

in an SMU. Where reason for concern exists, a qualified medical, or mental health professional shall conduct a complete evaluation.

8. Detainees with serious mental illness may not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an SMU, if separation from the general population is necessary.
9. The status of detainees in SMUs shall be reviewed by supervisory staff in accordance with required time schedules, and the results of those reviews shall be documented.
10. A detainee shall remain in disciplinary segregation for no more than 30 days per incident, except in extraordinary circumstances, such as incidents involving violations of offenses 100 through 109 listed in the “Greatest” offense category in Appendix 3.1.A, and his/her status shall be reviewed by the facility administrator after the first 30 days and each 30 days thereafter, to determine whether continued detention in disciplinary segregation is warranted.
11. Detainees in SMU shall be afforded basic living conditions that approximate those provided to the general population, consistent with the safety and security considerations that are inherent in more controlled housing, and in consideration of the purpose for which each detainee is segregated.
12. In general, when a detainee in an SMU is deprived of any usually authorized items or activity, a report of the action shall be forwarded to the facility administrator for notice and review.
13. Detainees in SMU shall have regular access to supervisory, management, program and health care staff.
14. Each detainee in an SMU shall be offered individual recreation or appropriate group recreation time, unless documented security, safety, or medical considerations dictate otherwise.
15. Detainees in SMU shall be able to write, send and receive mail and correspondence as they would otherwise be able to do while detained within the general population.
16. Detainees in SMU shall be provided opportunities for general visitation, including legal visitation, unless there are substantial, documented reasons for withholding those privileges.
17. Detainees in SMU shall have access to personal legal materials, law library materials and legal visits, in accordance with provisions in the PBNDS.
18. Detainees in SMU shall have access to telephones, in accordance with provisions in the PBNDS.
19. Detainees in SMU shall have access to programs and services such as commissary, library, religious guidance and recreation, in accordance with provisions in the PBNDS.
20. Detailed records shall be maintained on the circumstances related to a detainee’s confinement to the SMU, through required permanent SMU logs and individual detainee records.
21. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance,

including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Special Management Unit (Administrative Segregation)” and “Special Management Unit (Disciplinary Segregation),” both dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-44 through 2A-66.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.4 Facility Security and Control”;
- “2.6 Hold Rooms in Detention Facilities”;
- “2.10 Searches of Detainees”;
- “2.13 Staff-Detainee Communication”;
- “3.1 Disciplinary System”;
- “4.5 Personal Hygiene”;
- “4.6 Significant Self-harm and Suicide Prevention and Intervention”;
- “5.1 Correspondence and Other Mail”;
- “5.4 Recreation”;

- “5.6 Telephone Access”;
- “5.7 Visitation”; and
- “6.3 Law Libraries and Legal Material.”

“*Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*,” 79 Fed. Reg. 13100 (Mar. 7, 2014).

## V. Expected Practices

### A. Placement in Administrative Segregation

Administrative Segregation status is a nonpunitive 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.

Detainees in administrative segregation shall not be commingled with detainees in disciplinary segregation.

Each facility shall develop and follow written procedures, consistent with this standard, governing the management of its administrative segregation unit. These procedures should be developed in consultation with the Field Office Director having jurisdiction for the facility. These procedures must document detailed reasons for placement of an individual in administrative segregation. Detainees and the Field Office Director (or his designee) must be provided a copy of the administrative segregation order.

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. The facility administrator may delegate to a supervisor the authority to place a detainee in administrative segregation.



## 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. Some examples of incidents warranting 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. Pre-disciplinary hearing detention shall be ordered only as necessary to protect the security and orderly operation of the facility.
  - 1) Pre-disciplinary hearing detention is not to be used as a punitive measure.
  - 2) A detainee who demonstrates good behavior during pre-disciplinary hearing detention should be considered for release to the general population while awaiting his or her disciplinary hearing.
  - 3) Time served in pre-disciplinary hearing detention shall be deducted from any time ordered by the Institution Disciplinary Panel (IDP).
  - 4) Absent compelling circumstances, such as a pending criminal investigation, a detainee should not remain in pre-disciplinary hearing detention for a longer period of time than the maximum term of disciplinary segregation permitted for the most serious offense charged.
- b. A detainee is a threat to the security of the facility. The facility administrator may determine that a detainee's criminal record, past behavior at other institutions, behavior while in ICE/ERO detention, or other evidence is sufficient to warrant placement of the detainee in

administrative segregation.

- 1) As a general matter, a detainee should not be placed directly in administrative segregation as a security threat on the basis of the detainee's misconduct at that detention facility, in the absence of any disciplinary proceedings. Instead, the facility should address the misconduct through the facility's disciplinary processes, and may place the detainee in pre-disciplinary hearing detention pending the outcome of the disciplinary proceedings.
- 2) Continued placement in segregation based on prior behavior should be reviewed at the required intervals, taking into account the detainee's behavior while in segregation. The facility shall continue to consider, in coordination with the Field Office Director where necessary, whether there are more appropriate alternatives to segregation, such as medium- to maximum-security general population housing units either within the facility or elsewhere.
- 3) Copies of records supporting this action shall be attached to the administrative segregation order.
- 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 consider continued placement in protective custody as well as provisions for release from protective custody when appropriate. Frequently, the types of detainees who require this type of treatment include, but are not limited to:
  - 1) victims of detainee assaults;
  - 2) detainee informants or witnesses (e.g., detainees who provide information to institutional staff or any law enforcement agency concerning improper or criminal activities by others);

- 3) sexual predators or other detainees charged with a heinous or notorious crime;
- 4) detainees who have been pressured by other detainees to participate in sexual activity;
- 5) detainees who refuse to enter the general population because of alleged intimidation from other detainees;
- 6) detainees who refuse to return to the general population, but who do not provide the reason for refusal;
- 7) detainees who appear to be in danger of bodily harm;
- 8) detainees who seek protection, claiming to be former law enforcement officers or to have held sensitive law enforcement positions, whether or not there is official information to verify the claim; or
- 9) detainees who request protective custody.

A detainee's age, disability, sex, sexual orientation, gender identity, race, color, national origin, or religion may not provide the sole basis for a decision to place the detainee in involuntary segregation. An individualized assessment must be made in each case.

Use of administrative segregation to protect detainees with special vulnerabilities, including detainees vulnerable to sexual abuse or assault, shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when 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 IDP 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 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, with the detainee's behavior while in disciplinary segregation being taken into account.
- f. 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.
- g. A medical professional who ordered 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. Prior to a detainee's actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a

detainee in administrative segregation.

- b. In an emergency, the detainee's placement in administrative segregation may precede the paperwork, which the facility administrator or designee shall prepare as soon as possible after the detainee's placement.
- c. All memoranda, medical reports and other relevant documents shall be attached to the administrative segregation order.
- d. If the segregation is ordered for protective custody purposes, the order shall state whether the detainee requested the segregation, and whether the detainee requests a hearing concerning the segregation.
- e. The administrative segregation order shall be immediately provided to the detainee in a language or manner the detainee can understand, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

- f. A copy of the administrative segregation order shall also be immediately provided to the Field Office Director or his designee.
- g. The order shall remain on file with the SMU until the detainee is returned to the general population.
- h. When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the administrative segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee's detention file.

### 3. Review of Detainee Status in Administrative Segregation

All facilities shall implement written procedures for the regular 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. The administrative segregation review (Form I-885) shall be used for the review.
  - 3) If the detainee has been segregated for his/her own protection, but not at the detainee's request, the signature of the facility administrator or assistant facility administrator is required on the Form I-885 to authorize the alien's continued detention.
- 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. The review shall include an interview with the detainee, and a written record shall be made of the decision and its justification.
- d. When the reviewing authority concludes that the detainee should be removed from administrative segregation, he/she shall submit that recommendation to the facility administrator (or designee) for approval.
- e. A copy of the decision and justification for 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.

- f. 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, for example, a detainee request, to file the appeal.
- g. 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.

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 currently housed in the facility's SMU. During the meeting, the committee shall review each detainee individually to ensure all staff are aware of the detainee's status, current behavior, and physical and mental health, and to consider whether any change in status is appropriate. Upon the request of the Field Office Director, the facility administrator shall permit ICE/ERO personnel to participate in the weekly meetings, either in person or by teleconference.

## **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 the SMU, apart from the general population. A detainee may be placed in disciplinary segregation only by

order of the 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 may inadequately regulate the detainee's behavior.

### **1. Duration**

The maximum sanction is 30 days in disciplinary segregation per incident, except in extraordinary circumstances, such as incidents involving violations of offense 100 through 109 listed in the "Greatest" offense category in Appendix 3.1.A. After the first 30 days, and each 30 days thereafter, the facility administrator shall send a written justification for the continued segregation to the Field Office Director.

### **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 chairman shall complete the disciplinary segregation order (Form I-883 or equivalent), detailing the reasons for placing a 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 in a language or manner the detainee can understand, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.



The order shall remain on file with the SMU until the detainee is returned to the general population.

- c. When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the disciplinary segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee's detention file.

### 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 the equivalent, shall interview the detainee and review his/her status in disciplinary segregation every seven days to determine whether the detainee:
  - 1) Abides by all rules and regulations; and,
  - 2) Is provided showers, meals, recreation and other basic living standards, as required by this detention standard.
- b. The supervisor shall document his/her findings after every review, by completing a disciplinary segregation review (Form I-887).
  - 1) The supervisor may recommend the detainee's early release from the SMU upon finding that time in disciplinary segregation is no longer necessary to regulate the detainee's behavior.
  - 2) An early-release recommendation must have the facility administrator's approval before the detainee may be returned to the general population. In conducting this review, the facility administrator will consider any request by the detainee to present written evidence or available witnesses. The review shall take into account the detainee's views.
  - 3) The supervisor may shorten, but not extend, the original sanction.

- 4) All review documents shall be placed in the detainee's detention file.

- 5) After each formal review, the detainee shall be given a written copy of the reviewing officer's decision and the basis for his/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 shall so note, identifying the reasons why the notice was not provided in writing.

- c. 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.

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 currently housed in the facility's SMU. During the meeting, the committee shall review each detainee individually to ensure all staff are aware of the detainee's status, current behavior, and physical and mental health, and to consider whether any change in status is appropriate. Upon the request of the Field Office Director, the facility administrator shall permit ICE/ERO personnel to participate in the weekly meetings, either in person or by teleconference.

### C. Notifying ICE of Segregation Placements and Facilitating ICE Review

#### 1. Extended Segregation Placements

The facility administrator must notify the appropriate Field Office Director in writing whenever an ICE detainee has been held continuously in 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 the appropriate Field Office Director in writing as soon as possible, but no later than 72 hours after the initial placement of an ICE 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.

For the purposes of this standard, detainees with special vulnerabilities include those:

- a. Who are known to be suffering from mental illness or serious medical illness;
- b. Who have a disability or are elderly, pregnant, or nursing;
- c. Who would be susceptible to sexual abuse or assault in the general population;
- d. Who would be susceptible to harm in the general population due in part to their sexual orientation or gender identity; or
- e. Who have been victims – in or out of ICE custody – of sexual assault, torture, trafficking, or abuse.

## 3. Updates to Segregation Status

The facility administrator must also notify the appropriate Field Office Director 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 Field Offices in Reviewing Segregation Placements

The facility administrator shall provide all information and supporting documentation regarding segregation placements as requested by the Field Office Director. The facility administrator shall also coordinate with the Field Office Director 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. Visitors' Log

A separate log shall be maintained in the SMU of all

persons visiting the unit. This separate record shall include notation of:

- a. the time and date of the visit, and
- b. any unusual activity or behavior of an individual detainee, with a follow-up memorandum sent through the facility administrator to the detainee's file.

### 3. 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 exhibited suicidal/assaultive behavior.
  - 3) the officer that conducts the activity shall print his/her name and sign the record.
- b. The facility medical officer shall sign each individual's record when he/she 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. A new form must be created for each week the detainee is in the SMU. The completed weekly forms shall be retained at the SMU until the detainee is released from the SMU.
- d. 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 disciplinary segregation order and forward it to the Chief of Security or equivalent for inclusion into the detainee's detention file.

## 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 (i.e., not for purposes of punishment);
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 Unit log and, under circumstances specified later in this detention standard, documented in a memo which shall be placed in the individual detainee's detention file.

When a detainee in an SMU is deprived of any usual authorized items or activity, a report of the action shall be forwarded to the facility administrator for review. This report shall be made part of the detainee's detention file.

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 2.15, restraints should only be used if 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 or interpretation services while in the SMU, to assist with their understanding of the reason and conditions of 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. Control of Contraband and Tools**

In accordance with procedures detailed in standard “2.4 Facility Security and Control,” each facility administrator is required to establish written policy and procedures to control and secure SMU entrances, contraband, tools and food carts.

## **I. Cell Occupancy**

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 Detention Management Division, who shall consult with DHS/ICE 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 Field Office Director.

## **J. 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 in accordance with the standards for general population, consistent with safety and security.

1. All SMU cells must be equipped with beds that are securely fastened to the cell floor or wall. SMU cells must also be conducive to maintaining a safe and secure environment for all detainees, with particular emphasis on allowing for full visibility and appropriate observation by staff and

wherever possible on eliminating potential safety hazards such as sharp edges and anchoring devices.

2. Conditions for close observation in a “dry cell” without water are detailed in standard “2.10 Searches of Detainees.”

## **K. 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 disciplinary segregation shall be subject to more stringent personal property restrictions and control than those in administrative segregation, given the non-punitive nature of administrative segregation.

## **L. 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, facility staff and security.

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 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 including, but not limited to, limitations on



their reading material and television viewing (which may be completely terminated), and restricted commissary or vending machine purchases.

### **M. Close Supervision**

Detainees in SMU shall be personally observed and logged at least every 30 minutes on an irregular schedule. For cases that warrant increased observation, the SMU personnel shall personally observe detainees accordingly. (See also standard “4.6 Significant Self-harm and Suicide Prevention and Intervention” and the “Dry Cells” section in standard “2.10 Searches of Detainees.”)

### **N. Supervisory and Staff Visits**

In addition to the direct supervision performed by unit staff:

1. The shift supervisor shall see each segregated detainee daily, including on weekends and holidays.
2. The facility administrator (or designee) shall visit each SMU daily.
3. Program staff may visit a detainee upon his/her request.

The facility administrator may require other staff to visit each detainee daily.

### **O. Specialized Training**

Assignments of dedicated and specially trained security staff to SMUs permit staff to have both an improved understanding of the nature of the population and a greater familiarity with particular detainees. Interactions with security staff may be the primary human contact regularly afforded to detainees, and positive communications with security staff can reduce violence and are also important to the well-being of segregated detainees. Adequate training and supervision can ensure that all staff assigned to SMUs live up to this principle.

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

1. Identifying signs of mental health decompensation;
2. Techniques for more appropriate interactions with mentally ill detainees;
3. The impact of isolation; and
4. De-escalation techniques.

### **P. Health Care**

Detainees must be evaluated by a medical 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 been previously diagnosed as having a mental illness.

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 medical or mental health professional, and indicated treatment.

Medical visits shall be recorded on the SMU housing record or comparable form, and any action taken shall be documented in a separate logbook. The facility shall provide out-of-cell, confidential psychological assessments and visits for detainees whenever possible, to ensure patient privacy and to eliminate barriers to treatment.

Mental health staff shall conduct a face-to-face psychological review of all detainees in an SMU at least once every 30 days.

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**

Detainees with a serious mental illness, disorder or

condition (SMI), as defined in Standard 4.3 “Medical Care”, may 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, if separation from the general population is necessary.

The facility shall coordinate with the Field Office Director 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:

1. Mental health staff shall conduct a mental health consultation within 72 hours of the detainee’s placement in restrictive housing;
2. A multi-disciplinary committee of facility staff, including facility leadership, medical and mental health professionals, and security staff, shall meet weekly to review the detainee’s placement in restrictive housing;
3. At least weekly, a 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, 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.

