

STANDARD 2.9

SPECIAL MANAGEMENT UNITS

I. POLICY

This detention standard protects detainees, staff, contractors, volunteers, and the community from harm by segregating certain detainees from the general population in Special Management Units (SMUs) through Administrative Segregation for detainees segregated for administrative reasons and Disciplinary Segregation for detainees segregated for disciplinary reasons.

II. STANDARDS AND PROCEDURES

A. Placement in Administrative Segregation

Administrative Segregation status is a non-punitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility. For matters of safety and security, staff may have to take immediate action to control a detainee, including placement in administrative segregation.

Each facility shall develop and follow written procedures, consistent with this standard, governing the management of its administrative segregation unit. These procedures must include documenting detailed reasons for placement of an individual in administrative segregation.

Prior to the detainee's placement in administrative segregation, the facility administrator or designee shall review the case to determine whether administrative segregation is in fact warranted.

1. Reasons for Placement in Administrative Segregation

A detainee may be placed in administrative segregation when the detainee's continued presence in the general population poses a threat to life, property, self, staff, or other detainees; for the secure and orderly operation of the facility; for medical reasons; or under other circumstances as set forth below.

A detainee's age, disability, sex, sexual orientation, gender identity, race, color, national origin, or religion may never provide the sole basis for a decision to place the detainee in involuntary segregation. An individualized assessment must be made in each case.

Some examples of reasons for a detainee's assignment to administrative segregation include, but are not limited to, the following:

- a. A detainee is awaiting an investigation or a hearing for a violation of facility rules. Generally, a detainee should not remain in administrative segregation for a longer period of time than the maximum term of disciplinary segregation permitted for the most serious offense charged.
- b. A detainee poses a threat to the security of the facility.
- c. A detainee requires protection. Protective custody may be initiated at the detainee's request or by staff as needed to protect the detainee from harm. Each facility shall develop procedures to regularly review continued placement in protective custody as well as provisions for release from protective custody when appropriate.

Use of administrative segregation to protect detainees with special vulnerabilities, including detainees vulnerable to sexual abuse or assault, shall be limited to those instances where reasonable efforts have been made to provide appropriate housing; where the placement is for the least amount of time practicable; and where no other viable housing options exist, and as a last resort.

Detainees who have been placed in administrative segregation for protective custody shall have access to programs, services, visitation, counsel, and other services available to the general population to the maximum extent possible.

- d. A detainee is scheduled for release, removal, or transfer within 24 hours. Such segregation may be ordered for security reasons or for the orderly operation of the facility.
- e. The facility's Institutional Disciplinary Panel (IDP), or its equivalent, may recommend a detainee be placed in administrative segregation following disciplinary segregation if it determines that releasing the detainee into the general population would pose a threat to the detainee or to the security and orderly operation of the facility. However, a subsequent placement in administrative segregation requires an administrative segregation order justifying the placement after the completion of the term served in disciplinary segregation.

A detainee transferred from disciplinary segregation to administrative segregation shall enjoy the same privileges as all other detainees in administrative segregation, provided receipt of such privileges poses no threat to the safety, security, or orderly operation of the facility.

- f. A medical professional who orders a detainee removed from the general population shall complete and sign an administrative segregation order (see below) unless the detainee is to stay in the medical department's isolation ward.

2. Administrative Segregation Order

A written order shall be completed and approved by the facility administrator or designee before a detainee is placed in administrative segregation, except when exigent circumstances make such documentation impracticable. In such cases, an order shall be prepared as soon as possible.

- a. The administrative segregation order shall be provided to the detainee within 24 hours of placement in administrative segregation, and its contents communicated to him or her in a language or manner the detainee can understand.
- b. A copy of the administrative segregation order shall be immediately provided to ICE/ERO.
- c. When the detainee is released from administrative segregation, the releasing officer shall indicate the date and time of release on the administrative segregation order. The completed order shall then be included in the detainee's detention file or maintained in a retrievable electronic format.

3. Review of Detainee Status in Administrative Segregation

All facilities shall implement written procedures for the regular placement review of all detainees held in administrative segregation, consistent with the procedures specified below.

