the type of activity involved.

Each approved volunteer shall receive the standard orientation to the facility, and shall acknowledge understanding the rules and procedures by signing an agreement to comply, particularly with respect to rules addressing permissible behavior and relationships with detainees. Each volunteer must sign a waiver of liability before being admitted to any secure portion of the facility or location where detainees are present. Visitors, relatives, and friends of detainees shall not serve as volunteers.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities. 3-ALDF-2E-01, 2E-02, 5C-01, 5C-02


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: It is INS policy to provide access to recreational programs and activities to all INS detainees, to the extent possible, under conditions of security and supervision that protect their safety and welfare.

| RECREATION | | | |
|--|------------|-----------|----------------|
| Components | Yes | No | Remarks |
| 1. Does the facility provide: a. An indoor recreation program? b. An outdoor recreation program? | | | |
| 2. Does the facility have a full-time: recreational specialist and recreational assistant? | | | |
| 3. Does the recreational specialist tailor the program activities and offerings to the particular detainee population? If so, how? | | | |
| 4. Does regular maintenance keep recreational facilities and equipment in good condition? | | | |
| 5. Does the recreational specialist supervise approved recreation activities? | | | |
| 6. Does the recreational specialist supervise detainee recreation workers? | | | |
| 7. Does the recreational specialist oversee recreation programs for Special Management Unit and special-needs detainees? | | | |
| 8. Do dayrooms offer sedentary activities, e.g., board games, cards, television? | | | |
| 9. Are outside activities restricted to limited- contact sports? | | | |
| 10. Does each detainee have the opportunity to participate in daily recreation? If yes: a. Indoor? b. Outdoor? | | | |

| RECREATION | | | |
|---|-----|----|---------|
| Components | Yes | No | Remarks |
| 11. Do detainees have access to recreation activities outside the housing units for at least one hour daily, 5 days a week? If yes, including weekends? | | | |
| 12. Does staff check all items for damage and condition when equipment is returned? | | | |
| 13. Does staff conduct searches of recreation areas before and after use? | | | |
| 14. Are all recreation areas under constant staff supervision? | | | |
| 15. Is supervising staff equipped with radios? | | | |
| 16. Does the facility provide detainees in the SMU at least one hour of recreation time daily? If yes, including weekends? | | | |
| 17. Does a detainee in disciplinary segregation receive a written explanation when a panel revokes his/her recreation privileges? | | | |
| 18. Does the OIC review the panel's decision before it becomes effective? If yes, in every case? | | | |
| 19. Does a detainee in administrative segregation receive a written explanation for denied recreational privileges? | | | |
| 20. Do volunteer groups present special programs or religious activities? | | | |
| 21. Are volunteers required to sign a waiver of liability before entering a secure portion of the facility where detainees are present? | | | |
| 22. Are visitors, relatives or friends allowed to serve as volunteers? | | | |
| 23. If the facility has no outside recreation, are detainees considered for transfer after six months? a. If yes, does written procedure ensure timely review of all eligible detainees? b. Of those eligible (held more than six months) how many are transferred each year? (<i>actual number or percent</i>) | | | |

| RECREATION | | | |
|--|------------|-----------|----------------|
| Components | Yes | No | Remarks |
| 24. Do case officers make written transfer recommendations about every six-month detainee to the OIC? | | | |
| 25. Does the OIC document all detainee-transfer decisions, whether yes or no? | | | |
| 26. Is a detainee free to accept/decline a transfer approved by the OIC? | | | |
| 27. Is the detainee's written decision for or against an offered transfer documented in his/her A-file? | | | |
| 28. Does staff notify the detainee's legal representative of his/her decision to accept/decline a transfer? | | | |
| 29. How many detainees now present have remained nine months or longer? a. Is this about average? | | | |
| 30. If neither indoor nor outdoor recreation is available, does the facility routinely review transfer eligibility for all detainees after 60 days? a. How many detainees now present have remained more than 60 days? b. How many were offered transfers? | | | |
| 31. Does the A-file of every detainee held more than 60 days without access to recreation contain either a transfer-waiver signed by the detainee or the OIC's written determination of the detainee's ineligibility for transfer? | | | |
| 32. Is the detainee's legal representative notified of the detainee's/OIC's decision? | | | |

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

RECREATION

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. Observation of general population recreation time | | | |
| B. Observation of Special Management Unit recreation time | | | |
| C. Inspection of facility recreation areas and equipment | | | |
| D. A-file/detention file | | | |
| E. Review of facility policy and procedure for alien recreation | | | |
| F. 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