## **Q. 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. Deviation from meals served to the general population must be documented, including an explanation as to why SMU did not receive the same meal.

## **R. Clothing and Personal Hygiene**

In accordance with standard “4.5 Personal Hygiene,” detainees in SMU may shave and shower at least three times weekly and receive other basic services such as laundry, hair care, barbering, clothing, bedding and linen equivalent to general population detainees and consistent with safety and security of the facility.

1. As needed, staff shall provide toilet tissue, a wash basin, tooth brush and shaving utensils, and may issue retrievable kits of toilet articles.
2. A detainee may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his/her possession of such items raises concerns for detainee safety and/or facility security.
  - a. All denials of such items shall be documented.
  - b. If a detainee is so disturbed that he/ she is likely to destroy clothing or bedding, or create a disturbance by risking harm to self or others, the medical department shall be notified

immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary.

- c. Extreme detainee behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the detainee's file with the facility, and reported to the Field Office Director to implement necessary efforts to protect and care for the detainee.

## S. Correspondence

In accordance with standard "5.1 Correspondence and Other Mail," 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.

## T. Visitation

In accordance with standard "5.7 Visitation," while in an SMU, a detainee ordinarily retains 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 would be a threat to the security or the good order of the visiting room.

1. Visitation may be restricted or disallowed when a detainee in administrative segregation is charged with, or has been found to have committed a prohibited act related to visiting privileges, or has otherwise acted in a way that would reasonably indicate that he/she would be a threat to the orderliness or security of the visiting room.
2. Under no circumstances may detainees participate in visitation while in restraints. If the detainee's behavior warrants restraints, the visit may not be granted under general population visiting conditions.
3. Where visits are restricted or disallowed, a report

shall be filed with the facility administrator and ICE/ERO, and made part of the detainee's file.

4. Detainees in protective custody, and violent and disruptive detainees, shall not use the visitation room during normal visitation hours. In cases in which a visit would present an unreasonable security risk, visits may be disallowed for a particular detainee.

## U. Legal Visits

In accordance with standard "5.7 Visitation," detainees in SMU may not be denied legal visitation. However, the facility administrator or designee may implement whatever security precautions are necessary 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 as soon as possible.

## V. Religious Guidance

In accordance with standard "5.5 Religious Practices," detainees in an SMU shall be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.

Detainees in an SMU shall be allowed visits by members of the clergy or other religious service providers, upon request, unless the supervisor determines that such a visit presents a safety or security risk or would interfere with the orderly operation of the facility. Violent or uncooperative detainees may be temporarily denied access to religious guidance. Staff shall advise the religious service provider of the detainee's present state of behavior before he/she agrees to visit the detainee.

Each facility shall develop procedures to allow detainees to retain religious items within their possession (e.g., religious wearing apparel, religious headwear, prayer rugs, beads, prayer rocks, medallions) consistent with good security practices. (See also standard "5.5 Religious Practices").

## W. Reading Materials (Non-Legal)



Detainees in SMU shall have access to reading materials, including religious materials, in English, Spanish, and other languages frequently encountered in the facility population. The Recreation Specialist shall offer each detainee soft-bound, reading materials of this type on a rotating basis.

## **X. Legal Materials**

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

Detainees may retain all personal legal material upon admittance to 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.

## **Y. Law Library and Legal Rights Group Presentations Access**

In accordance with standard “6.3 Law Libraries and Legal Material,” 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.

1. Facilities may supervise the library use of a detainee housed in an SMU as warranted by the individual’s behavior. Violent or uncooperative detainees may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in disciplinary segregation.

2. Detainees segregated for protection must be provided access to legal materials. Such detainees may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them, upon request.
3. Denial of access to the law library must be:
  - a. supported by compelling security concerns;
  - b. for the shortest period required for security; and
  - c. fully documented in the SMU housing logbook.

The facility administrator shall notify ICE/ERO every time access is denied, with documentation placed in the detention file.

In accordance with standard “6.4 Legal Rights Group Presentations,” facility staff and/or ICE/ERO shall notify detainees in segregation in advance of legal rights group presentations and provide these detainees an opportunity to attend. Group legal rights presentations shall be open to all detainees, including detainees in SMUs, except when a particular detainee’s attendance may pose a security risk. If a detainee in segregation cannot attend for this reason, designated facility staff shall make alternative arrangements to offer a separate presentation and individual consultation to the detainee, if the detainee or the presenter so requests.

## **Z. Recreation**

Recreation for detainees housed in the SMU shall be separate from the general population.

Facilities are encouraged to maximize opportunities for group participation during recreation and other activities, consistent with safety and security considerations. Recreation for certain individuals shall occur separate from all other detainees when necessary or advisable to prevent assaults and to reduce management problems. In accordance with standard “5.4 Recreation”:

1. Each detainee in the SMU shall receive (or be



offered) access to exercise opportunities and equipment outside the living area and outdoors, unless documented security, safety or medical considerations dictate otherwise.

2. Detainees in the SMU for administrative reasons shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least seven days per week. Detainees in the SMU for disciplinary reasons 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.

*\*\*Detainees in the SMU for administrative reasons shall be offered at least two hours of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise.*

*\*\*Detainees in the SMU for disciplinary reasons shall be offered at least one hour of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise.*

3. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire
4. The recreation privilege shall be denied or suspended only if the detainee's recreational activity may unreasonably endanger safety or security:
  - a. A detainee may be denied recreation privileges only with the facility administrator's written authorization, documenting why the detainee poses an unreasonable risk even when recreating alone. However, when necessary to control an *immediate* situation for reasons of safety and security, SMU staff may deny an instance of recreation, upon verbal approval from the shift supervisor, and shall document the reasons in the unit logbook(s). The supervisor may also require additional written

documentation from the SMU staff for the facility administrator. When a detainee in an SMU is deprived of recreation (or any usual authorized items or activity), a written report of the action shall be forwarded to the facility administrator. Denial of recreation must be evaluated daily by a shift supervisor.

- b. A detainee in disciplinary segregation may temporarily lose recreation privileges upon a disciplinary panel's written determination that he/she poses an unreasonable risk to the facility, himself/herself, or others.
- c. When recreation privileges are suspended, the 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 duration of the suspension provided the requisite conditions are met for its restoration.
- d. The denial of recreation privileges shall be included as part of the regular reviews required for all detainees in SMU status. In accordance with SMU procedures, and using the forms required by this standard, the reviewer(s) shall state, in writing, whether the detainee continues to pose a threat to self, others, or facility security and, if so, why.
- e. 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.
- f. The facility shall notify the Field Office Director in writing when a detainee is denied recreation privileges in excess of seven days.

## AA. Other Programs and Activities

The facility should seek ways to increase the minimum amount of time that detainees in the SMU

spend outside their cells, and to offer enhanced in-cell opportunities. In addition to recreation, out-of-cell time might include opportunities for education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other detainees.

### **BB Telephone Access**

As detailed in standard “5.6 Telephone Access,” detainees in SMU shall have access to telephones in a manner that is consistent with the special safety and security requirements of such units. Detainees shall be permitted to place calls to attorneys, other legal representatives, courts, 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. Any denial of telephone access shall be documented.

In general, any detainee in an SMU may be

reasonably restricted from using or having access to a phone if that access is 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. 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 special purposes.

### **CC. Review of policies**

The facility administrator shall establish a standing committee, consisting of security, medical, and other staff, to regularly evaluate SMU policies and practices, and seek to develop safe and effective alternatives to restrictive housing, as well as enhanced SMU conditions and programs.

## 2.13 Staff-Detainee Communication

### I. Purpose and Scope

This detention standard enhances security, safety and orderly facility operations by encouraging and requiring informal direct and written contact among staff and detainees, as well as informal supervisory observation of living and working conditions.

This standard also requires the posting of hotline informational posters from the Department of Homeland Security (DHS) Office of the Inspector General (OIG).

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall have frequent opportunities for informal contact with facility managerial and supervisory staff and with ICE/ERO Field Office

staff.

2. Facility managerial and supervisory staff and ICE/ERO Field Office staff shall directly observe facility operations and conditions of confinement.
3. Detainees shall be able to submit written questions, requests, grievances and concerns to ICE/ERO staff and receive timely responses.
4. Detainees shall be informed how to directly contact DHS/OIG.
5. Detainee telephone serviceability shall be monitored and documented by ICE staff, and any problems shall be reported immediately.
6. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces the standard on



“Staff-Detainee Communication” dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-05, 2A-06, 2A-12, 5A-03.

## V. Expected Practices

### A. Staff and Detainee Contact

ICE/ERO detainees shall not be restricted from having frequent informal access to and interaction with key facility staff members, as well as key ICE/ERO staff, in a language they can understand. ICE/ERO staff members shall announce their presence when entering a housing unit.

The local supplement to the detainee handbook shall include contact information for the ICE/ERO Field Office and the scheduled hours and days that ICE/ERO staff is available to be contacted by detainees at the facility. The same information shall be posted in the living areas (or “pods”) of the facilities. Posted contact information shall be updated quarterly or more frequently as necessary to reflect changes in ICE/ERO personnel.

### B. Written Detainee Requests to Staff

Detainees may submit written questions, requests, grievances or concerns to ICE/ERO staff, using the detainee request form, a local IGSA form, or a sheet of paper.

Facilities must also allow any ICE/ERO detainee dissatisfied with the facility’s response to file a grievance appeal and communicate directly with ICE/ERO.

Such informal written requests are not intended as a substitute for the more formal process specified in standard “6.2 Grievance System.” However, informal written requests may be used to resolve informal grievances, as described in that standard.

To prepare a written request, a detainee may obtain assistance from another detainee, the housing officer, or other facility staff and may, if he/she chooses, seal the request in an envelope that is clearly addressed with name, title, and/or office to which the request is to be forwarded.

Each facility administrator shall:

- Ensure that adequate supplies of detainee requests forms, envelopes and writing implements are available.
- Have written procedures to promptly route and deliver detainee requests to the appropriate ICE/ERO officials by authorized personnel (not detainees) without reading, altering, or delaying such requests.
- Ensure that the standard operating procedures include provisions to translate detainee requests and staff responses and otherwise accommodate detainees with special assistance needs based on, for example, disability, illiteracy, or limited English proficiency. When language services are needed, the facility should use bilingual staff or qualified interpretation and translation services to communicate with limited English proficient detainees. The facility will provide detainees with disabilities auxiliary aids and services, when such aids and services are needed to ensure effective communication with a detainee with a disability.
- The facility shall provide a secure drop-box for ICE detainees to correspond directly with ICE management. Only ICE personnel shall have access to the drop-box.

#### 1. Response Times

- a. In Facilities with ICE/ERO Onsite Presence  
The ICE/ERO staff member receiving the request shall normally respond in person or in writing as soon as possible and practicable, but no later than within three (3) business days of receipt.



- b. In Facilities without ICE/ERO Onsite Presence  
Each detainee request shall be forwarded to the ICE/ERO office of jurisdiction within two business days and answered as soon as practicable, in person or in writing, but no later than within three business days of receipt. All dates shall be documented.

## 2. Record Keeping and File Maintenance

All requests shall be recorded in a logbook (or electronic logbook) specifically designed for that purpose. At a minimum, the log shall record:

- a. date of receipt;
- b. detainee's name;
- c. detainee's A-number;
- d. detainee's nationality;
- e. name of the staff member who logged the request;
- f. date that the request, with staff response and action, was returned to the detainee;
- g. any other pertinent site-specific information, including detention condition complaints;
- h. specific reasons why the detainee's request is urgent and requires a faster response; and
- i. the date the request was forwarded to ICE/ERO and the date it was returned shall also be recorded.

*A copy of each completed detainee request shall be filed in the detainee's detention file and be retained there for three years at minimum. Copies of confidential requests shall be maintained in the A-file.*

## 3. Detainee Handbook

As required by standard "6.1 Detainee Handbook," each facility's handbook (or supplement) shall advise detainees in a language or manner that they understand of the procedures to submit written questions, requests, or concerns to ICE/ERO staff, as

well as the availability of assistance to prepare such requests.

## C. Monitoring Detainee Telephone Services

Field Office Directors shall ensure that all phones for detainee use are tested at least weekly in accordance with standard "5.6 Telephone Access."

Staff shall report any telephone serviceability problem within 24 hours to the appropriate ICE point of contact.

Staff shall document each serviceability test on a form that has been provided by ERO, and each Field Office shall maintain those forms, organized by month, for three years.

## D. OIG Hotline Informational Posters

DHS/OIG periodically revises a "DHS OIG Hotline" poster which is to be posted in facilities that house ICE/ERO detainees.

1. The chief of the Detention Standards Compliance Unit in the ERO headquarters Detention Management Division is designated as the contact point for coordination with OIG and is responsible for distribution of hotline posters to Field Office Directors.
2. Field Office Directors shall distribute sufficient numbers of the posters to all facilities that house ICE/ERO detainees. Each Field Office shall maintain a master copy from which additional copies may be duplicated as needed.
3. The facility administrator shall ensure that posters are mounted in every housing unit and in appropriate common areas (e.g., recreation areas, dining areas, processing areas).
4. During staff-detainee communication visits, ICE/ERO staff shall verify the presence of posters at designated locations and shall ensure that any missing or destroyed posters are replaced as soon as possible.



## 2.14 Tool Control

### I. Purpose and Scope

This detention standard protects detainees, staff, contractors and volunteers from harm and contributes to orderly facility operations by maintaining control of tools, culinary utensils and medical and dental instruments, equipment and supplies.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs and CDFs.* IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcome

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Tools, maintenance implements, culinary utensils, medical and dental instruments, equipment and supplies (particularly syringes, needles and other sharps) shall be maintained on an inventory, and continually controlled and accounted for to ensure the safe and orderly

operation of the facility.

### III. Standards Affected

This detention standard replaces “Tool Control” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2D-02, 2D-03.

### V. Expected Practices

#### A. Control, Care and Accountability for Tools

1. Prevents their use in escape attempts, as weapons, and in other ways that can be hazardous to individual safety or the good order of the facility.
2. Improves the appearance of shop and construction areas.
3. Helps ensure that tools are in good repair when needed.
4. Reduces costs of tool maintenance and inventory.
5. Holds detainees accountable for tools that have been assigned to them.

#### B. Written Policy and Procedures Required

Each facility administrator shall develop and implement a written tool control system that establishes the following:

1. a staff position responsible for:
  - a. developing and implementing tool control procedures, and
  - b. establishing an inspection system to ensure accountability;



The facility administrator shall delegate these responsibilities to the Chief of Security and shall also assign, in writing, the duties of tool control officer to a staff member of the Facility Maintenance Department;

2. a tool classification system;
3. procedures for marking tools so they are readily identifiable;
4. procedures for storing tools;
5. procedures and schedules for regular inventories of tools;
6. procedures for issuing tools to staff and detainee workers;
7. procedures governing lost tools;
8. procedures for surveying and destroying excess, broken, or worn-out tools; and
9. procedures for inspecting and controlling tools and equipment brought into the facility temporarily (e.g., repair and maintenance workers, sports teams.)

### C. Tool Classification

The facility shall develop and implement a tool classification system.

