

Honorable \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDRES RAMIREZ-MARTINEZ,  
MANUEL URIOSTEGUI, and  
ERICSON GONZALES,

Plaintiffs,

vs.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT;  
THOMAS S. WINKOWSKI, Principal  
Deputy Assistant Secretary of the U.S.  
Immigration and Customs Enforcement;  
UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; JEH  
JOHNSON, Secretary of Homeland Se-  
curity; NATHALIE R. ASHER, Director  
of the Seattle Field Office of U.S. Immi-  
gration and Customs Enforcement,

Defendants.

NO.

DECLARATION OF SALVADOR  
A. MUNGIA IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
TEMPORARY  
RESTRAINING ORDER

I, Salvador A. Mungia, declare as follows:

1. I am one of the attorneys for Plaintiffs Ramirez-Martinez, Uriostegui, and Gonzales. I am over the age of 18, and am competent to testify.

1           2.     Exhibit A is a true copy of a letter from the ACLU and Columbia Legal Services  
2 to Raphael A. Sanchez, Chief Counsel, Seattle Office of the Chief Counsel / OPLA, U.S. Immi-  
3 gration and Customs Enforcement, U.S. Department of Homeland Security, dated March 31,  
4 2014.

5           3.     On April 1, 2014, I spoke on the telephone with James Yi, Deputy Chief Counsel,  
6 Seattle Office of the Chief Counsel / OPLA, U.S. Immigration and Customs Enforcement, U.S.  
7 Department of Homeland Security, about Plaintiffs' intention to move for a temporary restrain-  
8 ing order.

9           4.     Exhibit B is a true copy of my email correspondence with James Yi, Deputy Chief  
10 Counsel, and Raphael A. Sanchez, Chief Counsel, Seattle Office of the Chief Counsel / OPLA,  
11 U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, dated  
12 April 1, 2014.

13           5.     Exhibit C is a true copy of the 2011 Immigration and Customs Enforcement Poli-  
14 cy on Hunger Strikes.

15           6.     Exhibit D is a true copy of the 2011 Immigration and Customs Enforcement Poli-  
16 cy on Discipline.

17           7.     Exhibit E is a true copy of the 2011 Immigration and Customs Enforcement Poli-  
18 cy on Special Management Units.

19           8.     Exhibit F is a true copy of 2013 Immigration and Customs Enforcement Policy on  
20 the Use of Segregation for ICE Detainees.

21           9.     Exhibit G is a true copy of a March 20, 2014 article published in The News Trib-  
22 une.

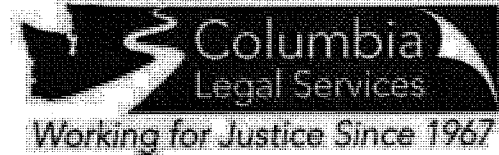
23           10.    Exhibit H is a true copy of a March 19, 2014 opinion editorial published in the  
24 Seattle Times.

25           11.    Exhibit I is a true copy of a March 17, 2014 article published on Time.com.  
26  
27  
28  
29

DATED this 2nd day of April, 2014, at Tacoma, Washington.

SALVADOR A. MUNGIA

# **EXHIBIT A**



March 31, 2014

**Via Electronic Mail**

Raphael A. Sanchez  
Chief Counsel  
Seattle Office of Chief Counsel / OPLA  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
1000 Second Avenue, Suite 2900  
Seattle, WA 98104

**Re: Tacoma Northwest Detention Center**

Dear Mr. Sanchez,

It has come to our attention that over twenty (20) detainees at the Northwest Detention Center ("NWDC") in Tacoma, WA were placed in segregated housing — individual isolation cells — on Thursday, March 27, 2014. Based on the statements of several detainees, and on documentation we have reviewed, we believe that Immigration and Customs Enforcement ("ICE") placed these detainees in isolation as retaliation for engaging in protected First Amendment activities.

**A. Factual Background**

On March 7, 2014, detainees at the NWDC initiated a hunger strike to bring attention to the conditions of their confinement and express their concerns with national immigration policy. After the first hunger strike ended, some detainees planned and organized a second hunger strike. We understand that detainees in the F-3 and F-4 units initiated a second hunger strike on March 24, 2014, and that many detainees in those units refused meals for up to three days. We also understand that this most recent hunger strike did not disrupt facility operations or threaten facility or detainee safety.

