

ICE/DRO DETENTION STANDARD

TRANSFER OF DETAINEES

I. PURPOSE AND SCOPE. This Detention Standard ensures that transfers of detainees from one facility to another are professionally and responsibly managed in regard to notifications, detainee records, safety and security, and protection of detainee funds and personal property.

It applies to the following types of facilities housing ICE/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. Decisions to transfer detainees will be made by authorized officials on the basis of complete and accurate case information.
2. The legal representative-of-record will be properly notified when a detainee is transferred, in accordance with sound security practices.
3. The detainee will be properly notified, orally and in writing when he or she is being transferred to another facility in accordance with sound security practices.
4. Transportation and receiving facility staff will have accurate and complete records on each transferred detainee.
5. Transfer of detainees will be accomplished safely and securely, particularly those with special health care concerns including appropriate medical information.
6. Transferred detainees funds, valuables and other personal property will be safeguarded.
7. The applicable content and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Detainee Transfer** dated 9/12/2008.

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-2A-23, 1B-06, 4C-05, 4C-40, 4D-27, 6A-07, 7D-19, 7D-20.

ICE/DRO Detention Standard on **Transportation (By Land)**.

V. EXPECTED PRACTICES

A. Reasons for Transfer

The determining factor in deciding whether or not to transfer a detainee is whether the transfer is required for operational needs, for example, to eliminate overcrowding. In addition, a specific detainee may be transferred to meet the specialized needs of that detainee.

In making the determination as to whether to transfer a detainee, ICE/DRO will take into account:

- **Security.** A detainee may be transferred to a higher-level facility because of circumstances that cannot adequately be controlled through the use of segregation housing. Such security reasons might include, for example:
 - When the detainee becomes a threat to the security of the facility;
 - When the detainee is violent or has caused a major disturbance or is threatening to cause one; or
 - When a detainee's behavior or other circumstances present a threat to the safety of staff or other detainees.
- **Legal Representation.** ICE/DRO will consider whether the detainee is represented by legal counsel. In such cases, ICE/DRO shall consider alternatives to transfer, especially when the detainee is represented by local, legal counsel and where immigration court proceedings are ongoing.
- **Medical.** Detainee medical needs shall be taken into account prior to a transfer (see also Medical Care, Section V-S). The Division of Immigration Health Services (DIHS) may recommend that a detainee in need of specialized or long-term medical care be transferred to a facility that can better meet those needs. The DIHS Medical Director or designee must approve transfers for medical reasons in advance. Medical transfers shall be coordinated through the local ICE/DRO office of jurisdiction using established procedures.
- **Change of Venue.** A detainee may be transferred from one jurisdiction to another to accommodate a change in venue by the Executive Office for Immigration Review (EOIR).

While ICE/DRO transfers detainees from one facility to another for a variety of reasons, a transfer of a detainee shall never be retaliatory.

B. Notification Procedure

ICE/DRO shall make all necessary notifications when a detainee is transferred.

When detainees are being transported by Justice Prisoner Alien Transportation System (JPATS), ICE/DRO shall adhere to JPATS protocols.

1. Attorney

When a detainee is represented by legal counsel, and a form G-28 has been properly executed and filed, the “sending” field office shall:

- Notify the representative of record that the detainee is being transferred and include the reason for the transfer and the name, location, and telephone number of the new facility.
- Document the notification:
 - In the detainee’s A file, if available, or work file, and
 - The comments screen in ENFORCE.

The attorney shall be notified of the transfer once the detainee has arrived at the new detention location. Generally, notification will be made as soon as practicable, but no later than 24 hours after the transfer.

When there are special security concerns, the Deportation Officer may delay the notification, but only for the period of time justified by those concerns.

2. Family

It is the responsibility of the attorney of record or the detainee to notify any family members of the transfer.

3. Detainee

The detainee shall not be informed of the transfer until immediately prior to leaving the facility, at which time he or she shall be notified that he or she is being moved to a new facility within the United States and not being removed. The detainee must be informed in a manner he or she can understand.

Specific plans and time schedules shall never be discussed with the detainee.

Following notification, the detainee shall normally not be permitted to make or receive any telephone calls or have contact with any detainee in the general population until the detainee reaches the destination facility.

At the time of the transfer, ICE/DRO shall provide the detainee, in writing, the name, address and telephone number of the facility to which he or she is being transferred, using the attached **Detainee Transfer Notification** form. Staff shall place a copy of the form in the detainee’s Detention File.