*Tools are assigned one of two categories:*

1. *restricted (class “R”)—dangerous/hazardous tools; and*
2. *non-restricted—non-hazardous tools.*

*Class “R” tools include:*

1. *tools too dangerous for detainees to handle without constant staff supervision;*
2. *tools to which detainee access is prohibited;*
3. *tools that could facilitate an escape or an escape attempt;*
4. *tools that are useful in making weapons, could double as weapons, or are capable of causing*

*serious bodily harm;*

5. *power hand tools, with or without cords; and*
6. *other tools which are generally hazardous to facility security or personal safety.*

*Examples of restricted tools include:*

1. *metal cutting blades;*
2. *mixing chambers;*
3. *bolt cutters;*
4. *ramset gun and ammunition (stored in armory only);*
5. *diamond-tipped tools;*
6. *core drills;*
7. *drills;*
8. *circular saws; and*
9. *knives and other sharp culinary utensils.*

*The facility administrator shall establish a policy document on facility tool use and storage that includes separate, comprehensive, alphabetical lists of both restricted and non-restricted tools.*

1. *The lists shall indicate which of the listed tools are available on-site, describe them by type, and specify tool sizes.*
2. *The lists shall be kept current by formatting them as attachments to the policy document, and shall be maintained and updated electronically.*
3. *The lists shall be updated and distributed at least quarterly.*

*Tools included in tool sets and tools sized sequentially in standard increments may appear as a single listing. For example:*

- *drill bits, metal/wood 1/32”-7/8”*
- *drill bits, metal/wood 7/16”-7/8”*
- *wrench, comb. box/open end 1/4”-7/16”*
- *wrench, comb. box/open end 7/16”-7/8”*

*When a single set listing is insufficiently clear, each tool must be listed separately—for example, if a facility had a single “wrench, combination box/open end, 1 7/8 inches” but not the smaller or larger sizes; or had several wrenches in different sizes, but without standard size differences.*

#### **D. Daily Removal and Storage of Class “R” Tools**

*Staff shall remove restricted tools from work areas at the end of each workday for safekeeping in a secure tool room, the armory, or the control center.*

#### **E. Acetylene**

*Staff shall:*

- 1. restrict the supply of acetylene entering the facility to the amount needed in a single day; and*
- 2. at the end of each workday, store the used and unused acetylene tanks outside the secured perimeter in accordance with applicable codes, standards and regulations (Occupational Safety and Health Administration’s industrial safety regulations, etc.).*

#### **F. Departmental Responsibilities**

At a minimum, the following departments shall maintain tool inventories:

1. Facility Maintenance Department;
2. Medical Department;
3. Food Service Department;
4. Electronics Shop;
5. Recreation Department; and
6. Armory

*Each department head is responsible for implementing tool control procedures in that department, and the following procedures are specifically required of the facility maintenance department head, health services administrator (HSA), food service manager, electronics technician,*

*recreation specialist and senior firearms instructor:*

- 1. prepare a computer-generated inventory of all class “R” tools in the maintenance restricted-tool room, the medical facility, the food service department, the electronics work area, recreation areas and the armory;*
- 2. post a copy of the class “R” tool inventory with the equipment in a prominent position in the equipment area;*
- 3. submit a second copy of the inventory to the Chief of Security;*
- 4. retain a third copy in the department;*
- 5. review and where necessary revise the class “R” tool inventory on a regular schedule:*
  - a. weekly—food service,*
  - b. monthly—facility maintenance, medical, and*
  - c. quarterly—electronics work area, recreation areas, armory;*
- 6. forward a copy of the inventory report to the facility administrator;*
- 7. report missing tools in accordance with procedures specified below; and*
- 8. include on all inventory sheets the date of issuance/revision.*

#### **G. Tool Identification**

The facility administrator shall establish written procedures for marking tools and making them readily identifiable.

- 1. The tool control officer shall mark every tool in every work location with a symbol signifying its storage location (e.g., “armory,” “control center”). Some tools shall require AMIS bar-coding.*
- 2. Tools too small, fragile, or otherwise susceptible to damage (e.g., surgical instruments, micrometers, small drill bits) shall be inventoried and kept in locked storage when not in use.*

## H. Storage in Work Areas

The facility administrator shall establish written procedures for a tool-storage system that ensures accountability. Commonly used, mounted tools shall be stored so that a tool's disappearance shall not escape attention.

1. *Work-detail supervisors shall account for all tools at the end of every work period.*
2. *Shadow boards shall provide storage for tools that can be mounted, as follows:*
  - a. *one tool per shadow;*
  - b. *tool and shadow identical in size and shape; and*
  - c. *color-coded:*
    - 1) *white backgrounds for all shadow boards*
    - 2) *red shadows for restricted tools*
    - 3) *black shadows for non-restricted tools*
3. *When a tool is removed from the inventory, its shadow shall likewise be removed from the shadow board;*
4. *Shadow boards accessible to detainees shall have expanded-metal covers and shall be locked when not in use;*
5. *All restricted tools shall be secured in a central tool room, isolated from the housing units;*
6. *If maintenance workers are assigned personal shadow boards, the boards must have expanded-metal covers;*
7. *Infrequently used tools may be stored in individual tool cages with shadow boards, secured by hasp and padlock:*
  - a. *they must be included in the regular inventory checks;*
  - b. *a tag shall indicate the tool has been removed from its cage and a sign-in/out board shall indicate area, date, times and user;*

- c. *the staff member responsible shall maintain an inventory sheet in the tool cage and provide a copy to the tool control officer;*
- d. *Tools not adaptable to shadow boards shall be kept in a locked drawer or cabinet;*
- e. *Staff shall not open sterile packs for inventory or any other non-medical reason, except when tampering or theft is suspected, in which case staff shall contact the health services department before opening a pack from which instruments may have been removed. To prevent such incidents, sterile packs shall be stored under lock and key at all times; and*
- f. *Individual toolboxes containing tools used on a daily basis must be secured with hasp and padlock. The individual responsible for the toolbox shall keep an inventory sheet in the toolbox, and the tool control officer shall maintain copies of all such inventory sheets.*

## I. Receipt of Tools

1. *If the warehouse is located outside the secure perimeter, the warehouse shall receive all tool deliveries.*

*If the warehouse is located within the secure perimeter, the facility administrator shall develop site-specific procedures (e.g., storing the tools at the rear sally port until picked up and receipted by the tool control officer). The tool control officer shall immediately place certain tools (e.g., band saw blades, files and all restricted tools) in secure storage.*

2. *New tools shall be issued only after the tool control officer has marked and inventoried them. Inventories that include any portable power tools shall provide brand name, model, size, description and inventory control/AMIS number.*

## J. Tool Inventories

The facility administrator shall schedule and establish procedures for the quarterly inventorying of all



tools. Facilities shall use inventory control number/AMIS bar code labels as necessary.

1. *Inventory maintenance at each work location is the responsibility of the detail supervisor and department head.*
2. *The work detail supervisor or staff member assigned a toolbox shall be accountable for the control of his/her assigned tools on a daily basis.*
3. *Any tool permanently removed from service shall be turned in to the tool control officer for record keeping and safe disposal.*
4. *Tool inventories shall be numbered and posted conspicuously on all corresponding shadow boards, toolboxes and tool kits. While all posted inventories must be accurate, only the master tool inventory sheet in the office of the Chief of Security requires the certifiers' signatures.*
5. *Tools in current use shall be inventoried in accordance with the following schedule:*
  - a. *Annual*

*Once each year at a minimum, the tool control officer and employees responsible for tools shall together inventory all tools/equipment on-site.*

    - 1) *Each inventory-taker shall certify with name, title and identification number the accuracy of that inventory. Certification must be approved by the facility maintenance supervisor and Chief of Security.*
    - 2) *The tool control officer shall provide the Chief of Security a complete set of the separate inventories (e.g., restricted tools, non-restricted tools) referred to as the Master Tool Inventory Sheet.*
  - b. *Quarterly*

*To ensure the accuracy and completeness of current inventory listings and check the condition of shadows and markings, every*

*three months the employees responsible for tools shall conduct verification inventories and initial the appropriate column on the master tool inventory sheet in the Office of the Chief of Security.*

*The Chief of Security shall assign an officer to monitor the quarterly inventories. This officer shall clearly initial the bottom of each form certifying that the records have been checked and all inventories completed.*

#### 6. *Inventory Files*

*The facility administrator's designee shall maintain a separate file folder for each shop or area in which tools are stored.*

- a. *The left side of the folder shall contain the master tool inventory sheet(s).*

*When an addition or deletion is made to the master inventory, the page on which the change is made shall be completely retyped or reprinted and inserted into the master inventory. Staff shall not destroy any of the original pages, but shall move them to the right side of the folder for future reference.*

- b. *The right side of the folder shall also contain documentation including, but not limited to:*

- 1) *lost or missing tool reports;*
- 2) *requests for inventory additions or deletions;*
- 3) *survey requests and reports;*
- 4) *store room requisition forms; and*
- 5) *any other document directly related to site-specific tool control procedures.*

- c. *When the annual inventory is completed, staff shall place the form on the left side of the folder and move the previous year's to the right side. Each folder shall contain the materials for the current year plus the preceding two years, with a divider to separate*

*the annual records.*

**7. Tools Used by Contractors**

*Staff shall conduct an inventory of all contractor tools upon their arrival and departure. The Chief of Security shall establish control procedures, particularly for restricted tools. The Chief of Security, facility maintenance supervisor and construction foreman shall maintain copies of all such inventories and control procedures.*

**8. Tools Purchased from Surplus Property**

*Tools purchased or acquired from surplus property shall be stored in the designated secure storage area. The responsible employee shall maintain a continual inventory of unmarked or excess tools returned to secure storage for issue or reissue. The tool control officer has sole authority to draw tools from this source. Any such tools kept in the tool control officer's storage area shall be registered in a continual inventory.*

**9. Control and Inventory of Certain Items Not Classified as Tools**

*Other items that require strict property management controls, like weapons (other than firearms), chemical agents, restraints, other use-of-force and disturbance control equipment, binoculars, communication equipment and similar items shall be inventoried (with serial numbers), maintained, issued and disposed of in accordance with the procedures for tools established herein.*

*Control, inventory, maintenance and destruction of ICE firearms are governed by the ICE Interim Firearms Policy (7/7/2004).*

**10. Tool and Equipment Accountability**

*All tools and equipment shall be accounted for and documented on a regular basis.*

**K. Issuing Tools**

Each facility shall have procedures in place for the issuance of tools to staff and detainees; security issues of restricted and unrestricted tools; and control of

ladders, extension cords and ropes.

- 1. The Chief of Security shall issue a restricted tool only to the individual who shall be using it.*
- 2. Detainees may use non-restricted tools under intermittent supervision; however, the detail supervisor shall account for all tools at the end of every work period.*
- 3. A metal or plastic chit receipt shall be taken for all tools issued, and when a tool is issued from a shadow board, the receipt chit shall be visible on the shadow board.*
- 4. The facility administrator shall establish site-specific procedures for the control of ladders, extension cords, ropes and hoses, according to the following procedures:*
  - a. all ladders, extension cords, ropes and hoses over three feet long shall be stored in the designated location when not in use;*
  - b. every staff member supervising the use of extension ladder and/or heavy equipment shall have at his/her disposal a portable two-way radio;*
  - c. ladders shall be inventoried and stored by size to facilitate inspection and handling;*
  - d. extension cords must be inventoried and have a metal or plastic tag attached, indicating issue number (by location) and length of cord;*
  - e. extension cords longer than 10 feet shall be classified and handled as Class "R" tools; and*
  - f. in high-rise facilities, electrical cords attached to buffers, vacuum cleaners, etc., may not exceed two feet.*
- 5. Scissors used for in-processing shall be securely tethered to the fixture at which they are used.*
- 6. Issuance of tools from a storage location for a specified project for extended periods requires approval of the Chief of Security. The work detail supervisor shall conduct daily on-site checks of*

*extended-use tools issued from the central tool room, and the facility maintenance supervisor shall conduct such checks monthly at a minimum.*

## **L. Lost Tools**

The facility administrator shall develop and implement procedures governing lost tools, including, verbal and written notification to supervisory officials, addressing detainees with prior access to the tool(s) in question, and documentation and review.

- 1. When a restricted or non-restricted tool is missing or lost, staff shall notify a supervisor immediately and the Chief of Security in writing as soon as possible.*
- 2. When the tool is a restricted (class "R") tool, staff shall inform the shift supervisor orally immediately upon discovering the loss. Any detainee(s) who may have had access to the tool shall be held at the work location pending completion of a thorough search.*
- 3. When a medical department tool or equipment item is missing or lost, staff shall immediately inform the HSA, who shall make the immediate verbal notification to the Chief of Security or shift supervisor and written notification to the facility administrator.*
- 4. The shift supervisor's office shall maintain a lost-tool file, monitor the individual reports for accuracy, ascertain any unusual patterns or occurrences of loss in one or more shops, document search efforts, and send written notification to the Chief of Security.*
- 5. On the day a tool is recovered, staff shall complete the lost or missing tool report and send copies to the Chief of Security and shift supervisor.*
- 6. The facility administrator shall implement quarterly evaluations of lost/missing tool files, reviewing the thoroughness of investigations and*

*efforts to recover tools. Documentation of the quarterly evaluations shall be maintained on the right side of the tool inventory folder for the shop or area concerned.*

## **M. Disposition of Excess Tools**

All broken or worn-out tools shall be surveyed and destroyed in accordance with the written procedures established by the facility administrator.

- 1. The tool control officer or security officer shall implement procedures for storing broken and/or worn-out tools in a secure area, pending survey and disposition.*
- 2. Excess tools not being surveyed shall remain in a designated secure storage area until included in a subsequent survey or returned to use.*
- 3. To maintain tool inventories at the most efficient operating level, staff in every shop and department shall identify and move to a secure storage area all rarely used tools. Bin cards shall account for the tools moved from shop to storage areas.*
- 4. Either the tool control officer or security key control officer shall be responsible for destroying all surveyed tools.*
- 5. The office of the Chief of Security shall maintain records of all tool surveys.*

## **N. Private/Contract Repair and Maintenance Workers**

Before entering or leaving the facility, all visitors, including repair and maintenance workers who are not ICE/ERO or facility employees, shall submit to an inspection and inventory of all tools, tool boxes and equipment that could be used as weapons.

Contractors shall retain a copy of the tool inventory while inside the facility.

*An officer shall accompany non-employee workers in the facility to ensure that security and safety precautions and procedures are followed at all times,*



*including removing tools at the end of each shift.*

*Before a detainee, employee, or contractor may enter a housing unit, the housing officer shall inventory tools and similar items to be carried into that unit*

*and then, before departure from the unit, verify their removal in a second inventory. The housing officer shall immediately report discrepancies to the shift supervisor.*

## 2.15 Use of Force and Restraints

### I. Purpose and Scope

This detention standard authorizes staff to use necessary and reasonable force after all reasonable efforts to otherwise resolve a situation have failed, for protection of all persons; to minimize injury to self, detainees, staff and others; to prevent escape or serious property damage; or to maintain the security and orderly operation of the facility.

Staff shall use only the degree of force necessary to gain control of detainees and, under specified conditions, may use physical restraints to gain control of a dangerous detainee.

This detention standard does not specifically address the use of restraints for medical or mental health purposes, which is addressed by standard “4.3 Medical Care.”

Canine units, where available, may be used for contraband detection, but their use for force, control, or intimidation of detainees is prohibited.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined

in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”):

1. Physical force shall only be used, when both necessary and reasonable,
2. Facilities shall endorse confrontation avoidance as the preferred method for resolving situations, always to be attempted prior to any calculated use of force.
3. Physical force shall only be used to the minimum extent necessary to restore order, protect safety and provide security.
4. Physical force or restraint devices shall not be used as punishment.
5. Restraints shall not be applied without approval in those circumstances for which prior supervisory approval is required.
6. Four/five-point restraints shall be applied only in extreme circumstances and only when other types of restraints have proven ineffective. Advance approval is required, as is prompt notification of and examination by the medical staff. Use of these restraints shall be continued only in accordance with required procedures and documentation.
7. Intermediate force devices shall be used only in circumstances prescribed herein.
8. In each facility, all weapons and related equipment shall be stored securely in designated areas to which only authorized persons have access.
9. In each facility, chemical agents and related security equipment shall be inventoried at least once per month to determine their condition and expiration dates.
10. In each facility, a written record of routine and

emergency distribution of security equipment shall be maintained.

