

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 (DACS), 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**).

Any other obtainable documents requested by the receiving field office.

The A **file/work** folder will include copies of the following properly executed documents which will be fastened to the top right side of the file:

- a. I-216 (appropriate copies of I-77 and G-589 attached)
- b. USM-553 or local transfer summary form
- c. Original or photocopy of I-203/203A
- d. Check list (Attached)
- e. Age verification documents (if applicable)
- f. A 3.5" disk with all previous Post Order Custody Reviews (**POCRs**) and travel document requests will be placed in a property envelope that is fastened to the file.
- g. Classification Sheet

The A-file or work folder will accompany the transfer. Under certain circumstances the receiving field office may request that the A-file or work folder be **shipped** overnight express to a particular location. If requested, the sending field office will overnight it no later than the business day following the transfer. Any significant delays in the arrival time of the detainees or their files should be **communicated** to the receiving field office as soon as possible.

2. **Charging Documents/Record of Proceeding**

Before the transfer all charging documents will be issued and signed by the authorized individual having signatory authority for the sending field office. The charging documents will be served (if applicable) on the detainee prior to transfer. This includes, but is not limited to, the Notice to Appear (**I-862**), **Warrant of Arrest (I-200)**, **Warrant of Removal (I-205)**, **Notification of Custody Decision (I-286)** and **Notice of Rights (I-826)**. Copies of these documents will be provided to the detainee who should be encouraged to keep them on his/her person, unless this would otherwise present a security problem. Originals **and/or** copies will be included, indicating proper service, in the A-file or work folder.

Sending Offices must ensure that an **I-286** has been served on aliens prior to transfer, with notation in file of document service.

3. **Certified Copies of Convictions**

For all aliens under removal proceedings based on their criminal convictions stated on the **I-862**, the certified copy of conviction will be included in the A-file prior to transfer. A detainee will not be transferred if the certified copies of conviction relating to the charging document are not included in the A-file.

Exception: If the receiving field office is notified, prior to acceptance, that the certified copies of conviction have not yet been obtained, and they elect to accept the case. In these instances, the sending field office will provide a point of

contact, including the name and phone number of the individual at their field office responsible for obtaining the conviction record.

The sending field office will further provide a point of contact, including name and phone number, of an individual at the appropriate court or clerk's office for which the record is located. Both of these points of contact will be noted on the Check List and attached to the A-file prior to transfer.

4. **Fingerprint Cards**

The sending field office will take the appropriate (three plus R-84) sets of fingerprints. The cards will be signed by both the alien and the official taking the prints. The cards will be completely **filled** out except for the address block requesting a disposition from the FBI.

The completed cards will be left in the A-file for the receiving field office to fill in the response address block and submit to the FBI and **Biometrics** Support Center (when appropriate), unless the case is a room and board. For Room and Board detainees, the sending field office can submit the prints to the FBI and **Biometrics** Support Center. One set of fingerprint card should remain in the A-file at all times.

5. **Photographs**

The sending field office will take four (4) new standard **booking-size** photographs (1 sheet of 4 photos) and include those photos not used for the transfer in the file.

6. **Medical Procedures and Information Reauired for Transfer**

1. **Notification of Transfers, Releases, and Removals**

The facility health care provider will be given advance notice prior to the release, transfer, or removal of a detainee, so that medical staff may determine and provide for any medical needs associated with the transfer or release of a detainee.

2. **Transfer of Health Records**

When a detainee is transferred within the Detainee Immigration Health Service (DIHS) System, a Transfer Summary and the detainee's official health records will accompany the detainee. The official health records will be placed in a sealed envelope or other container labeled with the detainee's name and A-number and marked "MEDICAL CONFIDENTIAL." Officers are not permitted to read the official health record.

When a detainee is transferred to an IGSA detention facility, only the transfer summary will accompany the detainee.

3. Transfer Summary

A transfer summary sheet, prepared by the sending facility's medical staff, must accompany the transferee. Either the USM 553 Form or a **facility-specific** form may be used, provided it shows:

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

The transfer summary sheet is **essential** for detainee safety while in transit: **and must be in the escorting officer's possession** during that time. The detainee **cannot** be moved without the required information from the releasing institution. The transferring officer will review the information for completeness and to ensure **he/she** has the supplies required to provide care as indicated during the transfer process.