Many detainees from the F-3 and F-4 units were placed in segregation on Thursday, March 27, 2014, for alleged activity stemming from their participation in the hunger strike and for actions that allegedly occurred during the hunger strike. It is our understanding, however, that no individual detainee placed in administrative segregation on Thursday, March 27, 2014 was cited for misconduct or other behavioral issues during the second hunger strike.

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Interviews with detainees from the F-3 and F-4 units on Thursday, March 27, 2014 suggest that ICE retaliated against the hunger striking detainees by placing them in isolation cells. According to detainees from the F-3 unit, corrections officers entered into the living area of their unit and invited approximately twenty (20) detainees to attend a meeting with an assistant warden to discuss the conditions of the facility and their reasons for engaging in a hunger strike. Many detainees volunteered to be part of this discussion. The corrections officers then selected detainees to join the meeting. Once the detainees who volunteered to discuss their concerns about the facility with administrators left the F-3 unit, corrections officers immediately placed them in handcuffs and led the detainees to individual isolation cells. No meeting occurred. The detainees who described this event stated that they were not told why they were moved into isolation, or when they would be returned to the general population. Some detainees reported that they requested a hearing or an opportunity to appeal the decision to place them in isolation, but their requests were denied.

While in isolation, at least two detainees received an "Administrative Detention Order" which indicated that they were placed in administrative segregation because they posed "a security risk to him/herself or the security of the facility." Both Administrative Detention Orders used the following identical language to describe the basis for this determination:

You have been identified by staff as a principle party intimidating others into not eating. Therefore for the security and safety of the detainees in the affected housing units you are being placed in Protective Custody.

The allegations of intimidation are not supported by any descriptions of specific conduct by the detainees placed in isolation.

#### **B. ICE Retaliated Against Detainees for Engaging in Protected Speech Activity.**

Participation in a hunger strike is protected expressive conduct and retaliating against detainees for engaging in such protected speech violates of the First Amendment. Indeed, courts have found that hunger strikes are a particularly powerful mode of expressive conduct often communicating what is otherwise not being heard or listened to. *See F.T.C. v. Superior Court Trial Lawyers Ass'n*, 493 U.S. 411, 450-51 (1990) ("The passive nonviolence of King and Gandhi are proof that the resolute acceptance of pain may communicate dedication and righteousness more eloquently than mere words ever could. A boycott, like a hunger strike, conveys an emotional message that is absent in a letter to the editor, a conversation with the mayor, or even a protest march.").

Here, there is sufficient evidence to believe that ICE placed the detainees into segregated housing because of their participation in protected expressive activities and to chill future participation in protected speech. A court will find that a government actor violated the First Amendment by retaliating against a detainee or inmate for engaging in protected speech if that person is able to "(1) assert[] that a state actor took some adverse action against an inmate (2) because of (3) that prisoner's protected conduct, and that such action (4) chilled the inmate's

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exercise of his First Amendment rights, and (5) the action did not reasonably advance a legitimate correctional goal.” *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005).<sup>1</sup>

As you know, ICE maintains isolation cells for two purposes: to protect the detainee, facility staff or other detainees (administrative segregation); or to punish the detainee (disciplinary segregation).<sup>2</sup> ICE’s own internal policy acknowledges that placing an individual in isolation — whether it is for administrative or disciplinary segregation — “is a serious step” and “should only occur when necessary.”<sup>3</sup> In fact, ICE policy notes that placing a detainee in administrative segregation “should be for the briefest term and under the least restrictive conditions practicable.”<sup>4</sup> This is because administrative segregation is non-punitive and does not require ICE to provide the same due process protections to detainees that disciplinary segregation does.<sup>5</sup>

Based on interviews with detainees currently in administrative segregation at the NWDC, we have reason to believe that detainees in isolation are kept in a cell for 23 hours a day where they are deprived meaningful interactions with others and the ability to move about freely. While the detainees have access to personal items, they do not have access to the full range of services that they would otherwise be able to access if they were housed in the general population.

As noted above, the detainees on March 27th were taken from the general population under the ruse that they were going to meet with an assistant warden to talk about conditions in the facility, but instead were placed into administrative segregation with no opportunity to challenge this placement. We were able to review a few Administrative Detention Orders given to detainees in which ICE alleged that the basis for the placement in segregated housing is because the detainees were “a principle party intimidating others into not eating.” These detainees were not placed in segregation for violating a disciplinary rule, which would have required ICE to provide the detainees with the opportunity to challenge the segregation decision. Instead, it appears that ICE is using administrative segregation to punish detainees for engaging in protected speech that likely would not be punishable under the disciplinary rules.