11. An employee shall submit a written report no later than the end of his/her shift when force was used on any detainee for any reason, or if any detainee remains in any type of restraints at the end of that shift. This documentation includes written report of discharge of a firearm and use of less lethal devices to control detainees.
12. Telephonic notification to the Field Office Director shall occur as soon as practicable. Documentation shall be submitted to the Field Office Director within two business days via an ICE-approved form or equivalent, of any use-of-force incident involving an ICE detainee. Appropriate documentation shall be maintained when physical force is used.
13. Canines shall not be used for force, control, or intimidation of detainees.
14. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Use of Force” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2B-01, 2B-02, 2B-03, 2B-04, 2B-05, 2B-06, 2B-07, 2B-08, 2C-01, 2C-02, 2C-06, 7B-15, 7B-16.

ICE Interim “Use of Force Policy” (7/7/2004), as amended or updated.

DHS “Use of Deadly Force Policy” (06/25/2004).

National Enforcement Standard, “Use of Intermediate Force.”

### V. Expected Practices

#### A. Overview

1. Use of force in detention facilities is never used as punishment, is minimized by staff attempts to first gain detainee cooperation, is executed only through approved techniques and devices, and involves only the degree necessary and reasonable to gain control of a detainee or provide for self-defense or defense of a third person.
2. Various levels of force may be necessary and reasonable, depending on the totality of the circumstances.
3. Generally, use of force is either immediate or calculated; calculated force is preferable in most cases as it is most likely to minimize harm to detainees or staff.
4. Use of force may involve physical control and placement of a detainee in secure housing,



and/or the application of various types and degrees of restraint devices.

5. Follow-up (e.g., medical attention), documentation (e.g., audiovisual recording for calculated use of force), reporting and an after-action review are required for each incident involving use of force.

## **B. Principles Governing the Use of Force and Application of Restraints**

1. Instruments of restraint shall be used only 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 property damage. Restraints shall be applied for the least amount of time necessary to achieve the desired behavioral objectives.
2. Under no circumstances shall staff use force or apply restraints to punish a detainee.
3. Staff shall attempt to gain a detainee's willing cooperation before using force.
4. Staff shall use only that amount of force necessary and reasonable to gain control of a detainee.
5. Staff may immediately use restraints, if warranted, to prevent a detainee from harming self or others or from causing serious property damage.
6. Absent one or more of the factors listed above, 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.
7. Detainees subjected to use of force shall be seen by medical staff as soon as possible. If the use of force results in an injury or claim of injury, medical evaluation shall be obtained and appropriate care provided.
8. Facility Administrator approval is required for continued use of restraints, if they are considered necessary, once a detainee is under control.
9. Staff may apply additional restraints to a detainee who continues to resist after staff achieve physical control. If a restrained detainee refuses to move or cannot move because of the restraints, staff may lift and carry the detainee to the appropriate destination. Staff may not use the restraints to lift or carry the detainee. If feasible, an assistive device (e.g., ambulatory chair, gurney) shall be used to help move the restrained detainee.
10. Staff may not remove restraints until the detainee is no longer a danger to himself or others.
11. Staff may not use restraint equipment or devices (e.g., handcuffs):
  - a. on a detainee's neck or face, or in any manner that restricts blood circulation or obstructs the detainee's airways (e.g., mouth, nose, neck, esophagus). See "V. Expected Practices."E below for more information; or
  - b. to cause physical pain or extreme discomfort. While some discomfort may be unavoidable even when restraints are applied properly, examples of prohibited applications include: improperly applied restraints, unnecessarily tight restraints, "hog-tying," and fetal restraints (i.e., cuffed in front with connecting restraint drawn-up to create the fetal position).
12. Staff shall comply with defensive tactics training and the proper application of those techniques.
13. Staff shall monitor all detainees placed in restraints.
14. Documenting, reporting and investigating use-of-force incidents helps prevent unwarranted use of force and protects staff from unfounded allegations of improper or excessive use of force.
15. Calculated use of force requires supervisor pre-authorization and consultation with medical staff to determine if the detainee has medical issues requiring specific precautions.
16. Deadly force may be used only when an officer

has probable cause that the detainee poses an imminent danger of death or serious physical injury to the officer or to another person. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

## C. Use-of-Force Continuum

The Use-of-Force Continuum is a five-level model used to illustrate the levels of force staff may use to gain control of a detainee. The levels are:

1. Staff Presence without Action
2. Verbal Commands
3. Soft Techniques  
Techniques from which there is minimal chance of injury (e.g., grasping, using empty-hand and/or “come-along” holds, using impact weapons for holds, applying pressure to pressure points, using chemical agents).
4. Hard Techniques  
Techniques with which there is a greater possibility of injury (e.g., strikes, throws, “take-downs,” or striking using impact weapons such as expandable batons, straight batons, authorized less-lethal devices and specialty impact weapons).
5. Deadly Force  
The use of any force that is reasonably likely to cause death or serious physical injury. Deadly force does not include force that is not reasonably likely to cause death or serious physical injury, but unexpectedly results in such death or injury.

Staff are trained and required to use only a level of force that is necessary and reasonable to gain control of a detainee; however, the totality of the circumstances may necessitate use of a higher level of force. Staff may have to rapidly escalate or de-escalate through the Use of Force Continuum, depending on the totality of circumstances present.

## D. Training

### 1. General Training

All new officers shall be sufficiently trained during their first year of employment. Through ongoing training (to occur annually at a minimum), all detention facility staff must be made aware of their responsibilities to effectively handle situations involving aggressive detainees.

At a minimum, training shall include:

- a. requirements of this detention standard;
- b. use-of-force continuum, to include use of deadly force;
- c. communication techniques;
- d. cultural diversity;
- e. management of detainees with mental health conditions;
- f. confrontation-avoidance techniques;
- g. approved methods of self-defense and defensive tactics;
- h. forced cell move techniques;
- i. prevention of communicable diseases, particularly precautions to be taken when using force;
- j. application of restraints (progressive and hard);
- k. reporting procedures; and
- l. forced medication procedures.

Staff shall also be advised of the “Prohibited Force Acts and Techniques,” listed below in “Section E” of this standard. Staff shall receive defensive tactics training before being placed in a detainee-contact position.

### 2. Specialized Training

Any officer who is authorized to use an intermediate force device shall be specifically trained and certified to use that device. Training in the use of chemical agents also shall include treatment of individuals exposed to them.

Training shall also cover use of force in special circumstances (detailed below).

All employees who participate in a calculated use-of-force move shall have received prior training.

The employee shall receive training on an annual basis, and documentation of that training shall be maintained in the employee's training record for the duration of his/her employment at the facility. The employee must also maintain certification.

## **E. Prohibited Force Acts and Techniques**

The following acts and techniques are specifically prohibited, unless deadly force would be authorized:

1. Choke holds, carotid control holds and other neck restraints;
2. Using a baton to apply choke or "come-along" holds to the neck area;
3. Intentional baton strikes to the head, face, groin, solar plexus, neck, kidneys, or spinal column;

The following acts and techniques are generally prohibited, unless both necessary and reasonable in the circumstances:

1. Striking a detainee when grasping or pushing him/her would achieve the desired result;
2. Using force against a detainee offering no resistance; and
3. Restraining detainees to fixed objects not designed for restraint.

## **F. Use of Force in Special Circumstances**

Occasionally, after the failure of confrontation-avoidance techniques, staff must make a judgment whether to use higher levels of force with detainees in special circumstances. Except in instances where immediate use of force is necessary, staff shall consult medical staff, in certain cases set forth below, before unilaterally determining a situation sufficiently grave to warrant the use of physical force.

### **1. Restraints on Pregnant Women**

A pregnant woman or woman in post-delivery

recuperation shall not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor and directed by the on-site medical authority. This general prohibition on restraints applies to all pregnant women in the custody of ICE, whether during transport, in a detention facility, or at an outside medical facility. Restraints are never permitted on women who are in active labor or delivery.

Restraints should not be considered as an option, except under the following extraordinary circumstances:

- a. a medical officer has directed the use of restraints for medical reasons;
- b. credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or
- c. reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

In the rare event that one of the above situations applies, medical staff shall determine the safest method and duration for the use of restraints and the least restrictive restraints necessary shall be used.

Even in the extraordinary circumstance when restraints are deemed necessary, no detainee known to be pregnant shall be restrained in a face-down position with four-point restraints, on her back, or in a restraint belt that constricts the area of the pregnancy. All attempts will be made to ensure that the detainee is placed on her left side if she is immobilized.

The use of restraints requires documented approval and guidance from the on-site medical authority. Record-keeping and reporting requirements regarding the medical approval to use restraints shall be consistent with other provisions within these standards, including documentation in the detainee's



A-file, detention and medical file.

## 2. Detainees with Wounds or Cuts

Staff shall wear protective gear when restraining aggressive detainees with open cuts or wounds. If force is necessary, protective gear shall include a full-body shield.

*Aggressive detainees in restraints shall be placed in administrative segregation, and segregated from all other detainees. Such detainees shall remain in a Special Management Unit (SMU) until cleared to return to the general population by the chief immigration enforcement agent and the clinical director, with the facility administrator's approval.*

## 3. Detainees with Special Medical or Mental Health Needs

If a situation arises involving a detainee with special needs, the appropriate medical or mental health staff shall be consulted prior to the calculated use of force. "Detainees with special needs" include detainees with physical, intellectual, and developmental disabilities and detainees with a mental health condition that may impair their ability to understand the situation. Medical staff shall be consulted in circumstances involving special-needs detainees. "Special needs" is defined in Standard 7.5 "Definitions."

## G. Intermediate Force Weapons

In this detention standard, "Intermediate Force Weapons" refers to weapons otherwise known as "non-deadly force weapons," "non-lethal weapons," or "less-than-lethal weapons."

### 1. Storage

Ordinarily, when not actually in use, intermediate force weapons and related equipment are permitted only in designated areas:

- a. where access is limited to authorized personnel, and
- b. to which detainees and non-authorized personnel

have no access.

If such equipment is kept in an SMU, staff shall store and maintain it under the same conditions as Class "A" tools. If an SMU lacks appropriate secure space, the equipment must be kept in a secure location elsewhere in the facility.

## 2. Recordkeeping and Maintenance

Each facility shall maintain a written record of routine and emergency distribution of security equipment and shall specifically designate and incorporate, in one or more post orders, responsibility for staff to inventory chemical agents and related security equipment at least monthly to determine their condition and expiration dates.

### 3. Use

The facility administrator may authorize the use of intermediate force weapons if a detainee:

- a. is armed and/or barricaded; or
- b. cannot be approached without danger to self or others; and
- c. a delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.

Staff shall consult medical staff as practicable, before using pepper spray or other intermediate force weapons unless escalating tension makes such action unavoidable. When possible, medical staff shall review the detainee's medical file for a disease or condition that an intermediate force weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy or congestive heart failure.

In the use-of-force continuum, the collapsible steel baton authorized below is an "impact weapon" that is considered:

- a. a "soft" technique when used during "come-

along” or to apply gradual pressure for compliance, or

- b. a “hard” technique when used for striking.

As with any use of force, staff using an impact weapon shall choose the appropriate level as required by the totality of circumstances, and its use must be discontinued when adequate control of a detainee has been achieved.

#### **4. Authorized Intermediate Force Devices**

The following devices are authorized:

- a. oleoresin capsicum (OC) spray (“pepper spray”);
- b. collapsible steel baton;
- c. a 36” straight, or riot, baton; and
- d. ICE authorized chemical and impact munitions

#### **5. Unauthorized Force Devices**

The following devices are not authorized:

- a. saps, blackjacks and sap gloves;
- b. mace, CN, tear gas, or other chemical agents, except OC spray;
- c. homemade devices or tools; and
- d. any other device or tool not issued or approved by ICE/ERO.

#### **H. Immediate use of force**

An “immediate-use-of-force” situation is created when a detainee’s behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor’s direction or presence.

Upon gaining control of the detainee, staff shall seek the assistance of qualified health personnel to immediately:

- 1. Determine if the detainee or facility staff requires continuing care and, if so, make the necessary arrangements. Continuing care may involve such

measures as admission to the facility hospital.

- 2. Examine the detainee and immediately treat any injuries. The medical services provided and diagnosed injuries shall be documented.
- 3. Examine any involved staff member who reports an injury and, if necessary, provide initial emergency care. The examination shall be documented.
- 4. A written report shall be provided to the shift supervisor by each officer involved in the use of force by the end of the officer’s shift.

The shift supervisor shall provide a written report to the facility administrator or designee no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

#### **I. Calculated Use of Force and/or Application of Restraints**

If a detainee is in a location where there is no immediate threat to the detainee or others (for example, a locked cell or range), staff shall take the time to assess the possibility of resolving the situation without resorting to force.

A calculated use of force needs to be authorized in advance by the facility administrator (or designee).

Medical staff shall review the detainee’s medical file for a disease or condition that an intermediate force weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy, or congestive heart failure.

Calculated use of force is feasible and preferred to immediate use of force in most cases and is appropriate when the detainee is in a location where the detainee poses no immediate threat of harm, even if the detainee is verbalizing threats or brandishing a weapon, provided staff sees no immediate danger of the detainee’s causing harm to

himself or others. Calculated use of force affords staff time to strategize and resolve situations in the least confrontational manner and assist to de-escalate the situation.

### **1. Confrontation Avoidance**

Before authorizing the calculated use of force, the on-site ranking detention official, a designated health professional and others as appropriate shall assess the situation. Taking into account the detainee's history and the circumstances of the immediate situation, they shall determine the appropriateness of using force.

The conferring staff may consider in their assessment the detainee's medical/mental history, recent incident reports involving the detainee, if any, and emotional shocks or traumas that may be contributing to the detainee's state of mind (e.g., a pending criminal prosecution or sentencing, divorce, illness, death).

Interviewing staff familiar with the detainee might yield insight into the detainee's current agitation or even pinpoint the immediate cause. Such interviews may also help identify those who have established rapport with the detainee or whose personalities suggest they might be able to reason with the detainee.

### **2. Documentation and Audiovisual Recording**

While ICE/ERO requires that all use-of-force incidents be documented and forwarded to ICE/ERO for review, for calculated use of force, it is required that the entire incident be audio visually recorded. The facility administrator or designee is responsible for ensuring that use of force incidents are audio visually recorded. Staff shall be trained in the operation of audiovisual recording equipment. There shall be a sufficient number of cameras appropriately located and maintained in the facility. The audiovisual record and accompanying documentation shall be included in the investigation package for the after-action review described below.

Calculated use-of-force incidents shall be audio visually-recorded in the following order:

- a. Introduction by team leader stating facility name, location, time, date, etc., describing the incident that led to the calculated use of force, and naming the audiovisual camera operator and other staff present.
- b. Faces of all team members shall briefly appear (with helmets removed and heads uncovered), one at a time, identified by name and title.
- c. Team Leader offers the detainee a last chance to cooperate before team action, outlines the use-of-force procedures, engages in confrontation avoidance and issues use-of-force order.
- d. Record entire use-of-force team operation, unedited, until the detainee is in restraints.
- e. Take close-ups of the detainee's body during a medical exam, focusing on the presence/absence of injuries. Staff injuries, if any, are to be described but not shown.
- f. Debrief the incident with a full discussion/analysis/assessment of the incident.

### **3. Use-of-Force Team Technique**

When a detainee must be forcibly moved and/or restrained during a calculated use of force, staff shall use the use-of-force team technique to prevent or diminish injury to staff and detainees and exposure to communicable disease. The technique usually involves five or more trained staff members clothed in protective gear, including helmet with face shield, jumpsuit, stab-resistant vest, gloves and forearm protectors. Team members enter the detainee's area together and have coordinated responsibility for achieving immediate control of the detainee.

- a. Staff shall be trained in the use-of-force team technique in sufficient numbers for teams to be quickly convened on all shifts in different locations throughout the facility. To use staff resources most effectively, the facility



administrator shall provide use-of-force team technique training for all staff members who could potentially participate in a calculated use of force.