ICE officers must understand that medical information is on a **need-to-know** basis. Any officer who reviews the transfer summary shall protect the privacy of the detainee's medical information to the greatest extent possible. Such information shall not be shared with other detainees, and shall not be shared with other officers unless appropriate to fulfill program responsibilities. See the "Medical Care" standard section entitled "Confidentiality and Release of Medical Records." The transferring officer is responsible for delivering the transfer **summary** materials to medical personnel at the receiving facility.

C. Medical/Psychiatric Alert

When the medical staff determines that a detainee's medical or psychiatric condition requires either clearance by the medical **staff** prior to release or transfer, or requires medical escort during deportation or transfer, the OIC will be so notified in writing.

D. Medications

Prior to transfer, medical personnel will provide the transporting officers with instructions and, if applicable, **medication(s)** for the detainee's care in

transit. Medications will be placed in a property envelope with the detainee's name and A-number on it. Medications will accompany the transfer and be turned over to an officer at the receiving field office.

7. Other Transfer Paperwork

A properly executed I-203/I-203A, G-391 and I-216 will accompany the transfer. The I-203 will include the detainee's detention category on it. It will further indicate if the detainee has a criminal conviction, a history of violence, is an escape risk or has special medical problems that may require attention during the transfer. The I-203 will be annotated if the detainee is on prescription medication.

The I-203 should also indicate the time of arrival as estimated by the sending field office. The receiving field office may request that copies of the I-203/I-203A be faxed directly from the sending field office to the IGA/IGSA that will be detaining the alien.

8. G-391, "Official Detail"

No detainee shall be removed from a facility, including field office detention areas, unless a Form G-391 is furnished, authorizing the movement. The G-391 must be properly signed and shall clearly indicate the name of the detainee(s), the place or places to be escorted, the purpose of the trip and other information necessary to efficiently carry out the detail. IGSA facilities may use a local form as long as the form provides the required information.

In SPCs/CDFs, it is the responsibility of the Supervisory Immigration Enforcement Agent (SIEA) or Detention Operations Supervisor (DOS) to check records and ascertain if the alien has a criminal history, is dangerous, has an escape record or medical condition. Any information of an adverse nature shall be clearly indicated on the G-391 and the escorting officers shall be warned to institute the necessary precautions. Before beginning the detail, the escorting and transportation officers shall read their instructions and clearly understand the purpose the detainee is being removed from the facility. The officers will also discuss emergency and alternate plans with the SIEA and/or DOS beforehand.

All completed G-391's shall be filed in order (monthly) and the forms for the previous month shall be readily available for review. All G-391's shall be retained for a minimum of 3 years.

E. Property

1. Checkout of Funds and Small Valuables.

The following items shall always accompany a detainee to the receiving SPC, CDF, or IGSA facility: cash, and small valuables such as jewelry, address books, phone lists, correspondence, dentures, prescription glasses, small religious items, pictures, etc.

A detainee's legal material relating to Immigration proceedings shall always accompany **them** to the receiving SPC, CDF, or IGSA facility. This includes items such as Notice to Appear, hearing evidence and hearing transcripts.

The detainee should ordinarily have these items in **his/her** possession during transport. Items that might present a security risk or **are** particularly **bulky** shall be separated from the detainee during transport.

Before a detainee is transferred, the sending facility shall return all funds and small valuables to the detainee. All G-589s or local IGSA funds and valuable receipts shall be closed in accordance with the "Funds and Personal Property" standard (section III.G.) The receiving facility shall create a new G-589 or local funds and valuable receipts during in processing according to procedures established in the "Funds and Personal Property" **standard** (section III.D.).

