

Appendix 11

ICE DETENTION STANDARD

DETAINEE TRANSFER

I. POLICY

Immigration and Customs Enforcement (ICE) often transfers detainees from one facility to another for a variety of reasons. This standard prescribes the procedures and notification requirements to be followed when transferring a detainee.

ICE will make all necessary notifications when a detainee(s) is transferred. If the detainee(s) is being transported by Justice Prisoner Alien Transportation System (JPATS), ICE will adhere to JPATS protocols. In deciding whether to transfer a detainee, ICE will take into consideration whether the detainee is represented before the immigration court. In such cases, Field Office Directors will consider the detainee's stage within the removal process, whether the attorney of record is located within reasonable driving distance of the detention facility and where immigration court proceedings are taking place.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to all field offices and sub-offices making custody determinations and of the following facilities:

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

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

III. STANDARDS AND PROCEDURES

A. Notification Procedure

1. **Attorney:** When legal counsel represents a detainee, and a G-28 has been filed, ICE shall notify the detainee's representative of record that the detainee is being transferred from one detention location to another. This notification shall be recorded in the detainee's A-file, if available, or work file and the notification shall be notated in the comments screen in DACS. For security purposes, the attorney shall not be notified of the transfer until the detainee is en route to the new detention location. The notification will include the reason for the transfer and the name, address, and telephone number of the receiving facility. In the interest of safety and security, the notification will not include specific travel

details, (e.g., the day of travel, mode of travel, etc). Where special security concerns exist (e.g., the detainee has a serious criminal history) ICE has discretion to delay the notification, but only for a period of time that is justified by security concerns.

2. **Family:** It will be the responsibility of the attorney of record or the detainee to notify any family members, if so desired.
3. **Detainee:** For security purposes, specific plans and time schedules shall never be discussed with the detainee involved. The detainee shall not be notified of the transfer until immediately prior to leaving the facility. At that time, the detainee shall be notified that he/she is being moved to a new facility within the United States, and not being deported. Reasonable efforts should be made to make this communication in a language the detainee understands. Following transfer notification, the detainee shall normally not be permitted to make or receive any telephone calls or have contact with any detainee in the general population until the detainee reaches the destination facility. In certain cases, the detainee may be housed in Administrative Segregation 24 hours prior to being transferred. (Note: if the detainee is under eighteen years of age, special notification procedures may apply. Please check with the juvenile coordinator for your field office.)

At the time of the transfer, ICE will provide the detainee, in writing, with the name, address and telephone number of the facility he/she is being transferred to. The attached Detainee Transfer Notification Sheet shall be used for this purpose. The detainee will also be instructed that it is his/her responsibility to notify family members. A copy of the transfer notification sheet will be placed in the detainee's detention file.

B. Types of Transfers

The following are examples of situations in which a transfer may occur:

Medical – The Division of Immigration Health Services (DIHS) has the authority to recommend that a detainee in need of specialized or long-term medical care be transferred to a facility that can meet those needs. The DIHS Medical Director or designee must approve transfers for medical reasons in advance. Medical transfers will be coordinated through the local ICE office of jurisdiction using established procedures.

Change of Venue – A change in venue by the Executive Office of Immigration Review from one jurisdiction to another.

Recreation – When the required recreation is not available, a detainee will have the option of transferring to a facility that offers the required recreation. For specific policy and procedures, see the Recreation Standard.

Security – Security transfers are conducted, for example, when the detainee becomes a threat to the security of the facility, e.g., the detainee is violent or has

caused a major disturbance or is threatening to cause one, or a situation exists that is threatening to staff or other detainees and cannot be controlled through the use of segregation housing. In these cases, detainees may be transferred to a higher-level facility.

Other Needs of ICE – Detainees may be transferred to other facilities for various reasons, such as to eliminate overcrowding or to meet special detainee needs, etc.

C. Request for Bed/Designation

Field offices that routinely transfer cases between each other should set up a means of communication so that the “receiving field offices” will provide the “sending field offices” with information regarding available bed space on a daily basis. In addition, these field offices should provide the names and contact numbers for the staff responsible for handling the transfer of cases. Field offices are encouraged to communicate directly with each other to ascertain bed space availability. HQ Detention and Removal Operations (DRO) are available to assist a field office that has attempted to independently locate beds with no success.

Field offices seeking bed space in other field offices should phone or E-mail a request (with a follow up phone call) with sufficient details of the case to the designated field office contact. Once an office has *preliminarily* agreed to accept a case from another office, the following procedures should be followed:

1. Prepare And Fax Form I-216 To The Receiving Field Office

Form I-216 should be prepared, ensuring all boxes are completed. Please note the following with regard to completion of the I-216:

- a. If there is a question of whether or not a detainee is a juvenile, a copy of the age verification documentation shall be attached.
- b. Please clearly annotate criminal or aggravated felon status, any medical/mental problems or security risks. If there are medical/mental problems or medications, either the JPATS Form USM-553 or an I-794 (In-Processing Health Screening Form) should accompany the I-216 as an attachment. Security concerns must be outlined in detail on a separate page and be attached to the I-216.

No other forms (other than those mentioned) will be accepted for recording the persons/property transferred.

If an IGSA within the receiving field office requires that their medical unit review medical histories of transfer cases prior to acceptance, then a method of providing that documentation to the IGSA must be arranged between the receiving field office and sending field office.

2. Receiving Office Confirms Acceptance of the Case

The receiving field office will review the I-216 to insure the case(s) being accepted is consistent with what was previously discussed/e-mailed. If there are any issues that were not previously relayed to the receiving field office by the sending field office, the receiving field office will notify the sending field office that it may decline the transfer(s) unless the issue(s) are resolved.

Once the receiving field office has finally accepted the transfer, a mutually agreeable estimated time of arrival will be provided to the receiving field office either via telephone or e-mail.

The sending field offices WILL NOT SUBSTITUTE any detainees on the I-216 unless prior approval from the receiving field office has been obtained.

D. Preparation and Transfer of Records

The following records will be completed prior to any field office transferring a detainee to another field office, and the records will accompany the detainee to the receiving facility. The attached Detainee Transfer Checklist shall be filled out in order to insure that all procedures are completed, and shall be placed in the detainee's A-file or work folder. If any procedure cannot be completed prior to the transfer of the detainee, that transfer will not take place unless the authorized official at the receiving field office has expressly agreed to waive that portion of the procedure. This waiver should be noted on the checklist.

1. Alien File

Prior to transfer, the A-file will be obtained and put in good order. File consolidations will be completed prior to transfer. The sending field office will complete any necessary file jacket repairs. All documents and forms will be attached on the proper side of the A-file. If the sending field office has been unable to obtain the A-file, that detainee should not be transferred to another field office until such time as the file is located. *Exception:* If the receiving field office, before the transfer takes place, accepts a proper work folder.

The work folder should include, at minimum, certified copies of convictions, printouts of the Central Index System (CIS), Deportable Alien Control System (DACCS), the FBI's National Crime Information Center (NCIC) database, copies of the EOIR's record of proceedings as well as new photographs and fingerprints. Copies of the following information should also be included if applicable: Non-Immigrant Information System (NIIS), Computer Linked Application Information Management System (CLAIMS), National Automated Immigration Lookout System (NAILS), Reengineered Naturalization Application Casework System (RNACS), and Refugee Asylum Processing System (RAPS).