- b. The use-of-force team technique training shall include the technique, its application, confrontation-avoidance, professionalism and debriefing.
- c. Training shall also address the use of protective clothing and handling of spilled blood and body fluids.
  - 1) Use-of-force team members and others participating in a calculated use of force shall wear protective gear, taking particular precautions when entering a cell or area where blood or other body fluids could be present.
  - 2) Staff members with a skin disease or skin injury shall not participate in a calculated use-of-force action.
- d. The shift supervisor or another supervisor on duty:
  - 1) must be on the scene prior to any calculated use of force to direct the operation and continuously monitor staff compliance with policy and procedure;
  - 2) shall not participate except to prevent impending staff injury;
  - 3) shall seek the advance guidance of qualified health personnel (based on a review of the detainee's medical record) to identify physical or mental issues and, whenever feasible, arrange for a health services professional to be present to observe and immediately treat any injuries;
  - 4) shall exclude from the use-of-force team any staff member involved in the incident precipitating the need for force; and
  - 5) may expand the use-of-force team to include staff with specific skills (e.g., those who

handle chemical agents).

- e. When restraints are necessary, the team shall choose ambulatory or progressive models (described later in this document) and may resort to four/five-point restraints only if the less restrictive devices prove ineffective.
- f. The supervisor shall provide a written report to the facility administrator or designee, no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

## **J. Evidence Protection and Sanitation**

The supervisor shall inspect areas of blood or other body-fluid spillage after a use-of-force incident. Unless the supervisor determines that the spillage must be preserved as evidence, as specified under standard “2.3 Contraband,” staff or properly trained detainees shall immediately sanitize those areas, based on medical department guidance on appropriate cleaning solutions and their use. Standard “1.2 Environmental Health and Safety” provides detailed guidance for cleaning areas with blood and other body fluid spills.

Standard sanitation procedures shall be followed in areas with blood or other body fluid spillage. Wearing the appropriate protective gear, staff and/or detainees shall immediately apply disinfectant to sanitize surfaces such as walls and floors, furniture, etc. Articles of clothing and use-of-force equipment contaminated with body fluids shall likewise be disinfected or destroyed as needed and appropriate.

## **K. Maintaining Audiovisual Recording Equipment and Records**

Staff shall store and maintain audiovisual recording equipment under the same conditions as “restricted” tools. The equipment must be kept in a secure location elsewhere in the facility.

Since audiovisual recording equipment must often be readily available, each facility administrator shall

designate and incorporate in one or more post orders responsibility for:

1. maintaining cameras and other audiovisual equipment;
2. regularly scheduled and documented testing to ensure all parts, including batteries, are in working order; and
3. keeping back-up supplies on hand (e.g., batteries, tapes or other recording media, lens cleaners).

Each audiovisual record shall be catalogued and preserved until no longer needed, but shall be kept no less than six years after its last documented use. In the event of litigation, the facility shall retain the relevant audiovisual record a minimum of six months after the litigation has concluded or been resolved.

*\*\*The relevant audiovisual record shall be retained by the facility for one year after litigation or any investigation has concluded or been resolved.*

The audiovisual records may be catalogued electronically or on 3" x 5" index cards, provided that the data can be searched by date and detainee name. A log shall document audiovisual record usage.

Use-of-force audiovisual records shall be available for supervisory, Field Office and ICE/ERO headquarters incident reviews and may also be used for training.

Release of use-of-force audiovisual recordings to the news media may occur only if authorized by the Director of Enforcement and Removal Operations, in accordance with ICE/ERO procedures and rules of accountability.

## L. Approved Restraint Equipment

The following restraint equipment is authorized:

1. handcuffs: stainless steel, 10 oz.;
2. leg irons: stainless steel and must meet the National Institute of Justice standard;

3. martin chain;
4. waist or belly chain: case-hardened chains with a minimum breaking strength of approximately 800 pounds;
5. handcuff cover: cases for the security of handcuffs used on high security detainees;
6. soft restraints: nylon/leather type with soft arm and leg cuffs containing soft belts with key locks;
7. plastic cuffs: disposable; and
8. any other ICE/ERO-approved restraint device.

Deviations from this list of restraint equipment are strictly prohibited.

## M. Ambulatory and Progressive Restraints

When sufficient for protection and control of a detainee, staff shall apply ambulatory restraints, which are soft and hard equipment that provides freedom of movement sufficient for eating, drinking and other basic needs without staff assistance or intervention;

If ambulatory restraints are insufficient to protect and control a detainee, staff may apply progressive restraints, which are more secure or restrictive. The facility administrator shall decide on the appropriate restraint method, i.e., hard restraints with/without waist chain or belt; four/five-point soft restraints with hard restraints to secure the detainee to a bed; four/five-point hard restraints, etc.

In situations involving a highly assaultive and aggressive detainee, progressive restraints may be needed as an intermediate measure while placing a detainee in, or removing a detainee from, four/five-point restraints.

Once a detainee has been placed in ambulatory restraints, the shift supervisor is required to conduct a physical check of the detainee once every two hours to determine if the detainee has stopped the behavior which required the restraints and thus restraints are no longer necessary. Once a positive

behavioral change has been achieved, a decision to remove the restraints or place the detainee in less restrictive restraints shall be made. If this has not been achieved, the shift supervisor shall document the reason for continuance of the ambulatory restraints.

The supervisor shall provide a written report to the facility administrator no later than the end of the tour of duty when any detainee remains in restraints at the end that shift.

## **N. Four/Five-Point Restraints**

### **1. General Requirements**

When four/five-point restraints are necessary, staff shall:

- a. Use soft restraints (e.g., vinyl), unless they:
  - 1) were previously ineffective with this detainee, or
  - 2) proved ineffective in the current instance.
- b. Provide the detainee with temperature-appropriate clothing and a bed, mattress, sheet, and/or blanket. Under no circumstance shall a detainee remain naked or without cover (sheet or blanket) unless deemed necessary by qualified health personnel.
- c. Check and record the detainee's condition at least every 15 minutes to ensure that the restraints are not hampering circulation and to monitor the general welfare of the detainee. If the detainee is confined by bed restraints, staff shall periodically rotate the detainee's position to prevent soreness or stiffness.
- d. All facilities shall document all checks of detainees in four/five point restraints every 15 minutes.  
Staff shall use the SMU logbook to record each 15-minute check of detainees in four/five-point restraints. Documentation shall continue until restraints are removed. The shift supervisor shall be immediately notified if the detainee is calm, to

permit re-evaluation of the use of restraints.

### **2. Medical Staff**

A health professional shall test the detainee's breathing, other vital signs and physical and verbal responses. If the detainee is bed-restrained, the health professional shall determine how the detainee must be placed. Qualified health personnel are required to visit the detainee at least twice per eight-hour shift. When qualified health personnel are not immediately available, staff shall place the detainee in a "face-up" position until the medical evaluation can be completed. Medical checks shall be documented. Mental health assessments shall be conducted by a qualified health professional when restraints are utilized for more than eight hours. In such instances, detainees should also be assessed by a qualified mental health professional as soon as possible.

### **3. Shift Supervisor**

The shift supervisor shall be responsible for the following:

- a. The shift supervisor shall review a detainee in four/five-point restraints every two hours. If the detainee has calmed down and restraints are no longer necessary, they may be removed and, if appropriate, replaced by a less restrictive device.
- b. At every two-hour review, the detainee shall be afforded the opportunity to use the toilet, unless the detainee actively resists or becomes combative when released from restraints for this purpose.
- c. The decision to release the detainee or apply less restrictive restraints shall not be delegated below the shift supervisor's level. The shift supervisor may seek advice from mental or medical health professionals about when to remove the restraints.

The shift supervisor shall document each two-hour review in the SMU logbook.

### **4. Facility Administrator**



- a. When any detainee is restrained for more than eight hours, the facility administrator shall telephonically notify the Assistant Field Office Director and provide updates every eight hours until the restraints are removed.
- b. The facility administrator shall provide the Field Office Director with written documentation of the reason(s) for placing the detainee in four/five-point restraints, regardless of duration, on the following workday.

## 0. Documentation of Use of Force and Application of Restraints

Staff shall prepare detailed documentation of all incidents involving use of force, including chemical agents, or intermediate force weapons. Staff shall also document the use of restraints on a detainee who becomes violent or displays signs of imminent violence. A copy of the report shall be placed in the detainee's detention file.

### 1. Report of Incident

Facilities shall promptly notify FODs of all uses of force involving:

- 1) Intermediate force devices, including:
  - a) Pepper spray or other chemical agents
  - b) Batons
  - c) Impact munitions
  - d) Tasers
- 2) Other hard control techniques, such as:
  - a) Strikes, kicks or punches
  - b) Throws or "take-downs"
- 3) Deadly force (i.e., any use of force that is reasonably likely to cause death or serious physical injury)
- 4) Use of Progressive (i.e., Four-Point and Five-Point) Restraints

Notifications are typically not necessary for:

- 1) Soft techniques, such as grasping and empty-hand holds
- 2) Use of ambulatory restraints.

Note that PBNDS requires that detainees placed in ambulatory restraints be checked every two hours, with written reports to the facility administrator at the end of each shift. Accordingly, use of ambulatory restraints for periods that exceed 36 hours require notification to the Field Office.

### 2. Use of Force Form

All facilities shall have an ICE/ERO-approved form to document all uses of force.

Within two working days, copies of the report shall be placed in the detainee's A-File and sent to the Field Office Director.

A report is not necessary for the general use of restraints (for example, the routine movement or transfer of detainees).

Staff shall prepare a use of force form for each incident involving use of force. The report shall identify the detainee(s), staff and others involved and describe the incident. If intermediate force weapons are used (e.g. collapsible steel baton or 36-inch straight (riot) baton), the location of the strikes must be reported on the use of force form. Each staff member shall complete a memorandum for the record to be attached to the original Use of Force form. The report, accompanied by the corresponding medical report(s), must be submitted to the facility administrator by the end of the shift during which the incident occurred.

### 3. Audiovisual Recording Use-of-Force Incidents

Staff shall immediately obtain an audiovisual camera to record any calculated use of force incident, unless such a delay in bringing the situation under control would constitute a serious hazard to the detainee, staff, or others, or would result in a major disturbance or serious property damage.

The facility administrator shall review the

audiovisual recording within four working days of the incident and shall then send the Field Office Director a copy for review. The Field Office Director shall forward audiovisual recordings of questionable or inappropriate cases to the Deputy Assistant Director, Detention Management Division, for further review.

When an immediate threat to the safety of the detainee, other persons, or property makes a delayed response impracticable, staff shall activate a video camera and start recording the incident as quickly as possible. After regaining control of the situation, staff shall follow the procedures applicable to calculated use-of-force incidents.

#### 4. Recordkeeping

All facilities shall assign a designated individual to maintain all use-of-force documentation.

The designated individual shall maintain all use of force documentation, including the audiovisual record and the original after-action review form for a minimum of six years. A separate file shall be established on each use of force incident.

### P. After-Action Review of Use of Force and Application of Restraints

#### 1. Written Procedures Required

All facilities shall have ICE/ERO-approved written procedures for after-action review of use of force incidents (immediate or calculated) and applications of restraints. The primary purpose of an after-action review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions.

All facilities shall model their incident review process after ICE/ERO's process and submit it to ICE/ERO for ERO review and approval. The process must meet or exceed the requirements of ICE/ERO's process.

#### 2. Medical Evaluation

When any use of force resulting in an injury or

claim of injury occurs, the staff member must immediately prepare an incident report. The detainee will be referred immediately to medical staff for an examination. A copy of the staff member's incident report will be forwarded to medical and to ICE/ERO.

#### 3. Composition of an After-Action Review Team

*The facility administrator, the assistant facility administrator, the Field Office Director's designee and the health services administrator (HSA) shall conduct the after-action review. This four-member after-action review team shall convene on the workday after the incident. The after-action review team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an after-action report to record the nature of its review and findings. The after-action report is due within two workdays of the detainee's release from restraints.*

#### 4. Review of Audiovisual Recording

The after-action review team shall also review the audiovisual recording of any use-of-force incidents for compliance with all provisions of this standard, with particular attention paid to:

- a. whether the use-of-force team technique was exercised properly;
- b. the professionalism of the shift supervisor;
- c. adherence to the requirement of wearing prescribed protective gear;
- d. ensuring that unauthorized items, equipment or devices (e.g., towels, tape, surgical masks, hosiery) were not used;
- e. whether team members applied only as much force as necessary to subdue the detainee, including whether team members responded appropriately to a subdued or cooperative detainee or a detainee who discontinued his/her violent behavior;
- f. whether the shift supervisor was clearly in charge

of team and situation. This includes intervention at the first sign of one or more team members applying more force than necessary;

- g. whether the detainee received and rejected the opportunity to submit to restraints voluntarily before the team entered the cell/area. If he/she submitted, team action should not have been necessary;
- h. whether team members exerted more pressure than necessary to the detainee's thorax (chest and back), throat, head and extremities when applying restraints;
- i. the amount of time needed to restrain the detainee. Any non-resisting detainee restrained for longer than necessary could indicate training problems/ inadequacies;
- j. whether team members wore protective gear inside the cell/area until the operation was completed;
- k. whether there was continuous audiovisual coverage from the time the camera started recording until the incident concluded. The review team shall investigate any breaks or sequences missing from the audiovisual record;
- l. whether a medical professional promptly examined the detainee, with the findings reported on the audiovisual record;
- m. whether use of chemical agents, pepper spray, etc., was appropriate and in accordance with written procedures;
- n. whether team member(s) addressed derogatory, demeaning, taunting, or otherwise inappropriate/inflammatory remarks made to detainee or person(s) outside the cell or area; and

- o. if the incident review reveals a violation of ICE/ERO policy or procedures, the after-action review team shall then determine whether the situation called for improvised action and, if so, whether the action taken was reasonable and appropriate under the circumstances.

The after-action review team shall complete and submit its after-action review report to the facility administrator within two workdays of the detainee's release from restraints. The facility administrator shall review and sign the report, acknowledging its finding that the use of force was appropriate or inappropriate.

#### **5. Report of Findings to Field Office Director**

Within two workdays of the after-action review team's submission of its determination, the facility administrator shall report with the details and findings of appropriate or inappropriate use of force, by memorandum, to the Field Office Director and whether he/she concurs with the finding. Included in the report shall be consideration of the following: whether proper reporting procedures were followed; in the event of five point restraints, whether checks were made and logged at the appropriate times; and whether appropriate medical care was provided once the situation was under control.

#### **6. Further Investigation**

The review team's investigative report will be forwarded to the Field Office Director for review. The Field Office Director will determine whether the incident shall be referred to the Office of Professional Responsibility, the Department of Homeland Security, Office of the Inspector General or the Federal Bureau of Investigation.



## 3.1 Disciplinary System

### I. Purpose and Scope

This detention standard promotes a safe and orderly living environment for detainees by establishing a fair and equitable disciplinary system, requiring detainees to comply with facility rules and regulations, and imposing disciplinary sanctions to those who do not comply.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall be informed of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.
2. Each facility shall have graduated severity scales of prohibited acts and disciplinary consequences.
3. Disciplinary segregation shall only be ordered when alternative dispositions may inadequately regulate the detainee’s behavior.
4. Where permitted by facility policy, staff shall informally settle minor transgressions through mutual consent, whenever possible.
5. Staff who have reason to suspect that a detainee has engaged in a prohibited act or who witness a prohibited act that cannot or should not be resolved informally, shall prepare a clear, concise and complete Incident Report.
6. Each Incident Report shall be objectively and impartially investigated and reported, ordinarily by a person of supervisory rank.
7. A serious incident that may constitute a criminal act shall be referred to the proper investigative agency as appropriate, and administrative investigations shall be suspended pending the outcome of that referral.
8. At each step of the disciplinary and appeal process, the detainee shall be advised in writing of his/her rights in a language he/she understands, and translation or interpretation services shall be provided as needed.
9. When a detainee has a diagnosed mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to the detainee’s competence to participate in the disciplinary hearing, any impact the detainee’s mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior.
10. A Unit Disciplinary Committee (UDC) shall further investigate and adjudicate the incident and may impose minor sanctions or refer the matter to a higher level disciplinary panel.
11. An Institution Disciplinary Panel (IDP) shall

conduct formal hearings on Incident Reports referred from investigations or UDCs and may impose higher level sanctions for “greatest” and “high” level prohibited acts.