The detainee shall also be advised that it is his or her responsibility to notify family members, if so desired.

C. Request for Bed/Designation

Field Offices that routinely transfer cases between each other shall:

- Establish a means of communication so that “receiving” Field Offices provide “sending” Field Offices **daily** information regarding available bed space.
- Provide the names and contact numbers of staff responsible for handling transfers.

While Field Offices are encouraged to communicate directly regarding available housing space, the headquarters Detention Management Division is available to assist a Field Office that has unsuccessfully attempted to locate space.

Field Offices seeking bed space in other Field Office jurisdictions should phone the request (or e-mail with a follow-up phone call) with sufficient details of the case to the designated Field Office contact.

Once an office has *preliminarily* agreed to accept a case from another office, the following procedures apply:

1. Requesting Office Faxes/Transmits Form I-216 to the Receiving Field Office

The requesting office shall ensure all the boxes on Form I-216 are completed.

- At a minimum, complete information must be provided on criminal or aggravated felony status, any medical/mental problems and security risks.
- If there are medical/mental problems or medications, either the JPATS Form USM-553 or an I-794 (In-Processing Health Screening Form) must accompany the I-216 as an attachment.
- Security concerns must be outlined in detail on a separate page and be attached to the I-216.
- If there is any question about whether a detainee is a juvenile, a copy of the age verification documentation must be attached.

If an IGSA in the receiving jurisdiction requires that its medical unit review medical histories prior to acceptance, a method of providing that information to the IGSA must be arranged between the two Field Offices.

2. Receiving Office Confirms Acceptance of the Case

The receiving Field Office shall review the I-216 to insure each case is consistent with what was previously discussed and e-mailed. If there are any issues that were not previously relayed to the receiving Field Office, the receiving Field Office shall notify the sending Field Office that it intends to decline the transfer unless those issues are resolved.

Once the receiving Field Office has finally accepted the transfer, the sending Field Office shall provide by telephone or e-mail a mutually agreeable estimated time of arrival.

The sending Field Office may **not** substitute any detainee on the I-216 without prior approval of the receiving Field Office.

D. Preparation and Transfer of Records

Sending facility staff shall complete the attached **Detainee Transfer Checklist** to insure all procedures are completed.

- The sending facility staff shall place a copy of the Checklist in the detainee's A-file or work folder.
- The records must accompany the detainee to the receiving facility.
- If any procedure cannot be completed prior to transfer, the detainee may be transferred only if the authorized receiving Field Office official has expressly waived that procedure and sending facility staff shall note any such waivers on the Checklist.

1. Alien File

Prior to transfer, the A-file shall be obtained and put in good order:

- Any needed file consolidations shall be done.
- Any necessary file jacket repairs shall be done.
- All documents and forms shall be attached on the proper side of the A-file.

If the sending Field Office is unable to obtain the A-file, that detainee may not be transferred unless the receiving Field Office, before the transfer takes place, accepts a proper work folder that includes, at a minimum:

- Certified copies of convictions,
- Printouts of the Central Index System (CIS), ENFORCE, and the FBI's National Crime Information Center (NCIC) database, (ENFORCE)
- Copies of the Executive Office for Immigration Review (EOIR's) record of proceedings, and
- New photographs and fingerprints.

If applicable, copies of the following should also be included:

- Computer Linked Application Information Management System (CLAIMS),
- Treasury Enforcement Communications System (TECS)
- Any other obtainable documents requested by the receiving Field Office.

The A-file or proper work folder shall include copies of the following properly executed documents, fastened to the top right side of the file:

- I-216 (appropriate copies of I-77 and G-589 attached)
- USM-553 or local **Transfer Summary** form
- Copy of the I-213 (Record of Deportable Alien Form)
- Original or photocopy of I-203/203A
- Detainee Transfer Checklist (an attachment to this Detention Standard)

- Age verification documents (if applicable)
- A disk or electronic copy with all previous Post Order Custody Reviews (POCRs) and travel document requests in a property envelope fastened to the file.
- Classification Sheet

Ordinarily, the A-file or proper work folder must accompany the transfer.

- Under certain circumstances, the receiving Field Office may request that the A-file or work folder be mailed by overnight express to a particular location.
- If requested, the sending Field Office shall mail it no later than the business day following the transfer.