- a. A supervisor shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted.
 - 1) The review shall include an interview with the detainee.
 - 2) A written record shall be made of the decision and the justification.
 - 3) If the detainee has been segregated for his or her own protection, but not at the detainee's request, the signature of the facility administrator or assistant facility administrator is required to authorize the detainee's continued placement in administrative segregation.
- b. A supervisor shall conduct an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter, at a minimum.
- c. A copy of the decision and justification in each review shall be given to the detainee unless, in exceptional circumstances, this provision would jeopardize the facility's safety, security, or orderly operations. The detainee shall also be given an opportunity to appeal a review decision to the facility administrator.

- d. After seven consecutive days in administrative segregation, the detainee may exercise the right to appeal the conclusions and recommendations of any review conducted to the facility administrator. The detainee may use any standard form of written communication, to include a detainee request, to file the appeal.
- e. If a detainee has been in administrative segregation for more than 30 days and objects to that status, the facility administrator shall review the case to determine whether that status should continue. This review shall take into account the detainee's views and shall result in a written record of the decision and its justification. A similar review shall take place each 30 days thereafter.

B. Placement in Disciplinary Segregation

To provide detainees in the general population a safe and orderly living environment, facility authorities may discipline anyone whose behavior does not comply with facility rules and regulations. Such discipline may involve temporary confinement in disciplinary segregation, apart from the general population. A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Panel (IDP), or its equivalent, after a hearing in which the detainee has been found to have committed a prohibited act and only when alternative dispositions would inadequately regulate the detainee's behavior.

1. Duration

The maximum sanction is 30 days in disciplinary segregation per incident, except in extraordinary circumstances. After the first 30 days, and each 30 days thereafter, the facility administrator shall send a written justification for the continued segregation to ICE/ERO.

Time served in pre-disciplinary hearing detention shall be deducted from any time ordered by the IDP.

2. Disciplinary Segregation Order

A written order shall be completed and signed by the chair of the IDP (or disciplinary hearing officer) before a detainee is placed into disciplinary segregation.

- a. Prior to a detainee's actual placement in disciplinary segregation, the IDP shall complete the disciplinary segregation order detailing the reasons for placing the detainee in disciplinary segregation. All relevant documentation must be attached to the order.
- b. The completed disciplinary segregation order shall be immediately provided to the detainee and its contents communicated to him or her in a language or manner the detainee can understand, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

- c. When the detainee is released from disciplinary segregation, the releasing officer shall indicate the date and time of release on the disciplinary segregation order. The completed order shall then be included in the detainee's detention file or maintained in a retrievable electronic format.

3. Review of Detainee Status in Disciplinary Segregation

All facilities shall implement written procedures for the regular review of all disciplinary segregation cases, consistent with the following procedures:

- a. A security supervisor, or equivalent, shall interview the detainee and review his or her status in disciplinary segregation every seven days. The review will confirm the detainee is being provided showers, meals, recreation, and other basic necessities, as required by this detention standard.
 - 1) The supervisor may shorten, but not extend, the original sanction.
 - 2) All review documents shall be placed in the detainee's detention file or maintained in a retrievable electronic format.
 - 3) After each formal review, the detainee shall be given a written copy of the reviewing officer's decision and the basis for his or her finding, unless such a copy may result in a compromise of institutional security. If a written copy cannot be delivered, the detainee shall be advised of the decision orally, and the detention file, or retrievable electronic record, shall so note, identifying the reasons why the notice was not provided in writing. The review decision shall be communicated to detainees in a language or manner that they understand.
- b. The facility administrator shall review the status of a detainee in disciplinary segregation after the first 30 days of segregation, and each 30 days thereafter, to determine whether continued detention in disciplinary segregation is warranted.

C. Notifying ICE/ERO of Segregation Placements and Facilitating ICE/ERO Review

1. Extended Segregation Placements

The facility administrator must notify ICE/ERO in writing whenever a detainee has been held continuously in any form of segregation for:

- a. 14 days, or 14 days out of any 21-day period;
- b. 30 days; and
- c. At every 30-day interval thereafter.