12. Detainees before the IDP shall be afforded a staff representative, upon request, or automatically if the detainee is illiterate, has limited English language skills or otherwise needs special assistance.
13. Actions of the IDP shall be reviewed by the facility administrator, who may concur with the findings and sanctions or modify them.
14. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
15. All steps of the disciplinary process shall be performed within the required time limits.
16. At all steps of the disciplinary process, accurate and complete records shall be maintained. The detainee shall receive copies of all reports, exhibits and other documents considered or generated in the hearing process, except insofar as the disclosure of such documents may pose an imminent threat to the safety, security and orderly conduct of the facility staff or other detainees, or if the document or other evidence is otherwise protected from disclosure.
17. If a detainee is found not guilty at any stage of the disciplinary process, the incident records shall not be placed or retained in the detainee’s file, even if these records are retained elsewhere for statistical or historical purposes.
18. Detainees shall be allowed to appeal disciplinary decisions through a formal grievance system. No staff member shall harass, discipline, punish or otherwise retaliate against any detainee for filing a complaint or grievance.
19. Detainees shall be afforded rights including, but

not limited to, the following: the right to protection from abuse; the right to freedom from discrimination; the right to pursue a grievance; the right to correspond with persons or organizations; and the right to due process.

20. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Disciplinary Policy” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-3A-01, 3A-02, 6B-05, 6C-01 through 6C-19.

## V. Expected Practices

### A. Guidelines

1. Detainees with limited English proficiency (LEP) shall receive translation or interpretation services, and detainees with disabilities shall receive appropriate accommodations in order to meaningfully participate in the investigative, disciplinary, and appeal process.
2. Each facility holding ICE/ERO detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures and documentation procedures. Written disciplinary policy and procedures shall clearly define detainee rights and responsibilities. The policy, procedures and rules shall be reviewed annually at a minimum.
3. Disciplinary action may not be capricious or retaliatory nor based on race, religion, national origin, gender, sexual orientation, disability or political beliefs.
4. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
5. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deprivation of food services, to include use of Nutraloaf or “food loaf”; deprivation of clothing, bedding or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal access and legal materials; or deprivation of indoor or outdoor recreation, unless such activity would create a documented unsafe condition within the facility. Any sanction imposed shall be approved by the facility administrator and reviewed by the Field Office Director.
6. When a detainee has a diagnosed mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to the detainee’s competence to participate in the disciplinary hearing, any impact the detainee’s mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior.
7. The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between “right” and “wrong.” Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for his/her “wrongful” actions.
8. If a detainee has a mental disability or mental illness but is competent, the disciplinary process shall consider whether the detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. A mental health professional should also be consulted as to whether certain types of sanctions, (e.g., placement in disciplinary segregation, loss of visits, or loss of phone calls) may be inappropriate because they would interfere with supports that are a part of the detainee’s treatment or recovery plan.
9. A person who cannot assist in his/her own defense because he/she lacks the ability to understand the nature of the disciplinary proceedings, as determined by a medical authority, shall be considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his/her



own defense. If the detainee's mental status does not improve within a reasonable amount of time, the officer must find the detainee incompetent to assist in his/her own defense, and note such finding on the Incident Report.

## B. Notice to Detainees

The detainee handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the handbook:

1. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage and harassment;
2. The right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs;
3. The right to pursue a grievance in accordance with procedures provided in the detainee handbook, without fear of retaliation;
4. The right to pursue a grievance in accordance with standard "6.2 Grievance System" and procedures provided in the detainee handbook.
5. The right to correspond with persons or organizations, consistent with safety, security and the orderly operation of the facility; and
6. The right to due process, including the prompt resolution of a disciplinary matter.

Copies of the rules of conduct, rights and disciplinary sanctions shall be provided to all detainees and posted in English, Spanish, and other languages spoken by significant segments of the population with limited English proficiency. Copies to be provided and posted are as follows:

1. Disciplinary Severity Scale;
2. Prohibited Acts; and
3. Sanctions.

## C. Disciplinary Severity Scale and Prohibited Acts

All facilities shall have graduated scales of offenses and disciplinary consequences as provided in this section.

*Prohibited acts are divided into four categories: "greatest," "high," "moderate" and "low moderate." The sanctions authorized for each category shall be imposed only if the detainee is found to have committed a prohibited act (see "Appendix 3.1.A: Offense Categories").*

### 1. Greatest Offenses

*The IDP shall impose and execute at least one sanction in the 1 through 5 range. Additional sanctions may be imposed and either executed or suspended, at the discretion of the panel.*

### 2. High Offenses

*The IDP shall impose and execute at least one sanction in the 1 through 12 range. Additional sanctions (1 through 12) may be imposed or may be suspended at the discretion of the panel.*

### 3. High Moderate Offenses

*The IDP shall impose at least one sanction in the 1 through 13 range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the 7 through 13 range, but may suspend any or all, once imposed.*

### 4. Low Moderate Offenses

*The IDP shall impose at least one sanction in the 1 through 9 range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the 3 through 9 range, but may suspend any or all, once imposed.*

## D. Incident Report

Officers who witness a prohibited act, or have reason to suspect one has been committed, shall immediately prepare and submit an Incident Report. All Incident Reports must state facts clearly, precisely and concisely, omitting no details that may prove significant. Reports also shall identify the officer(s), the detainee(s) and all witnesses to the incident.

Minor transgressions shall be settled informally and by mutual consent whenever possible. If, however, the officer involved thinks an informal resolution is inappropriate or unattainable, he or she shall prepare an Incident Report and submit it to the appropriate supervisor before the end of the assigned shift.

ICE/ERO pre-approval is required for use of ICE Incident Report forms in CDFs and IGSA facilities.

*The Incident Report shall cite the relevant rule or standard without quoting it in its entirety. (For example, in the event of destruction of government property, the report shall cite, briefly, "Code 218—Destroying Government Property," specify the exact manner in which the detainee is alleged to have violated the cited rule or standard, and include all relevant facts such as time, dates and places.)*

*If the officer observes anything unusual in the detainee's behavior or demeanor, he/she shall so note in the report. The reporting officer shall also list all staff, contract officers, and/or detainee witnesses to the incident and the disposition of any physical evidence (e.g., weapons, property, etc.) relating to the incident. The reporting officer shall sign the report and include title, date and time the report was signed. The shift supervisor shall review all Incident Reports before going off duty.*

## E. Investigations

All facilities shall have procedures in place to ensure that all Incident Reports are investigated within 24 hours of the incident.

The investigating officer must have supervisory rank or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the

incident, as either witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his/her report(s) for accuracy and completeness and sign them.

The investigating officer shall:

1. Commence the investigation within 24 hours of receipt of the Incident Report.
2. Advise the detainee of his/her right to remain silent at every stage of the disciplinary process, and ensure that he/she has a complete listing of detainee rights.
3. Complete the investigation within 72 hours of receipt of the Incident Report, barring exceptional circumstances.
4. Provide the detainee a copy of the Incident Report and notice of charges immediately after the conclusion of the investigation..
5. Terminate the administrative investigation, if the incident is under investigation on different grounds (i.e., the prohibited act is under criminal investigation), unless and until the agency with primary jurisdiction concludes its investigation or indicates it shall not pursue the matter.  
  
Contraband that may be evidence in connection with a violation of a criminal statute shall be preserved, inventoried, controlled and stored so as to maintain and document the chain of custody. Contraband shall be reported to the appropriate law enforcement authority for action and possible seizure and prosecution. See "Preservation of Evidence" in standard "2.10 Searches of Detainees."
6. Advise the detainee in writing of his/her due process rights before the UDC, or before the IDP if the case is being referred directly to the IDP, as provided in this standard.
7. Record personal observations and other potentially material information.

8. Prepare a factual report of the investigation, including the location or disposition of any physical evidence.
9. Forward to the UDC or directly to the IDP all reports relevant to the disciplinary hearing—..

### **F. Unit Disciplinary Committee (UDC)**

All facilities shall establish an intermediate level of investigation/adjudication process to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the UDC rights listed below.

The UDC administering unit discipline shall comprise up to three members, at least one of whom is a supervisor. The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident, except in the unlikely event that every available officer witnessed or was directly involved in the incident.

The UDC shall conduct hearings and, to the best extent possible, shall informally resolve cases involving high moderate or low moderate charges in accordance with the list of charges and related sanctions noted as “Appendix 3.1.A: Offense Categories.” Unresolved cases and cases involving serious charges are forwarded to the institution disciplinary panel, and may be referred to the IDP without a hearing.

The UDC shall have authority to:

1. conduct hearings and resolve incidents involving high moderate or low moderate charges;
2. consider written reports, statements and physical evidence;
3. hear pleadings on the part of the detainee;
4. make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence; and

5. impose minor sanctions in accordance with the table of prohibited acts and associated sanctions later in this document; minor sanctions are those listed sanctions other than initiation of criminal proceedings, recommended disciplinary transfer, disciplinary segregation, or monetary restitution.

The detainee in UDC proceedings shall have the right to due process, which includes the rights to:

1. remain silent at any stage of the disciplinary process;
2. have a UDC hearing within 24 hours after the conclusion of the investigation, unless the detainee:
  - a. waives the notification period and requests an immediate hearing, or
  - b. requests more time to gather evidence or otherwise prepare a defense;
3. attend the entire hearing (excluding committee deliberations), or waive the right to appear.

If security considerations prevent detainee attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process via telephonic testimony, document submission, written statements or questions to be asked of witnesses;

4. Present statements and evidence, including witness testimony on his/her own behalf; and
5. Appeal the committee’s determination through the detainee grievance process.

The UDC shall:

1. verify that the detainee has been advised of and afforded his/her due process rights, as provided above in this standard;
2. refer to the IDP any incident involving a serious violation that may result in the following sanctions: initiation of criminal proceedings, recommended disciplinary transfer, disciplinary



segregation, or monetary restitution. This includes all code violations in the “greatest” and “high” categories (100s and 200s), and must include code violations in the “high moderate” category (300s) in order for any of the sanctions listed above to be imposed;

3. serve the detainee with:
  - a. a copy of the UDC decision which must contain the reason for the disposition and sanctions imposed; or
  - b. written notification of charges and hearing before the IDP; and
4. if the detainee’s case is being referred to the IDP, advise the detainee, in writing, of his/her due process rights as provided in this standard.

## **G. Staff Representation for the IDP**

The facility administrator shall upon the detainee’s request, assign a staff representative to help prepare a defense prior to the commencement of the IDP. This help shall be automatically provided for detainees who are illiterate, have limited English-language skills, or who are without means of collecting and presenting essential evidence. Detainees shall also have the option of receiving assistance from another detainee of their selection rather than a staff representative, subject to approval from the facility administrator.

1. *A staff representative must be a full-time employee.*
2. *Because of the potential conflict of interest, the facility administrator, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers and anyone else with a stake in the outcome shall not act as staff representative.*
3. *The detainee may select his/her staff representative, barring those identified in paragraph 2 above.*

4. *The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee may:*
  - a. *select a different representative;*
  - b. *wait for the unavailable staff member to become available (within a reasonable period); or*
  - c. *proceed without a staff representative.*
5. *A staff member who declines to serve must state the reason on the staff representative form.*
6. *If several staff decline, the facility administrator shall assign one.*
7. *The staff representative shall be free to speak to witnesses and to present evidence on the detainee’s behalf, including evidence of any mitigating circumstances. The staff representative must act in good faith on behalf of the charged detainee, and interview witnesses and obtain documentary evidence as requested by the detainee or as otherwise reasonably seen as relevant to the defense of the charges or in mitigation of the charges.*
8. *The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses prior to commencement of the proceeding. The IDP may grant a request for extension of time if required for an adequate defense.*
9. *The IDP shall establish the reliability of information provided by a confidential source before considering it in the disciplinary proceedings.*
10. *The IDP may withhold the confidential source’s identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (which is pre-established by the IDP).*

*11. In the event that a detainee cannot effectively present his/her own case, the facility administrator shall appoint a staff representative, even if not requested by the detainee.*

## **H. Institution Disciplinary Panel (IDP)**

All facilities that house ICE/ERO detainees shall have a higher level disciplinary panel to adjudicate detainee Incident Reports. Only the disciplinary panel may place a detainee in disciplinary segregation.

The term “Institution Disciplinary Panel” or “IDP” refers either to a three-person panel appointed by the facility administrator, or a one-person disciplinary hearing officer, depending on the practice at the facility.

The panel may not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Exceptions may occur only if the number of officers required for the panel cannot be filled due their direct involvement in the incident.

The IDP may receive incident reports following a referral from the UDC or directly from the investigative officer following the conclusion of the investigation.

The IDP shall have authority to:

1. conduct hearings on all charges and allegations referred by the UDC or sent directly from the investigating officer;
2. call witnesses to testify;
3. consider written reports, statements, physical evidence and oral testimony;
4. hear pleadings by detainee and staff representative;
5. make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of

evidence; and

6. impose sanctions as listed and authorized in each category.

The detainee in IDP proceedings shall have the right to due process, which includes the rights to:

1. remain silent at any stage of the disciplinary process;
2. have an IDP hearing within 48 hours after the conclusion of the investigation or the conclusion of the UDC hearing, unless the detainee:
  - a. waives the notification period and requests an immediate hearing, or
  - b. requests more time to gather evidence or otherwise prepare a defense;
3. attend the entire hearing (excluding committee deliberations), or waive the right to appear.

If security considerations prevent the detainee’s attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process by telephonic testimony, the submission of documents, written statements or questions to be asked of witnesses;

4. present statements and evidence, including witness testimony, on his/her behalf;
5. have a staff representative; and
6. appeal the committee’s determination through the detainee grievance process.

The IDP shall:

1. verify that the detainee has been advised of and afforded his/her due process rights, as provided above in this standard;
2. remind the detainee of his/her right to a staff representative, provide one if requested and verify that a staff representative has been assigned when a representative is requested;
3. advise the detainee of his/her right to waive the

hearing and admit having committed the offense;

4. conduct the hearing within 48 hours after the conclusion of the investigation or the conclusion of the UDC hearing, unless the detainee requests more time to gather evidence or otherwise prepare a defense. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, unavailability of one or more essential witnesses, etc.) and, unless the detainee has requested the delay, approved by the facility administrator. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency;
5. prepare a written record of any hearing. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings and the decision and sanctions imposed, along with a brief explanation;
6. forward the entire record to the facility administrator, who may (a) concur, (b) terminate the proceedings or (c) impose more severe or more lenient sanctions; and
7. serve the detainee with written notification of the decision, which must contain the reason for the decision.

### **I. Confidential Information**

When a decision relies on information from a confidential source, the UDC or IDP shall disclose as much confidential information as may be disclosed without jeopardizing the safety and security of facility staff and other persons, and shall include in the hearing record the factual basis for finding the information reliable.

### **J. Postponement of Disciplinary Proceedings**

All facilities shall permit hearing postponements or continuances under certain circumstances.

Circumstances justifying the postponement or

continuance of a hearing might include, but are not limited to: defense preparation, physical or mental illness, security, escape, disciplinary transfer or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

### **K. Duration of Sanctions**

The duration of sanctions shall be within established limits. Neither the panel recommending sanctions nor the facility administrator making the final decision shall impose sanctions arbitrarily, beyond these limits.