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

All items stored at the sending facility will accompany the transferee to the receiving SPC, CDF, or, in most cases, the receiving IGSA facility. If the IGSA facility will not accept detainees' excess, oversized, or bulky belongings (including, but not limited to, suitcases, cartons, televisions, etc.), the sending facility will retain it, arrange to store it ~~elsewhere~~, or may follow the procedure's for ~~disposing of excess property specified in the~~ "Funds and Personal Property" detention standard (Section III.A.). This retention should not apply to materials pertaining to the alien's immigration proceedings. Under these procedures, the facility may send excess property to an address of the detainee's choosing. However, the detainee shall not be asked for this address information until after the detainee has been notified of the impending transfer. The **sending** facility will make shipping arrangements and, if the detainee cannot **afford** postage, pay for shipping.

If the detainee refuses to cooperate by providing an appropriate mailing address, or is financially able but unwilling to pay for shipping, the OIC may dispose of the property after providing the detainee with written notice in accordance with the "Control and Disposition of Contraband" standard. If, however, the detainee's failure to specify a shipping address is because an appropriate mailing address does not exist, the facility will store the property for the detainee.

In cases where the sending facility continues to store the transferee's property, the transferee will keep in **his/her** possession the property receipts for these items. The sending facility will notify the receiving facility, in writing, that it is holding property for the detainee, and that it requires notice before the detainee's release or transfer. This communication will ensure the detainee's receipt of the stored property at the appropriate time.

Detainee access to large items of personal property shall be prohibited during transportation.

3. Checkout of Luggage, Large Valuables, and Other Bulky Items

If the property accompanies the detainee, the sending facility shall close out the existing G-589, or local funds and valuable receipts, in accordance with the "Funds and Personal Property" standard (section III.G.). The receiving facility shall create a new 1-77 or local funds and valuable receipts during in processing according to procedures established in the "Funds and Personal Property" standard (section III.D.).

F. Room and Board Cases

A complete work folder shall accompany or be sent in advance of all Room and Board Cases. The work folder should include new photographs (four) and fingerprints (three plus R-84) of the detainee. It should also include a copy of the entire record of proceeding, as well as all pertinent case documentation. The items mentioned above, under Section D.1. "Alien File" will be attached to the right side of the work folder.

Interviews conducted by the receiving field office under the Post Order Custody Review process will be saved on the computer disk and attached to the file. If the R&B is accepted for short term, staging only, the receiving and sending field offices may agree to reduce or modify documentation requirements.

G. Phone Calls

Indigent detainees being transferred will be authorized a **single domestic phone call at the Government's expense** upon arrival at their final destination. Generally the PCS Emergency card will be utilized to make these calls. Local field offices will make necessary arrangements for these calls with facilities that have not been provided a PCS Emergency Card. Non-indigent detainees shall have access to make calls at their own expense pursuant to the Telephone Access Detention Standard.

H. Miscellaneous

1. DACS

The sending field office shall ensure that all screens in DACS are completely updated and accurate. The appropriate database transfers will be made immediately (DACS/DETS/CIS) by the sending field office and accepted by the receiving field office once the detainee reaches his/her destination.

2. Food During Transfer

During transfers, food shall be provided to detainees in accordance with the "Meals" section of the Detention Standard "Transportation (Land Transportation)." This standard requires, among other things, that the transporting officers will provide meals and snacks during any long-distance transfer that exceeds six hours. In addition, if the transfer takes place over normally scheduled meal times, detainees shall not forgo meals during transfer. It is the responsibility of the transporting officers to ensure that a **sufficient** number of sack or box lunches are available for consumption during the planned transfer.

In field offices **and/or** IGSA facilities, the sending facility or field office is responsible for the delivery of proper meals prior to the departure.

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

V. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition, **Standards** for Adult Detention Facilities:
3-ALDF-1E-02, 3A-16, 4E-30, 4E-31, 4E-38, 4E-48

Approval of Standard



Victor X. Cerda
Acting Director
Office of Detention and Removal

9/9/04

Date



**U.S. Immigration
and Customs
Enforcement**

DETAINEE TRANSFER NOTIFICATION

This Form To Be Completed And Given To The Detainee

DETAINEE NAME: _____ A# _____

NATIONALITY: _____

TRANSFER INFORMATION

NAME OF NEW FACILITY: _____

ADDRESS OF NEW FACILITY: _____

TELEPHONE NUMBER OF NEW FACILITY: _____

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

Detainee Signature: _____ A# _____ Date: _____

Officer Signature: _____ Date: _____