Any significant delays in the arrival time of the detainees or their files should be communicated to the receiving Field Office as soon as possible.

2. Charging Documents/Record of Proceeding

Before the transfer, all charging documents shall be issued and signed by the individual with signatory authority for the sending Field Office.

If applicable, prior to transfer, all charging documents shall be served on the detainee, including, but not limited to:

- Notice to Appear (I-862),
- Warrant of Arrest (I-200),
- Warrant of Removal (I-205),
- Notification of Custody Decision (I-286), and
- Notice of Rights (I-826).

Originals or copies shall be included, indicating proper service, in the A-file or work folder.

Copies shall be provided the detainee who should be encouraged to keep them on his or her person, unless this would present a security problem.

3. Certified Copies of Convictions

For all aliens under removal proceedings based on their criminal convictions stated on the I-862, the certified copy of conviction shall be included in the A-file prior to transfer.

A detainee may not be transferred if the certified copies of conviction relating to the charging document are not included in the A-file, unless the receiving Field Office has agreed in advance to accept the case. In such instances, the sending Field Office shall provide on the Checklist point-of-contact names and phone numbers for:

- The person at the sending Field Office responsible for obtaining the conviction record, and
- An individual at the respective court or clerk's office where the record is located.

4. Fingerprint Cards

The sending Field Office shall send completed fingerprint cards as noted below:

- The cards shall be signed by both the alien and the official taking the fingerprints.
- The cards shall be completely filled out except for the address block requesting a disposition from the FBI.
- The completed cards shall be left in the A-file for the receiving Field Office to fill in the response address block and submit to the FBI and Biometrics Support Center (when appropriate), unless the detainee is a Room-and-Board case.
- For a Room-and-Board case, the sending Field Office may submit the fingerprints to the FBI and Biometrics Support Center.
- One fingerprint card should remain in the A-file at all times.

5. Photographs

The sending Field Office shall take four (1 sheet of 4) new, standard booking-size photographs and include any photos not needed for the transfer in the file.

6. Medical Procedures and Information Required for Transfer

a. Notification of Transfers, Releases, and Removals

The facility health care provider shall be notified sufficiently in advance of the transfer that medical staff may determine and provide for any associated medical needs.

b. Transfer of Health Records

When a detainee is transferred within the Detainee Immigration Health Service (DIHS) system:

- The USM 553 (or equivalent) **Transfer Summary** and the detainee's official health records shall accompany the detainee.
- The official health records shall be placed in a sealed envelope or other container labeled with the detainee's name and A-number and marked "MEDICAL CONFIDENTIAL."
- Non-medical staff are not permitted to read the official health record except in paragraph (c)(2) below.

When a detainee is transferred to an IGSA detention facility, the **Transfer Summary** shall accompany the detainee.

c. **Transfer Summary**

(1) **Preparation**

The sending facility's medical staff shall prepare a **Transfer Summary** that must accompany the transferee. Either the USM 553 Form or a facility-specific form may be used, provided it shows:

- TB clearance, including PPD and Chest x-ray results, with the test dates;
- Current mental and physical health status, including all significant health issues;
- Current medications, with specific instructions for medications that must be administered en route; and
- The name and contact information of the transferring medical official.

(2) **Use During Transport**

Transportation staff may not transport a detainee without the required **Transfer Summary**, which is essential for detainee safety while in transit.

The transferring officer shall review the information for completeness and to ensure he or she has the supplies required to provide any in-transit care that is indicated.

Medical information is available to staff only on a need-to-know basis.

- Any officer who reviews the **Transfer Summary** shall protect the privacy of the detainee's medical information to the greatest extent possible.
- Medical information may not be shared unless necessary to safely fulfill transportation responsibilities.

The section on **Confidentiality and Release of Medical Records** in the Detention Standard on **Medical Care** provides additional detail.

The transferring officer is responsible for delivering the **Transfer Summary** materials to medical personnel at the receiving facility and shall advise them of any medications provided to the detainee in transit.

d. **Medical or Psychiatric Alert**

Medical staff shall notify the facility administrator when they determine that a detainee's medical or psychiatric condition requires:

- Clearance by the medical staff prior to transfer, or
- Medical escort during transfer.

e. Medications

Prior to transfer, medical personnel shall provide the transporting officers instructions and, if applicable, medication(s) for the detainee's care in transit.