1. Sanctions range from the withholding of privilege(s) to segregation. Disciplinary segregation shall only be ordered when alternative dispositions may inadequately regulate the detainee's behavior.
2. Time in segregation or the withholding of privileges after a hearing shall generally not exceed 30 days per incident, except in extraordinary circumstances, such as violations of offenses 100 through 109 listed in the "Greatest" offense category in Appendix 3.1.A.
3. While a detainee may be charged with multiple prohibited acts and may receive multiple sanctions for one incident, sanctions arising from a single incident shall run concurrently.
4. Time served in segregation pending the outcome of the proceedings shall be credited to the number of days to be spent in the segregation unit after an adverse decision is announced.
5. The detainee's good behavior subsequent to the rule violation or prohibited act should be given consideration when determining the appropriate penalty.
6. The disciplinary report and accompanying documents are not placed in the file of a detainee



who is found not guilty. The facility, however, may retain the material in its own files for Institution statistical or historical purposes.

## **L. Documents**

All documents relevant to the incident, subsequent investigation and hearing(s) shall be completed and distributed in accordance with facility procedures.

### **1. Incident Report/Notice of Charges**

The officer shall prepare an Incident Report and submit it to the supervisor immediately after the incident takes place. If the incident is resolved informally, the officer shall so note on the original report, which shall then be forwarded to the Chief of Security.

*If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.*

*The UDC receives the original copy.*

*If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, shall forward the entire record to either the Chief of Security or the IDP, as appropriate.*

### **2. Investigation Report**

*The original shall be submitted to the UDC.*

*The detainee does not receive a copy.*

### **3. UDC Report of Findings and Action**

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the detainee detention file (guilty finding only).*

### **4. Notice of IDP Hearing**

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the detainee detention file.*

### **5. Detainee Rights at IDP Hearing**

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the facility detention file.*

### **6. IDP Report**

*The original shall be included in the detainee detention file.*

*A copy shall be provided to the detainee.*

## **M. Criminal Prosecution**

Facilities, in coordination with the Field Office Director, shall work with prosecutors and other law enforcement officials to ensure that detainees who engage in serious criminal activity, including violence against staff and other detainees, face criminal prosecution when appropriate.

## Appendix 3.1.A: Offense Categories

### I. “Greatest” Offense Category

#### A. Prohibited Acts

- 100 *Killing*
- 101 *Assaulting any person (includes sexual assault)*
- 102 *Escape from escort; escape from a secure facility*
- 103 *Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity [e.g., a riot or an escape]; otherwise the charge is classified as Code 222, 223 or 322))*
- 104 *Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device or ammunition*
- 105 *Rioting*
- 106 *Inciting others to riot*
- 107 *Hostage-taking*
- 108 *Assaulting a staff member or any law enforcement officer*
- 109 *Threatening a staff member or any law enforcement office with bodily harm*
- \*198 *Interfering with a staff member in the performance of duties (conduct must be of the greatest severity; this charge is to be used only if another charge of greatest severity is not applicable)*
- \*199 *Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the greatest severity; this charge is to be used only if another*

*charge of greatest severity is not applicable)*

#### B. Sanctions

- 1. *Initiate criminal proceedings*
- 2. *Disciplinary transfer (recommend)*
- 3. *Disciplinary segregation (up to 60 days)*
- 4. *Make monetary restitution, if funds are available*
- 5. *Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)*

### II. “High” Offense Category

#### A. Prohibited Acts

- 200 *Escape from unescorted activities open or secure facility, proceeding without violence*
- 201 *Fighting, boxing, wrestling, sparring and any other form of physical encounter, including horseplay, that causes or could cause injury to another person, except when part of an approved recreational or athletic activity*
- 202 *Possession or introduction of an unauthorized tool*
- 203 *Loss, misplacement or damage of any restricted tool*
- 204 *Threatening another with bodily harm*
- 205 *Extortion, blackmail, protection and demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm or avoiding a threat of being informed against*
- 206 *Engaging in sexual acts*
- 207 *Making sexual proposals or threats*
- 208 *Wearing a disguise or mask*
- 209 *Tampering with or blocking any lock device*
- 210 *Adulterating of food or drink*
- 211 *Possessing, introducing, or using narcotics, narcotic paraphernalia or drugs not prescribed for the individual by the medical*

- staff
- 212 Possessing an officer's or staff member's clothing
- 213 Engaging in or inciting a group demonstration
- 214 Encouraging others to participate in a work stoppage or to refuse to work
- 215 Refusing to provide a urine sample or otherwise cooperate in a drug test
- 216 Introducing alcohol into the facility
- 217 Giving or offering an official or staff member a bribe or anything of value
- 218 Giving money to, or receiving money from, any person for an illegal or prohibited purpose (e.g., introducing/conveying contraband)
- 219 Destroying, altering, or damaging property (government or another person's) worth more than \$100
- 220 Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days
- 222 Possessing or introducing an incendiary device (e.g., matches, lighter, etc.)
- 223 Engaging in any act that could endanger person(s) and/or property
- \*298 Interfering with a staff member in the performance of duties (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)
- \*299 Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)

#### **B. Sanctions**

1. Initiate criminal proceedings
2. Disciplinary transfer (recommend)
3. Disciplinary segregation (up to 30 days)
4. Make monetary restitution, if funds are available
5. Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)
6. Change housing
7. Remove from program and/or group activity
8. Loss of job
9. Impound and store detainee's personal property
10. Confiscate contraband
11. Restrict to housing unit
12. Warning

### **III. "High Moderate" Offense Category**

#### **A. Prohibited Acts**

- 300 Indecent exposure
- 301 Stealing (theft)
- 302 Misusing authorized medication
- 303 Loss, misplacement or damage of a less restricted tool
- 304 Lending property or other item of value for profit/increased return
- 305 Possessing item(s) not authorized for receipt or retention and not issued through regular channels
- 306 Refusing to clean assigned living area
- 307 Refusing to obey the order of a staff member or officer (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105—Rioting; continuing to fight Code 201—Fighting; refusing to provide a urine sample, Code 215—Refusing to provide a urine sample or otherwise



- cooperate in a drug test).
- 308 Insolence toward a staff member
- 309 Lying or providing false statement to staff
- 310 Counterfeiting, forging or other unauthorized reproduction of money proceedings or other official document or item (e.g., security document, identification card, etc.); may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction (e.g., counterfeiting release papers to effect escape—Code 102 or 200).
- 311 Participating in an unauthorized meeting or gathering
- 312 Being in an unauthorized area
- 313 Failing to stand count
- 314 Interfering with count
- 315 Making, possessing, or using intoxicant(s)
- 316 Refusing a breathalyzer test or other test of alcohol consumption
- 317 Gambling
- 318 Preparing or conducting a gambling pool
- 319 Possessing gambling paraphernalia
- 320 Unauthorized contact with the public
- 321 Giving money or another item of value to, or accepting money or another item of value from, anyone, including another detainee, without staff authorization
- 322 Destroying, altering, or damaging property (government or another person's) worth equal to or less than \$100
- 323 Signing, preparing, circulating, or soliciting support for group petitions that threaten the security or orderly operation of the facility.
- \*398 Interfering with a staff member in the performance of duties (offense must be of

high moderate severity; this charge to be used only when no other charge in this category is applicable)

- \*399 Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of high moderate severity; this charge is to be used only when no other charge in this category is applicable)

NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

## B. Sanctions

1. Initiate criminal proceedings
2. Disciplinary transfer (recommend)
3. Disciplinary segregation (up to 72 hours)
4. Make monetary restitution, if funds are available
5. Loss of privileges (e.g. commissary, vending machines, movies, recreation, etc.)
6. Change housing
7. Remove from program and/or group activity
8. Loss of job
9. Impound and store detainee's personal property
10. Confiscate contraband
11. Restrict to housing unit
12. Reprimand
13. Warning

## IV. "Low Moderate" Offense Category

### A. Prohibited Acts

- 400 Possessing property belonging to another person
- 401 Possessing unauthorized clothing
- 402 Malingering; feigning illness
- 403 Smoking where prohibited

- 404 *Using abusive or obscene language*
- 405 *Tattooing, body piercing or self-mutilation*
- 406 *Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)*
- 407 *Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)*
- 408 *Conducting a business*
- 409 *Possessing money or currency, unless specifically authorized*
- 410 *Failing to follow safety or sanitation regulations*
- 411 *Unauthorized use of equipment or machinery*
- 412 *Using equipment or machinery contrary to posted safety standards*
- 413 *Being unsanitary or untidy; failing to keep self and living area in accordance with posted standards*

- \*498 *Interfering with a staff member in the performance of duties (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*
- \*499 *Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*

#### **B. Sanctions**

- 1. *Loss of privileges, commissary, vending machines, movies, recreation, etc.*
- 2. *Change housing*
- 3. *Remove from program and/or group activity*
- 4. *Loss of job*
- 5. *Impound and store detainee's personal property*
- 6. *Confiscate contraband*
- 7. *Restrict to housing unit*
- 8. *Reprimand*
- 9. *Warning*

## 4.1 Food Service

### I. Purpose and Scope

This detention standard ensures that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs and CDFs.* IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian.
2. Detainees, staff and others shall be protected from harm, and facility order shall be maintained, by the application of sound security practices in all

aspects of food service and dining room operations.

3. Detainees, staff and others shall be protected from injury and illness by adequate food service training and the application of sound safety and sanitation practices in all aspects of food service and dining room operations.
4. Dining room facilities and operating procedures shall provide sufficient space and time for detainees to eat meals in a relatively relaxed, unregimented atmosphere.
5. Food service facilities and equipment shall meet established governmental health and safety codes, as documented in independent, outside sources.
6. Detainees, staff and others shall be protected from health-related harm by advance medical screening and clearance before any detainee is assigned to work in food service operations.
7. Food service areas shall be continuously inspected by food service staff and other assigned personnel on schedules determined by the food service administrator and by applicable policy requirements.
8. Stored food goods shall be maintained in accordance with required conditions and temperatures.
9. Food service personnel shall provide nutritious and appetizing meals. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations. Food service personnel shall accommodate the ethnic and religious diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged.
10. Therapeutic medical diets and supplemental food shall be provided as prescribed by appropriate clinicians.



11. Special diets and ceremonial meals shall be provided for detainees whose religious beliefs require adherence to religious dietary laws.
12. Detainees shall receive a religious or special diet free of any personal cost.
13. Food shall never be used for reward or punishment.
14. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Food Service” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-*

*based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ADLF-4A-01 through 4A-18. (Five of those Expected Practices are mandatory for accreditation: 4A-07, 4A-11, 4A-13, 4A-15 and 4A-16.)

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.7 Key and Lock Control”; and
- “2.14 Tool Control.”

FDA Public Health Services Food Code.

## V. Expected Practices

### A. Administration

#### 1. Food Service Administrator or Equivalent

The food service program shall be under the direct supervision of an experienced food service administrator (FSA) who is responsible for the following:

- a. Planning, controlling, directing and evaluating food service;
- b. Training and developing cook foremen (CF);
- c. Managing budget resources;
- d. Establishing standards of sanitation, safety and security;
- e. Developing nutritionally adequate menus and evaluating detainee acceptance of them;
- f. Developing specifications for procurement of food, equipment and supplies; and
- g. Establishing a training program that ensures operational efficiency and a high quality food service program.

The food service department shall also be staffed by one or more cook supervisors (CS) and CF, although the organizational structure may differ among facilities, particularly when food service is provided by a food service contractor. Therefore, references to the CS and CF in this detention standard describe

typical duties for those positions, although the functions may be performed by others, depending on the organizational structure.

## **B. Security**

### **1. Custody and Security**

The facility's custody and security policy and procedures shall address the following:

- a. buildings or portions of buildings housing the food service department;
- b. all types of detainee traffic in and out of the department;
- c. detainee behavior;
- d. control of repairs;
- e. control of utensils with a custodial hazard potential (e.g., knives, cleavers, saws, tableware);
- f. official counts and census;
- g. area searches; and
- h. any other matters having a direct or indirect bearing on custody and security.

The facility's training officer shall devise training curricula and provide appropriate training to all food service personnel in detainee custodial issues. Among other topics, this training shall cover ICE/ERO's current detention standards.

### **2. Knife Control**

The knife cabinet must be equipped with an approved locking device. The on-duty CF, under direct supervision of the CS, shall maintain control of the key that locks the cabinet..

Knives must be physically secured to workstations for use outside a secure cutting room. Any detainee using a knife outside a secure area must receive direct staff supervision. Knives shall be inventoried and stored in accordance with standard "2.14 Tool Control."

*To be authorized for use in the food service*

*department, a knife must have a steel tang through which a metal cable can be mounted. The facility's tool control officer is responsible for mounting the cable to the knife through the steel tang.*

*The FSA/CS shall monitor the condition of knives and other food service utensils, disposing of items not in good working order and ordering replacements. If a knife is misplaced or lost, staff shall immediately notify the FSA and Chief of Security, and shall hold detainees who may have had access to the missing knife in the area until a thorough search is conducted. The responsible CS shall provide the details of the loss in a written report to the Chief of Security.*

The knife cabinet shall meet the tool-control standards of the Occupational Safety and Health Administration, as well as any site-specific standards developed by the facility.

### **3. Key Control**

Keys shall be inventoried and stored in accordance with standard "2.7 Key and Lock Control."

*The control room officer shall issue keys only in exchange for a name chit from receiving staff. Under no circumstances shall detainees have access to facility keys.*

*The CS shall return the keys to the control room before going off duty. At no time may anyone carry facility keys outside the facility.*

### **4. Controlled Food Items/Hot Items**

All facilities shall have procedures for handling food items that pose a security threat.

#### **a. Yeast and Yeast Products**

All yeast must be stored in an area with no detainee access, preferably in a locked metal yeast cabinet for which the food service department has only one key. The locked yeast cabinet shall be maintained in a secure area.

Until the yeast is thoroughly incorporated as an ingredient in a food item being prepared, only

one member of the food service staff, closely supervised, may handle and dispense it.

Staff shall keep a record of the yeast inventory (in pounds and ounces), indicating quantity of receipt and issue, balance on hand and the record-keeper's initials.

b. Other Food Items

Mace, nutmeg, cloves, sugar and alcohol-based flavorings also require special handling and storage.

- 1) The purchase order for any of these items shall specify the special-handling requirements for delivery.
- 2) Staff shall store and inventory these items in a secure area in the food service department.
- 3) Staff shall directly supervise use of these items.

## 5. Work Area Searches

All facilities must establish daily searches of detainee work areas (e.g., trash) as standard operating procedures, paying particular attention to trash receptacles.

Searches of detainees leaving certain work areas (e.g., bakery, vegetable preparation, dining room, warehouse) are required to reduce the possibility that hot food or contraband can leave the restricted area. Unless otherwise directed by facility policy or special instructions, staff shall prevent detainees from leaving the food service department with any food item.

Food service personnel as well as facility detention staff shall conduct food service area searches.

## 6. Counts

The FSA shall establish procedures for informing staff of the local counting procedures, and shall establish measures to ensure that the procedures are followed.

Staff must be able to account for detainees at all times.

The counting officer must have a staff observer/backup during each count. Detainees shall be assembled in one section of the dining room and be required to remain seated until their names are called, and shall then move to another section of the dining room.

## C. Detainee Workers

### 1. Detainee Workforce

Detainees may volunteer for work in accordance with standard "5.8 Voluntary Work Program" and must work in accordance with standard "2.2 Custody Classification System."

The number of detainees assigned to the food service department shall be based on a quota developed by the FSA and approved by the facility administrator. The quota shall provide staffing according to actual needs, and shall eliminate any bias toward over- or understaffing.

### 2. Detainee Job Descriptions

The FSA shall review detainee job descriptions annually to ensure accuracy and specific requirements. Before starting work in the department, the detainee shall sign for receipt of the applicable job description. A copy of the detainee's job description shall remain on file for as long as the detainee remains assigned to the food service department.