It appears that ICE’s intention in placing the detainees in administrative segregation was in part to keep the hunger striking detainees from inspiring others to participate in a hunger strike.<sup>6</sup> Being subjected to isolation in retaliation for protesting treatment at the facility in which one is

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<sup>1</sup> In this letter we rely on prison-related First Amendment jurisprudence. As civil detainees, however, individuals housed at the NWDC should be afforded heightened constitutional protections than those who are incarcerated post-conviction. *See Jones v. Blanas*, 393 F.3d 918, 931-32 (9th Cir. 2004) (“civil detainees retain greater liberty protections than individuals detained under criminal process”).

<sup>2</sup> *See* U.S. Immigration & Customs Enforcement, U.S. Dep’t of Homeland Security, *Performance-Based National Detention Standards 2011*, § 2.12 Special Management Units (as modified by Feb. 2013 errata), available at <http://www.ice.gov/detention-standards/2011/> (last accessed Mar. 31, 2014) (hereinafter “2011 Segregation Policy”).

<sup>3</sup> *See* U.S. Immigration & Customs Enforcement, U.S. Dep’t of Homeland Security, *11065.1: Review of the Use of Segregation for ICE Detainees* (Sept. 4, 2013), available at [http://www.ice.gov/doclib/detention-reform/pdf/segregation\\_directive.pdf](http://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf) (last accessed Mar. 31, 2014) (hereinafter “2013 Segregation Policy”).

<sup>4</sup> 2013 Segregation Policy at § 3.1.

<sup>5</sup> 2013 Segregation Policy at § 3.1-3.2.

<sup>6</sup> We acknowledge that ICE has an interest in ensuring that detainees do not threaten or harm or intimidate other detainees. However, if ICE’s real concern was that detainees were violating its facility rules and behavioral codes it should have placed detainees in disciplinary segregation, which would have invoked the disciplinary system that affords detainees a hearing and other procedural safeguards.

March 31, 2014

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detained has a very strong chilling effect on free speech rights. Going forward, any detainee who was placed in administrative segregation for their participation in the hunger strike, and those who know about the placement of detainees in isolation for that reason, will have to consider whether the protected speech in which they wish to engage will result in retaliation by ICE that could result in being placed in isolation for engaging in protected speech activities.

Based on the above concerns about the constitutionality of ICE's placement of detainees in isolation for engaging in protected speech on March 27th, we believe that ICE should return these detainees to the general population or provide legitimate reasons and documentation to justify their continued placement in isolation.

Please do not hesitate to contact La Rond Baker at the ACLU at 206.624.2184 or Melissa Lee at Columbia Legal Services at 206.464.0838, x. 145 should you have any questions or wish to discuss this matter further.

Sincerely,

ACLU of Washington Foundation  
Sarah Dunne, Legal Director

A handwritten signature in dark ink, appearing to be 'Sarah Dunne', written over a light gray rectangular background.

La Rond Baker, Staff Attorney  
Margaret Chen, Staff Attorney

Columbia Legal Services

A handwritten signature in dark ink, appearing to be 'Melissa Lee', written over a light gray rectangular background.

Melissa Lee, Coordinating Attorney  
Nick Straley, Staff Attorney



# **EXHIBIT B**

**Mungia, Sal**

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**From:** Sanchez, Raphael <Raphael.Sanchez@ice.dhs.gov>  
**Sent:** Tuesday, April 01, 2014 4:23 PM  
**To:** Mungia, Sal; Yi, James S  
**Subject:** RE: ICE and Northwest Detention Center

Thanks for keeping us in the loop. We will loop in the US Attorney's Office. There's no need to serve or courtesy copy us. DOJ will assign an attorney to handle the TRO.