2. Immediate Notifications

The facility administrator must notify ICE/ERO in writing as soon as possible, but no later than 72 hours, after the initial placement of a detainee in segregation if:

- a. The detainee has been placed in administrative segregation on the basis of a disability, medical or mental illness, or other special vulnerability, or because the detainee is an alleged victim of a sexual assault, is an identified suicide risk, or is on a hunger strike; or
- b. A detainee placed in segregation for any reason has a mental illness, a serious medical illness, a serious physical disability, or is pregnant or recently had a miscarriage.
- c. For the purposes of this standard, detainees with special vulnerabilities include those:
 - i. Who are known to be suffering from mental illness or serious medical illness;
 - ii. Who have a disability or are elderly, pregnant, or nursing;
 - iii. Who would be susceptible to sexual abuse or assault in the general population;
 - iv. Who would be susceptible to harm in the general population due in part to their sexual orientation or gender identity; or
 - v. Who have been victims – in or out of ICE/ERO custody – of sexual assault, torture, trafficking, or abuse.

3. Updates to Segregation Status

The facility administrator must also notify ICE/ERO in writing whenever a detainee who has been the subject of a prior notification pursuant to this section is subsequently released from segregation.

4. Coordination with ICE/ERO in Reviewing Segregation Placements

The facility administrator shall provide all information and supporting documentation regarding segregation placements as requested by ICE/ERO. The facility administrator shall also coordinate with ICE/ERO in:

- a. considering whether a less restrictive housing or custodial option is appropriate and available, including return to the general population or options to limit isolation while housed in the SMU, such as additional out of cell time and the ability to participate in group activities; and

- b. recommending whether transfer may be appropriate to a hospital or to another facility where the detainee can be housed in the general population or in an environment better suited to the needs of the detainee, such as a facility that has dedicated medical beds in its clinic, a medical observation unit, a facility that has a dedicated protective custody unit, or a facility that has a Special Management Unit with enhanced privileges.

D. Logs and Records

1. Permanent SMU Log

A permanent log shall be maintained in the SMU to record all activities concerning SMU detainees (e.g., meals served, recreational time, visitors, etc.).

The SMU log shall record the detainee's name, A-number, housing location, date admitted, reasons for admission, status review dates, tentative release date (for detainees in disciplinary segregation), the authorizing official, and date released. These logs shall also be used by supervisory staff and other officials to record their visits to the unit.

2. Special Management Housing Unit Record

The Special Management Housing Unit Record or comparable form shall be prepared immediately upon the detainee's placement in the SMU.

- a. The special housing unit officer shall immediately record:
 - 1) Whether the detainee ate, showered, recreated and took any medication; and
 - 2) Any additional information, such as whether the detainee has a medical condition, or has expressed or exhibited suicidal/assaultive ideation, intent, or behavior.
 - 3) The officer that conducts the activity shall print his or her name and sign the record.
- b. The facility medical staff shall sign each individual's record when the medical staff member visits a detainee in the SMU. The housing officer shall initial the record after the medical visits are completed, but no later than the end of the shift.
- c. Upon a detainee's release from the SMU, the releasing officer shall attach that detainee's entire housing unit record to either the administrative segregation order or the disciplinary segregation order and ensure the record's inclusion in the detainee's detention file or retrievable electronic record.

E. Basic Requirements for All Special Management Units

Conditions of confinement are based on the amount of supervision required to control a detainee and to safeguard the detainee, other detainees and facility staff.

In every instance, any exceptions to these requirements shall be:

1. Made only for the purpose of ensuring detainee and facility staff safety and security;
2. Approved by a supervisor (or higher official);
3. On a temporary and situational basis, continued only for as long as it is justified by threat to the safety or security of the facility, its staff, or detainee population; and
4. Documented in the Permanent SMU log and, under circumstances specified later in this detention standard, documented and placed in the detainee's detention file or retrievable electronic record.

When a detainee in an SMU is deprived of any usually authorized items or activity, a report shall be included in the detainee's detention file or retrievable electronic record.

Placement in an SMU does not constitute a valid basis for the use of restraints while in the SMU or during movement around the facility. Consistent with Standard 2.8 "Use of Force and Restraints," restraints should only be used when necessary as a precaution against escape during transfer, for medical reasons (when directed by the medical officer), or to prevent self-injury, injury to others, or serious property damage.

F. Translation/Interpretation Services

Detainees shall be provided translation and/or interpretation services and any necessary communication assistance while in the SMU, to assist with their understanding of the reasons for and conditions of their confinement as well as their rights and responsibilities while in confinement.