### 3. Detainee Orientation and Training

To ensure a quality food service program and instill good work habits, each CS shall instruct newly assigned detainee workers in the rules and procedures of the food service department. During the orientation and training session(s), the CS shall explain and demonstrate safe work practices and methods and shall identify the safety features of individual products and equipment.

Training shall also include workplace-hazard recognition and deterrence, including the safe handling of hazardous materials. Detainees shall learn



to use and understand protective devices and clothing and to report any malfunctions or other safety-related problems to their supervisors.

The CS must document all training in each detainee's detention file.

#### 4. Detainee Work Hours and Pay

Detainee volunteers shall work and be paid in accordance with standard "5.8 Voluntary Work Program."

#### 5. Meals for Food Service Workers

The FSA shall establish the meal schedules for detainee food service workers.

Detainee workers shall receive the same fare as other detainees. The CS shall not allow detainees to prepare "special" dishes or condiments for their own or other detainees' consumption.

Detainee workers assigned to the staff dining room may be allowed to eat in that area. All others shall eat in the main dining room, or, if the facility has no main dining room, the FSA shall designate an area for workers to eat.

#### 6. Detainee Clothing

Detainees assigned to the food service department shall have a neat and clean appearance.

*Unless the facility administrator establishes other policy, the detainee food worker uniform shall consist of the following: white, short-sleeved, summer-type uniform shirts and pants; safety work shoes; and a white paper hat or white cap. White aprons or smocks of either cloth or disposable plastic may be part of the uniform.*

- a. Detainees with hair shoulder-length or longer shall be required to wear a hair net under their hats or caps.
- b. Detainees with facial hair shall be required to wear beard guards when working in the food preparation or food serving areas.
- c. Detainees working in the garbage room, dish

machine room, pan-washing area, etc., shall be required to wear rubber or plastic aprons suited to the task and rubber boots, if required, for sanitation or safety.

- d. Detainees working in refrigerated and freezer areas shall be provided appropriately insulated clothing.

#### 7. Use of Tobacco

Tobacco in all its forms is prohibited in the food service department.

### D. Food Service Dining Room/Satellite Meals Operations

#### 1. General Policy

Ordinarily detainees shall be served three meals every day, at least two of which shall be hot meals; however, the facility administrator may approve variations in the food service schedule during religious and civic holidays, provided that basic nutritional goals are met. The dining room schedule must allow no more than 14 hours between the evening meal and breakfast.

Clean, potable drinking water must be available.

Meals shall always be prepared, delivered and served under staff (or contractor) supervision.

Meals shall be served in as unregimented a manner as possible. The FSA's table arrangement should facilitate ease of movement and ready supervision. The dining room shall have the capacity to allow each detainee a minimum of 20 minutes dining time for each meal.

#### 2. Display and Service

The following procedures apply to the display, service and transportation of food to main and satellite food service areas:

- a. Before and during the meal, the CS in charge shall inspect the food service line to ensure:
  - 1) all menu items are ready for consumption;

- 2) food is appropriately presented; and
- 3) sanitary guidelines are observed, with hot foods maintained at a temperature of at least 140 F degrees (120 F degrees in food trays) and foods that require refrigeration maintained at 41 F degrees or below.
- b. Every open food item and beverage shall be protected from contaminants by easily cleaned sneeze-guards, cabinets, display cases or other such equipment.
- c. Servers must wear food-grade plastic gloves and hair nets whenever there is direct contact with a food or beverage. Servers must use tongs, forks, spoons, ladles or other such utensils to serve any food or beverage. Serving food without use of utensils is strictly prohibited.
- d. Servers shall use scoops, tongs or other approved utensils when handling or dispensing ice for consumption. The FSA shall consider the practicability of purchasing automatic ice-dispensing equipment.
- e. Utensils shall be sanitized:
  - 1) as often as necessary to prevent cross-contamination and other food-handling hazards during food preparation and service;
  - 2) after every food preparation/service session; and
  - 3) again, if necessary, immediately before being used.
- f. Sugar, condiments, seasonings and dressings available for self-service shall be provided in individual packages, closed dispensers, or automated condiment-dispensing systems. Salad dressings may be served in open containers if the serving ladle extends beyond the top edge of the container.
- g. If the facility does not have sufficient equipment to maintain the minimum or maximum temperature required for food safety, the affected

items (e.g., salad bar staples such as lettuce, meat, eggs, cheese) must be removed and discarded after two hours at room temperature.

Food shall be delivered from one place to another in covered containers. These may be individual containers, such as pots with lids, or larger conveyances that can move objects in bulk, such as enclosed, satellite-meals carts.

In any facility, if food carts are delivered to housing units by detainees, they must be locked unless they are under constant supervision of staff.

All food-safety procedures (e.g., sanitation, safe-handling, storage, etc.) apply without exception to food in transit.

- h. Soiled equipment and utensils must be transported to the appropriate receptacles in closed containers.
- i. A member of the food service staff shall oversee the loading of satellite meal carts. Staff shall inspect all food carts before allowing their removal from the food service area.

### 3. Dining Room Workers

The CF in charge shall train dining room workers in the requirements of the job, including how to perform specific tasks. A basic task common to all dining room workers is to keep the tables and floors clean during the meal service. Once the meal service is over and the detainees have left the room, the workers can undertake major cleaning tasks.

### 4. Serving Lines

The serving counter shall be designed and constructed to separate and insulate the hot foods on the one hand and the cold foods on the other. A transparent “sneeze guard” is required.

### 5. Salad Bars and Hot Bars

Food items at salad bars and hot bars shall be arranged for logical and efficient service. A

transparent “sneeze guard” is required.

## **6. Beverage Counter/Bar**

Self-service beverage-and-ice stations shall be designed for quick and easy access. These stations shall be designed for sanitary and efficient service, including traffic flow.

## **7. Staff Dining Room**

*The FSA shall have jurisdiction over the staff dining room. The staff dining room shall offer the same food items as the detainee dining room.*

## **8. Meal tickets**

The facility may establish a meal ticket program for employees and guests.

*Examples of persons who may receive meals gratis include advisors, guest speakers, technicians/others rendering a service without charge, equipment demonstrators, athletic teams, entertainers, foreign visitors, volunteers and others whose service to the facility is in the best interest of the government.*

*Individuals receiving government reimbursement for their services (e.g., contract employees, per-diem-status personnel) are ineligible for guest meals provided free of charge.*

## **E. Menu Planning**

### **1. General Policy**

The FSA shall base menu selections on the best nutritional program the facility can afford meeting U.S. minimum daily allowances. The ICE/ERO standard menu cycle is 35 days.

The food service program significantly influences morale and attitudes of detainees and staff, and creates a climate for good public relations between the facility and the community.

The overall goal of a quality food service program is to provide nutritious and appetizing meals efficiently and within constraints of the existing budget, personnel resources, equipment and physical layout

of the facility. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations.

The FSA shall accommodate the ethnic and religious diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged. Institutions geographically near one another shall consider the benefits of coordinating their menus and the cost-reductions to be achieved through joint purchasing.

The FSA is solely responsible for food service program planning and resource allocation and use.

## **2. Nutritional Analysis**

A registered dietitian shall conduct a complete nutritional analysis that meets U.S. Recommended Daily Allowances (RDA), at least yearly, of every master-cycle menu planned by the FSA. The dietitian must certify menus before they are incorporated into the food service program. If necessary, the FSA shall modify the menu in response to the nutritional analysis to ensure nutritional adequacy. In such cases, the menu shall be revised and re-certified by the registered dietitian.

If the master-cycle menus change significantly during the year, the cycle shall be reevaluated to ensure nutritional values are maintained.

## **F. Food Preparation**

### **1. General Policy**

The CS or equivalent is responsible for ensuring that all items on the master-cycle menu are prepared and presented according to approved recipes. This responsibility includes assessing the availability and condition of ingredients required by particular recipes, and communicating supply needs to the FSA. For this reason, the CS shall review upcoming menu items as much in advance as possible.



The CS or equivalent has the authority to change menu items when necessary. Every such change or substitution must be documented and forwarded to the FSA. The CS shall exercise this menu-changing authority as infrequently as possible.

Knowledge of ingredients, quantities and food preparation techniques and procedures is essential for producing quality products.

## 2. Preparation Guidelines

Food shall be prepared with minimal manual contact. Food service workers shall thoroughly wash fruits and vegetables with fresh water before cooking or serving raw.

A worker shall test-taste with a clean fork or spoon only; using a soiled food preparation utensil is prohibited. Test-tasting utensils, unless disposable, must be washed after every usage. Disposable test-tasting utensils shall be discarded after a single use.

Any food cooked at a lower temperature than provided below constitutes a food safety hazard and shall not be served. Food service staff and detainee workers involved in cooking shall ensure that the following foods are cooked at the required temperatures:

- a. Raw eggs, fish, meat and foods containing these items—145 F degrees or higher
- b. Game animals, comminuted (ground) fish and meats, injected meats and eggs not intended for immediate consumption—155 F degrees or higher
- c. Stuffing containing fish, meat, or poultry—165 F degrees or higher
- d. Roast beef and corned beef—145 F degrees or higher

Potentially hazardous foods that have been cooked and then refrigerated shall be quickly and thoroughly reheated at a minimum of 165 F degrees before being served. Steam tables, warmers and similar hot food holding equipment are prohibited

for the rapid reheating of these foods.

After being reheated at 165 F degrees, the food may be maintained at 140 F degrees on a heated steam line or equivalent warming equipment.

The facility shall obtain pasteurized milk and milk products from approved facilities only. Manufactured milk products shall meet federal standards for quality.

The facility may use reconstituted dry milk and dry milk products for cooking and baking purposes, in instant desserts and in whipped items. If reconstituted in-house, the dry milk and milk products shall be used for cooking purposes only. Powdered milk reconstituted in an approved milk-dispensing machine or “mechanical cow” may be used for drinking purposes. To ensure wholesomeness, an approved laboratory shall test milk produced in the mechanical cow twice monthly for presence of bacteria. The mechanical cow shall be disassembled, cleaned and sanitized before and after each use.

Powdered milkshake or ice cream mix, reconstituted in an approved ice cream machine, may be used. An approved laboratory shall test dairy-based products produced in the machine for the presence of bacteria monthly. The ice cream machine shall be disassembled, cleaned and sanitized before and after each use.

Liquid, frozen and dry eggs and egg products are pasteurized at temperatures high enough to destroy pathogenic organisms that might be present; however, because of the possibility of contamination or recontamination after opening, thawing or reconstitution, these products shall be primarily used in cooking and baking.

Nondairy creaming, whitening or whipping agents may be reconstituted in-house only if immediately stored in sanitized, covered containers not larger than one gallon, and cooled to 41 F degrees or lower within four hours of preparation.

The CF shall use thermometers to ensure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods.

To prevent cross-contamination, separate cutting boards must be used for raw and cooked foods. The cutting boards must be washed, rinsed and sanitized between every use.

The FSA may require use of color-coded cutting boards, which reduce the risk of cross-contamination during food preparation.

### 3. Food Cooling

Potentially hazardous food must be cooled from 140 to 70 F degrees within two hours of cooking, and from 70 to 41 F degrees or below within four hours. Foods prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna, must be cooled to 41 F degrees within two hours of cooking/preparation.

The food service department can meet time-and-temperature requirements for cooling by using any or all of the following techniques, which expedite cooling:

- a. placing the food in shallow pans;
- b. separating food into smaller or thinner portions;
- c. using rapid cooling equipment;
- d. stirring the food in a container placed in an ice water bath;
- e. using containers that facilitate heat transfer;
- f. adding ice as an ingredient; and/or
- g. using a commercial blast-chiller.

During cooling, the food containers shall be arranged in cooling or cold-holding equipment in a way that maximizes heat transfer through the walls of the containers.

Food protected from overhead contamination shall be left uncovered during the cooling period. If the

risk of overhead contamination exists, the food must be loosely covered to facilitate heat transfer from the surface of the food.

### 4. Food Thawing

Potentially hazardous food shall be thawed according to one of the following procedures:

- a. under refrigeration that maintains the food at 41 F degrees or below;
- b. submerged in running water;
  - 1) at a water temperature of 70 F degrees or below;
  - 2) with sufficient water velocity to agitate and float off loose particles in an overflow; and
  - 3) for a period that does not allow thawed portions of ready-to-eat or raw animal foods to rise above 41 F degrees; also
  - 4) the allowed periods for thawing include the time the food is exposed to the running water, the time to prepare food for cooking, and/or the time it takes under refrigeration to cool the food to 41 F degrees; or
- c. as part of a cooking process, provided there is continuous cooking throughout the process.

### 5. Food Protection—General Requirements

Food and ice shall be protected from dust, insects and rodents, unclean utensils and work surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage and other sources of contamination. Protection shall be continuous, whether the food is in storage, in preparation, on display or in transit.

All food storage units must be equipped with accurate easy-to-read thermometers. New heating and/or refrigeration equipment purchases shall include a zone-type thermometer with temperature graduations. Refrigeration equipment shall be designed and operated to maintain a temperature of 41 F degrees or below.

## 6. Hermetically Sealed Foods

Canned food that has abnormal color, taste or appearance, or which is contained in cans that show abnormalities such as bulging at ends, swelling or leakage, shall not be served. Unsuitable canned food shall be surveyed, reported and destroyed.

## 7. Potentially Hazardous Foods

Potentially hazardous foods are those foods that provide a good medium for bacteria growth. They include any perishable food that consists in whole or part of milk, milk products, eggs, meat, poultry, fish or shellfish or other high-protein foods.

Potentially hazardous foods shall be prepared with minimal manual contact. Such products shall be prepared from chilled ingredients whenever feasible. The surfaces of equipment, containers, cutting boards and utensils used for preparation and subsequent storage of potentially hazardous food shall be cleaned effectively after each use.

Potentially hazardous food shall be prepared as close to serving time as practicable. Potentially hazardous raw frozen food shall be cooked from the frozen state whenever practical. Tempering shall be accomplished by refrigeration at 40 F degrees or below or, with potable running water, at 70 F degrees or below. The potable water technique may be used only if the product is sealed in its original container. At no time shall potentially hazardous food thaw at room temperature.

All precooked, potentially hazardous, refrigerated or frozen food intended for reheating shall be heated rapidly to a temperature above 165 F degrees.

## 8. Leftovers

Prepared food items that have not been placed on the serving line may be retained for no more than 24 hours. Leftovers offered for service a second time shall not be retained for later use, but shall be discarded immediately after offering. All leftovers shall be labeled to identify the product, preparation date and time.

## G. Religious/Special Diets

### 1. General Policy

All facilities shall provide detainees requesting a religious diet a reasonable and equitable opportunity to observe their religious dietary practice, within the constraints of budget limitations and the security and orderly running of the facility, by offering a common fare menu. While each request for religious diet accommodation is to be determined on a case-by-case basis, ICE anticipates that facilities will grant these requests unless an articulable reason exists to disqualify someone for religious accommodation or the detainee's practice poses a significant threat to the secure and orderly operation of the facility. Information about the availability of religious and special diets shall be provided to detainees in a language or manner that they can understand.

"Common Fare" refers to a no-flesh protein option provided whenever an entrée containing flesh is offered as part of a meal. Likewise, a "Common Fare" meal offers vegetables, starches and other foods that are not seasoned with flesh. This diet is designed as the foundation from which modifications can be made to accommodate the religious diets of various faiths.

When considering denying a request by a detainee to participate in the religious diet program, or removal of a detainee from the religious diet program, the facility administrator, or his/her designee, shall consult with the local FOD prior to denying the request or prior to removing a detainee from the program. To participate in the common fare program, a detainee shall initiate an "Authorization for Common Fare Participation" form (Appendix 4.1.A) for consideration by the chaplain (or FSA). On the form, the detainee shall provide a written statement articulating the religious motivation for participation in the common fare program. Oral interpretation or written assistance