Detainees shall be transferred with, at a minimum, 7 days' worth of prescription medications (TB medications, a 15 day supply) to ensure continuity of care throughout the transfer and subsequent intake process.

Medications shall be:

- Placed in a property envelope with the detainee's name and A-number on it,
- Accompany the transfer, and
- If unused, be turned over to an officer at the receiving Field Office.

7. Other Transfer Paperwork

A properly executed I-203/I-203A, I-213, G-391 and I-216 (Record of Persons and Property Transfer) shall accompany the transfer.

The I-216 shall:

- Include the detainee's detention category,
- Indicate if the detainee has a criminal conviction, a history of violence, is an escape risk or has special medical problems that may require attention during the transfer.
- Be annotated if the detainee is on prescription medication.
- Indicate the time of arrival as estimated by the sending Field Office.

The receiving Field Office may request that copies of the I-203/I-203A or I-213 be faxed/transmitted directly from the sending Field Office to the receiving IGSA facility.

8. G-391, "Official Detail"

A detainee may not be removed from any facility, including Field Office detention areas, without a Form G-391 that authorizes the detail.

- The G-391 must be properly signed and shall clearly indicate the name of the detainee(s), the place or places to be escorted, the purpose of the trip and other information necessary to efficiently carry out the detail.
- IGSA facilities may use a local form as long as the form provides the required information.

In an SPC or CDF, the Supervisory Immigration Enforcement Agent (SIEA) or authorized ICE Official shall check records and ascertain if the alien has a criminal history, is dangerous or has an escape record or medical condition. Any information of an adverse nature shall be clearly indicated on the G-391 and the escorting officers shall be warned to take the necessary precautions.

Before beginning the detail, the escorting and transportation officers shall read their instructions and clearly understand the purpose for which the detainee is being removed from the facility. The officers shall also discuss emergency contingency plans with the SIEA and/or authorized ICE Official before departure.

All completed G-391s shall be filed in order by month and the forms for the previous month shall be readily available for review. All G-391s shall be retained for at least three years.

9. Room-and-Board Cases

Unless the receiving and sending Field Offices agree to reduced or modified documentation requirements for a Room-and-Board Case accepted for short-term staging only, a complete work folder shall accompany or be sent in advance, including:

- Items listed above under the **Alien File** section above attached to the right side of the folder.
- 4 new photographs,
- Fingerprints cards,
- Entire record of proceeding with all pertinent case documentation, and
- Interviews by the receiving Field Office under the Post Order Custody Review (POCR) process on a computer disk attached to the file.

D. Property

1. Funds and Small Valuables

Before transfer, the sending facility shall return all funds and small valuables to the detainee and close out all forms G-589 (or local IGSA funds and valuables receipts) in accordance with the Detention Standard on **Funds and Personal Property**.

- During transport, a detainee shall ordinarily have the following items in his or her possession; however, items that might present a security risk or are particularly bulky may be transported separately in the vehicles' storage area, personal items include:
 - Cash
 - All legal material
 - Small valuables such as jewelry
 - Address books, phone lists, correspondence
 - Dentures, prescription glasses
 - Small religious items
 - Photos
 - Similar small personal property items.

The receiving facility shall create a new G-589 (or local IGSA funds and valuables receipt) during admissions in-processing in accordance with the Detention Standard on **Funds and Personal Property**.

2. Large Valuables, Excess Luggage, and Other Bulky Items

Detainee access to large items of personal property during transport is prohibited; however, ordinarily, all items stored at the sending facility shall accompany the transferee to the receiving SPC, CDF or, in most cases, the receiving IGSA facility.

If the property accompanies the detainee, in accordance with the Detention Standard on **Funds and Personal Property**:

- The sending facility shall close out all forms G-589 (or local IGSA property receipt forms), and
- The receiving facility shall create a new G-589 and I-77 (or local IGSA property receipt forms) during admissions in-processing.