G. Special Needs

Detainees in the SMU shall be provided appropriate accommodations and professional assistance for disabilities and/or other special needs (e.g., medical, therapeutic, or mental health treatment), on an equal basis as those in the general population.

H. Cell Condition

Cells and rooms used for purposes of segregation must be well ventilated, adequately lit, appropriately heated/cooled, and maintained in a sanitary condition at all times, consistent with safety and security.

Ordinarily, the number of detainees confined to each cell or room may not exceed the capacity for which it was designed. Under exigent circumstances, before approving any additional cell occupancy on a temporary basis, the facility administrator shall consult with ICE/ERO, who shall consult with ICE/ERO legal counsel. If a decision is made to approve such additional cell occupancy, a report of the action shall be filed with the facility and with the ICE/ERO Field Office Director.

I. Personal Property

Each facility shall issue guidelines in accordance with this standard concerning the property detainees may retain in each type of segregation. Generally, detainees in administrative segregation shall be subject to less stringent personal property restrictions and control than those in disciplinary segregation.

J. Privileges

Each facility shall issue guidelines in accordance with this standard concerning the privileges detainees may have in each type of segregation.

1. Administrative Segregation

Generally, these detainees shall receive the same privileges available to detainees in the general population, consistent with any safety and security considerations for detainees and facility staff.

When space and resources are available, detainees in administrative segregation may be provided opportunities to spend time outside their cells (in addition to the required recreation periods) for such activities as socializing, watching TV and playing board games, and may be assigned to voluntary work details (e.g., as orderlies in the SMU).

2. Disciplinary Segregation

Generally, these detainees shall have fewer privileges than other detainees in either the general population or in administrative segregation. More specifically, they are subject to more stringent personal property control.

K. Close Supervision

SMU staff shall observe and log observations at least every 30 minutes on an irregular schedule. For cases that warrant increased observation, the SMU staff shall observe detainees accordingly.

L. Specialized Training

Security staff assigned to SMU shall receive training in relevant topics, such as:

1. Identifying signs of mental health decompensation;

2. Techniques for appropriate interactions with mentally ill detainees;
3. The impact of isolation; and
4. De-escalation techniques.

M. Health Care

Detainees must be evaluated by a health care professional prior to placement in an SMU (or when that is infeasible, as soon as possible and no later than within 24 hours of placement). The assessment should include a review of whether the detainee has a suspected or diagnosed mental illness, prior suicide attempts or self-harm, or any other special needs.

Health care personnel shall conduct face-to-face medical assessments at least once daily for detainees in an SMU. Where reason for concern exists, assessments shall be followed up with a complete evaluation by a qualified health care or mental health provider, and a treatment plan developed.

Health care visits shall be recorded on the SMU housing record or comparable form. The facility shall provide out-of-cell, confidential assessments and visits for detainees whenever possible, to ensure patient privacy and to eliminate barriers to treatment.

At a minimum of every 30 days, a qualified mental health care provider shall conduct a face-to-face psychological evaluation and record the review.

Detainees with a medical or mental illness, or identified as being a suicide risk or on a hunger strike, shall be removed from segregation if IHSC or facility medical staff determine that the segregation placement has resulted in deterioration of the detainee's medical or mental health, and an appropriate alternative is available.

1. Detainees with Serious Mental Illnesses (SMI)

Detainees with a serious mental illness (SMI), as defined in Standard 4.3 "Medical Care," should not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with an SMI in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an SMU.

The facility shall coordinate with ICE/ERO in seeking alternatives to SMU housing for detainees with an SMI, potentially including transfer to a hospital or to another facility.

For any detainee with an SMI placed in restrictive housing:

- a. Mental health staff shall conduct a mental health consultation within 72 hours of the detainee's placement in restrictive housing;

- b. A multi-disciplinary committee of facility staff, including facility leadership, medical and mental health professionals, and security staff, shall meet weekly to review all detainees with SMI who are in restrictive housing;
- c. At least weekly, a qualified mental health provider shall conduct face-to-face clinical contact with the detainee to monitor the detainee's mental health status, identify signs of deterioration, and recommend additional treatment as appropriate.

The facility shall seek to develop enhanced opportunities for in-cell and out-of-cell therapeutic activities and additional unstructured out-of-cell time for detainees with an SMI, to the extent such activities can be conducted while ensuring the safety of the detainee, staff, and other detainees.