Raphael A. Sánchez  
Chief Counsel  
Seattle Office of the Chief Counsel / OPLA  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
Tel: (206) 613-6501 / Fax: (206) 682-0402  
"Smart Enforcement through Smart Prosecution"

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-----Original Message-----

**From:** Mungia, Sal [[SMungia@gth-law.com](mailto:SMungia@gth-law.com)]  
**Sent:** Tuesday, April 01, 2014 07:13 PM Eastern Standard Time  
**To:** Yi, James S  
**Cc:** Sanchez, Raphael  
**Subject:** ICE and Northwest Detention Center

James: this follows up on the call we just had. Below is my address and my phone number. And now you'll have my email as well. As I said, we plan on filing a motion for a TRO tomorrow morning in federal district court in Tacoma regarding ICE's actions that are discussed in Sarah Dunne's letter dated March 31, 2014. As I told you, as soon as we get everything completed I'll shoot you a copy of everything by email – that will be sometime tomorrow morning.

I look forward to working with you on this matter.

Sal

**Salvador A. Mungia**

Attorney at Law



1201 Pacific Avenue, Suite 2100

Tacoma, Washington 98402

T 253 620 6472

F 253 620 6565

<http://www.gth-law.com>

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**Mungia, Sal**

---

**From:** Yi, James S <James.Yi@ice.dhs.gov>  
**Sent:** Tuesday, April 01, 2014 4:15 PM  
**To:** Mungia, Sal  
**Subject:** RE: ICE and Northwest Detention Center

Thanks.

*James*

James S. Yi  
Deputy Chief Counsel  
Seattle Office of the Chief Counsel / OPLA  
Tacoma sub-office  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
Tel: (253) 779-6016 / Fax: (253) 779-6006  
*"Smart Enforcement through Smart Prosecution"*

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I look forward to working with you on this matter.

Sal

**Salvador A. Mungia**  
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# **EXHIBIT C**

## 4.2 Hunger Strikes

### I. Purpose and Scope

This detention standard protects detainees' health and well-being by monitoring, counseling and providing appropriate treatment to any detainee who is on a hunger strike.

Nothing in this detention standard is intended to limit or override the exercise of sound medical judgment by the clinical medical authority (CMA) responsible for a detainee's medical care. Each case must be evaluated on its own merits and specific circumstances, and treatment shall be given in accordance with accepted medical practice.

This detention standard applies to the following types of facilities housing 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. Any detainee who does not eat for 72 hours shall be referred to the medical department for evaluation and possible treatment by medical and mental health personnel. Prior to 72 hours, staff may refer a detainee for medical evaluation, and when clinically indicated, medical staff may refer the detainee to a hospital;
2. The ICE/ERO Field Office Director shall be immediately notified when a detainee is on a hunger strike, declared or otherwise;
3. The detainee's health shall be carefully monitored and documented, as shall the detainee's intake of foods and liquids. The clinical director, designated physician or treating medical staff shall conduct a full clinical and mental health assessment and evaluation, and recommend a course of treatment, intervention or follow-up;
4. When medically advisable, a detainee on a hunger strike shall be isolated for close supervision, observation and monitoring;
5. Medical, mental health or hospital staff shall offer counseling regarding medical risks and detainees shall be encouraged to end the hunger strike or accept medical treatment;
6. Refusal of medical treatment shall be documented in the detainee's medical file;

7. Involuntary medical treatment shall be administered only with medical, psychiatric and legal safeguards;
8. A record of interactions with the striking detainee, the provision of food, attempted and successfully administered medical treatment, and communications between the CMA, facility administrator and ICE/ERO regarding the striking detainee shall be established; and
9. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

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 into which written material has not been translated, or who is illiterate.

### III. Standards Affected

This detention standard replaces “Hunger Strikes” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-52, 4D-15.

National Commission on Correctional Health

Care, *Standards for Health Services in Jails*.

ICE/ERO *Performance-based National Detention Standards 2011*: “4.3 Medical Care.”

## V. Expected Practices

### A. Staff Training

All staff shall be trained initially and annually thereafter to recognize the signs of a hunger strike, and to implement the procedures for referral for medical assessment and for management of a detainee on a hunger strike.

### B. Initial Referral

Procedures for identifying and referring a detainee suspected or announced to be on a hunger strike to medical staff shall include obtaining from qualified medical personnel an assessment of whether the detainee’s action is reasoned and deliberate, or the manifestation of a mental illness.

Facilities shall immediately notify the local Field Office Director or his/her designee when an ICE/ERO detainee begins a hunger strike.