If the IGSA facility does not accept excess, oversized or bulky belongings (including, but not limited to, suitcases, cartons, televisions, etc.), the sending facility shall:

- Arrange to store the property elsewhere, or
- Process the excess property in accordance with the Detention Standard on **Funds and Personal Property**. Under those procedures, the facility may send excess property to an address of the detainee's choosing; however, the detainee may not be asked for that address information until he or she has been notified of the impending transfer. The sending facility shall make shipping arrangements if the detainee cannot afford postage or to pay for shipping.
 - If the detainee refuses to provide an appropriate mailing address, or is financially able but unwilling to pay for shipping, the facility administrator may dispose of the property after providing the detainee written notice in accordance with the Detention Standard on **Contraband**.
 - If the detainee's cannot provide an appropriate address because one does not exist:
 - The transferee shall keep the property receipts for the stored items, and
 - The facility shall store the property and notify the receiving facility in writing that the transferring facility requires notice before the detainee's release or further transfer to ensure the detainee receives the stored property.

E. Miscellaneous

1. Detainee Phone Calls

Within 24 hours of arrival at the final transfer destination all detainees should be given the opportunity to make a phone call. Any indigent detainee shall be permitted a single domestic phone call at the Government's expense, ordinarily using a PCS Emergency Card or equivalent. Where a PCS Emergency card is not available, the Field Office shall make arrangements for such phone calls.

Non-indigent detainees may make phone calls at their own expense in accordance with the Detention Standard on **Telephone Access**.

2. ENFORCE

The sending Field Office shall:

- Ensure that all screens in ENFORCE are completely updated and accurate, and
- Immediately make the appropriate database transfers (ENFORCE/CIS).

Once the detainee reaches his or her destination, the receiving Field Office "accepts" the transfer.

3. Food and Water During Transfer

Food and water shall be provided in accordance with the Detention Standard on **Transportation (By Land)**.

The sending Field Office or IGSA facility is responsible for the preparation and delivery of proper meals prior to departure.

*In SPCs and CDFs, the Food Service Administrator is responsible for the preparation of sack or box lunches according to the Detention Standard on **Food Service**.*

F. Accountability for Documentation When Detainee Is Transported

The Detention Standard on **Transportation (By Land)** prohibits the transportation of a detainee without required documentation to ensure that the facility receiving a detainee also receives the files and other documentation specified herein.

1. Transportation officers **may not** accept a detainee without the required documents.
2. The receiving facility **may** refuse to accept a detainee without the required documents.
3. The receiving facility **must** report any exceptions to the Field Office and the Deputy Assistant Director, Detention Management Division.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

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

Date

**DEPARTMENT OF HOMELAND SECURITY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

DETAINEE TRANSFER NOTIFICATION

DETAINEE NAME _____ **A#** _____

NATIONALITY _____

TRANSFER DESTINATION

NAME OF NEW FACILITY _____

ADDRESS

TELEPHONE NUMBER _____

I hereby acknowledge that I have received the transfer destination information. I have also been notified that it is my responsibility to notify family members, if I so desire.

DETAINEE SIGNATURE _____ **A#** _____ **DATE** _____

OFFICER SIGNATURE _____ **DATE** _____

DETAINEE TRANSFER CHECKLIST

Name _____ A-Number _____
Detainee transferred from _____ to _____ on _____
Office 3-Letter Codes _____ Date _____

- _____ Detainee's attorney notified
- _____ Detainee's Transfer Notification form completed
- _____ I-216 faxed to receiving district
- _____ USM-553 or local transfer summary attached
- _____ Age verification documentation attached
- _____ POCR / Security risk attachment

A-file Work Folder

The following items have been attached to the right side of the file:

- _____ I-216
- _____ I-77
- _____ G-589
- _____ USM-553 or local transfer summary form
- _____ Photocopy of I-203/I203A
- _____ Property form
- _____ Age verification document
- _____ I-259 and/or manifest
- _____ POCR / Travel document request computer disk envelope
- _____ Fingerprints and photographs
- _____ All charging documents have been served on the alien and copies provided to them
- _____ The file contains certified copies of conviction records substantiating the charging document
- _____ Certified copies of convictions were unobtainable prior to transfer

Name and telephone number of the point of contact for conviction records

Name and telephone number of court clerk's office point of contact for conviction records

- _____ All ENFORCE screen are accurate and complete
- _____ Case transferred in ENFORCE
- _____ If the transfer is taking place during a mealtime, food service arrangements have been made
- _____ File accompanying transfer
- _____ File will be federal expressed to receiving district within one business day
- _____ If the detainee is on medication, medications will accompany transfer

The above-named officer from the receiving district waived parts of this transfer document as circled above.

Printed name and signature of officer responsible for compliance with requirements for Transfer of Detainees.