2. Pregnant Detainees

Women who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy should as a general matter not be placed in an SMU. In very rare situations, a woman who is pregnant, is postpartum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in an SMU as a response to behavior that poses a serious and immediate risk of physical harm to self or others, or if the detainee has requested to be placed in protective custody administrative segregation and there are no more appropriate alternatives available. Even in such cases, this decision must be approved by a representative of the detention facility administration, in consultation with a medical professional, and must be reviewed every 48 hours.

N. Meals

Detainees in SMU shall be provided three nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu.

O. Clothing and Personal Hygiene

Detainees in SMU may shave and shower at least three times weekly and receive other basic services—such as laundry, clothing, bedding, and linen—equivalent to general population detainees and consistent with safety and security of the facility.

A detainee may be denied such items as clothing, mattress, bedding, or linens for medical or mental health reasons if his or her possession of such items raises concerns for detainee safety and/or facility security. All denials of such items shall be documented and justified.

P. Correspondence

Detainees in an SMU may write, send, and receive letters and other correspondence in a manner similar to those housed in the facility's general population.

Q. Visitation

Detainees in an SMU ordinarily retain visiting privileges.

Segregated detainees may ordinarily use the visiting room during normal visiting hours. However, the facility may restrict or disallow visits for a detainee who violates visitation rules or whose behavior otherwise indicates the detainee poses a threat to the security or the good order of the visiting room.

R. Legal Visits

Detainees in SMU may not be denied legal visitation. However, the facility administrator or designee may implement security precautions to protect the detainee and visitors and maintain good order. In such cases, staff shall advise legal service providers and assistants of any security concerns.

S. Religious Guidance

Detainees in an SMU shall be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.

T. Legal Materials

Detainees in SMU shall have access to legal materials in accordance with Standard 6.3 “Law Libraries and Legal Materials.”

Detainees may retain all personal legal material upon placement in an SMU, provided such material does not create a safety, security, or sanitation hazard.

Detainees with a large amount of personal legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such legal material shall be accommodated as soon as possible, but in no case more than 24 hours after receipt of the initial detainee request to retrieve documents, except in the event of documented security reasons.

U. Law Library and Legal Rights Group Presentations Access

Detainees housed in administrative segregation or disciplinary segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.

The facility administrator shall notify ICE/ERO every time access to legal materials is denied, with documentation of the denial and the justification placed in the detention file or retrievable electronic record.

V. Recreation

Facilities are encouraged to maximize opportunities for group participation during recreation and other activities, consistent with safety and security considerations. Recreation for certain individuals may occur separate from other detainees when necessary or advisable to prevent assaults and to reduce management problems.

Detainees in the SMU shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least five days per week.

1. When recreation privileges are suspended, the institutional disciplinary panel or facility administrator shall provide the detainee written notification, including the reason(s) for the suspension, any conditions that must be met before restoration of privileges, and the anticipated duration of the suspension (provided the requisite conditions are met for restoration of privileges).
2. Denial of recreation privileges for more than seven days requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.
3. The facility shall notify ICE/ERO in writing when a detainee is denied recreation privileges in excess of seven days.

W. Telephone Access

Detainees in SMU shall have access to telephones in a manner that is consistent with the special safety and security requirements of SMU placement. In general, any detainee in an SMU may be reasonably restricted from using or having access to a phone if that access has been or is likely to be used for criminal purposes, or would endanger any person, or if the detainee damages the equipment provided. In such instances, staff must clearly document why such restrictions are necessary to preserve the safety, security, and good order of the facility. Such documentation shall be placed in the detainee's detention file or be maintained in a retrievable electronic format.

Detainees in disciplinary segregation may be restricted, as part of the disciplinary process, from using telephones to make general calls. However, even in disciplinary segregation, detainees shall have telephone access for family or personal emergencies, and for calls to attorneys, other legal representatives, courts, and government offices as described below.

All detainees, including those in disciplinary segregation, shall be permitted to place calls to attorneys, other legal representatives, courts, and government offices (including the DHS Office of the Inspector General, DHS Office for Civil Rights and Civil Liberties, ICE/OPR Joint Intake Center, and embassies or consulates), according to the facility schedule.