1. Staff shall consider any detainee observed to have not eaten for 72 hours to be on a hunger strike, and shall refer him/her to the CMA for evaluation and management.
2. Medical personnel shall document the reasons for placing a detainee in a single occupancy observation room. This decision shall be reviewed every 72 hours. Medical personnel shall monitor the detainee in a single-occupancy observation room, when



medically advisable and taking into consideration the detainee's mental health needs. If measuring food and liquid intake/output becomes necessary, medical personnel shall make a decision about appropriate housing placement.

### **C. Initial Medical Evaluation and Management**

Medical staff shall monitor the health of a detainee on a hunger strike. If a detainee engaging in a hunger strike has been previously diagnosed with a mental condition, or is incapable of giving informed consent due to age or illness, appropriate medical/administrative action shall be taken in the best interest of the detainee.

1. During the initial evaluation of a detainee on a hunger strike, medical staff shall:
  - a. measure and record height and weight;
  - b. measure and record vital signs;
  - c. perform urinalysis;
  - d. conduct psychological/psychiatric evaluation;
  - e. examine general physical condition; and
  - f. if clinically indicated, proceed with other necessary studies.
2. Medical staff shall measure and record weight and vital signs at least once every 24 hours during the hunger strike and repeat other procedures as medically indicated.
3. Qualified medical personnel may modify or augment standard treatment protocols when medically indicated.
4. Medical staff shall record all examination results in the detainee's medical file.
5. If the detainee refuses the initial medical evaluation or any treatment or other medical procedures, medical staff must attempt to secure the detainee's signature on a "Refusal of Treatment" form. If the detainee will not cooperate by signing, staff shall note this on the "Refusal of Treatment" form.
6. Any detainee refusing medical treatment shall be monitored by medical staff to evaluate whether the hunger strike poses a risk to the detainee's life or permanent health. See "Section V," "E, Refusal to Accept Treatment" below in this standard.
7. If medically necessary, the detainee may be transferred to a community hospital or a detention facility appropriately equipped for treatment.
8. After the hunger strike, medical staff shall continue to provide appropriate medical and mental health follow-up. Only a physician may order a detainee's release from hunger strike treatment and shall document that order in the detainee's medical record. A notation shall be made in the detention file when the detainee has ended the hunger strike.
9. Records shall be kept of all interactions with the striking detainee, the provision of food, attempted and successfully administered medical treatment, and communications between the CMA, facility administrator, and ICE/ERO regarding the striking detainee.

## D. Food and Liquid Intake and Output

After consultation with the CMA, the facility administrator may require staff to measure and record food and water intake and output as follows:

1. Record intake and output in the medical record using an IHSC “Hunger Strike Form” or equivalent;
2. Deliver three meals per day to the detainee’s room unless otherwise directed by the CMA—staff shall physically deliver each meal regardless of the detainee’s response to an offered meal;
3. Provide an adequate supply of drinking water or other beverages; and
4. Remove from the detainee’s room all food items not authorized by the CMA. During the hunger strike, the detainee may not purchase commissary/vending machine food.

## E. Refusal to Accept Treatment

An individual has a right to refuse medical treatment. Before involuntary medical treatment is administered, staff shall make reasonable efforts to educate and encourage the detainee to accept treatment voluntarily. Involuntary medical treatment shall be administered in accordance with established guidelines and applicable laws and only after the CMA determines the detainee’s life or health is at risk.

1. Medical staff shall explain to the detainee the medical risks associated with refusal of treatment, and shall document treatment efforts in the detainee’s medical record.

2. The physician may recommend involuntary treatment when clinical assessment and laboratory results indicate the detainee’s weakening condition threatens the life or long-term health of the detainee.
  - a. The facility administrator shall notify ICE/ERO if a detainee is refusing treatment, and the health services administrator shall notify the respective ICE/ERO Field Office Director in writing of any proposed plan to involuntarily feed the detainee if the hunger strike continues. Under no circumstances may a facility administer involuntary medical treatment without authorization from ICE/ERO.
  - b. The Field Office Director, in consultation with the CMA, shall then contact the respective ICE Office of Chief Counsel and the U.S. Attorney’s Office with jurisdiction. After discussing the case, the attorneys shall recommend whether or not to pursue a court order. ICE policy is to seek a court order to obtain authorization for involuntary medical treatment. If a court determines that it does not have jurisdiction to issue such an order, or a hospital refuses to administer involuntary sustenance pursuant to a court order, ICE/ERO may consider other action if the hunger strike continues.
    - 1) If a court order is to be pursued, ICE/ERO shall work with the local ICE Office of Chief Counsel to work with the U.S. Attorney’s Office to make the arrangements for a court

hearing.

3. Medical staff shall:

- a. document all treatment efforts and each treatment refusal in the detainee's medical record;
- b. continue clinical and laboratory monitoring as necessary until the detainee's life or health is out of danger;

and

- c. continue medical and mental health follow-up as necessary.

**F. Release from Treatment**

Only the physician may order the termination of hunger strike treatment; the order shall be documented in the detainee's medical record.

# **EXHIBIT D**

## 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 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. Where permitted by facility policy, staff shall informally settle minor transgressions through mutual consent, whenever possible.
4. 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.
5. Each Incident Report shall be objectively and impartially investigated and reported, ordinarily by a person of supervisory rank.
6. 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.
7. 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.
8. If any staff at any stage of the disciplinary process has reason to believe that the

detainee is mentally ill or mentally incompetent, the facility shall provide for an assessment by qualified medical personnel.

9. 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.
10. An Institution Disciplinary Panel (IDP) shall conduct formal hearings on Incident Reports referred from UDCs and may impose higher level sanctions for "greatest" and "high" level prohibited acts.
11. 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.
12. Actions of the IDP shall be reviewed by the facility administrator, who may concur with the findings and sanctions or modify them.
13. 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.
14. All steps of the disciplinary process shall be performed within the required time limits.
15. 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.

16. 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.
17. 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.
18. 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.
19. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

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 shall receive translation or interpretation services, including accommodation for the hearing impaired, throughout 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. 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.
5. 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
6. 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 A through E range. Additional sanctions (1 through 7) may be*



*imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions 6 and 7 only in conjunction with sanction 1, 2, 3, 4, and/or 5.*

## **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 Reports**

Officers who witness a prohibited act, or have reason to suspect one has been committed, shall 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**

IGSAs 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. Provide the detainee a copy of the Incident Report and notice of charges at least 24 hours before the start of any disciplinary proceedings.
4. 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"

5. Advise the detainee in writing of the detainee's right, if applicable, to an initial hearing before the Unit Disciplinary Committee (UDC) within 24 hours of his/her notification of charges.
6. Record personal observances and other potentially material information.
7. Prepare a factual report of the investigation, including the location or disposition of any physical evidence.
8. Forward to the UDC all reports relevant to the disciplinary hearing—but do not provide a copy to the detainee at this stage of the disciplinary process, except for a copy of the Incident Report as instructed in #4 above in this section of this standard.

#### **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.

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 "E" through "M" in accordance with the table of prohibited acts and associated sanctions later in this document.

The detainee in UDC proceedings shall have the right to:

1. remain silent at any stage of the disciplinary process;
2. due process, which includes:
  - a. attending the entire hearing (excluding committee deliberations);
  - b. waiving the right to appear; or
  - c. having a UDC hearing within 24 hours after the conclusion of the investigation.

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;

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

The UDC shall:

1. advise the detainee of his/her rights at the hearing;
2. refer to the IDP any incident involving a serious violation associated with an A-through-D-range sanction. This includes code violations in the "greatest" and "high" categories (100s and 200s);
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:
  - a. The right to call witnesses and present evidence before the IDP, and
  - b. The right to a staff representative before the IDP.

#### **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

All facilities that house ICE/ERO detainees shall have a 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 shall have authority to:

1. conduct hearings on all charges and allegations referred by the UDC;
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:

1. remain silent at any stage of the disciplinary process;
2. due process, which includes:
  - a. attending the entire hearing (excluding committee deliberations);
  - b. waiving the right to appear; or
  - c. having an IDP hearing within 24 hours after the conclusion of the investigation.

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;

3. present statements and evidence, including witness testimony, on his/her behalf; and
4. 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 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 on the first business day after receiving the UDC referral, unless the detainee waives the 24-hour notification provision and requests an immediate hearing. 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 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. Time in segregation or the withholding of privileges after a hearing shall generally not exceed 30 days per violation, except in extraordinary circumstances, such as violations of offenses 101 through 109 listed in the "Greatest" offense category in Appendix 3.1.A.

2. Time served in segregation pending the outcome of the proceedings may be credited to the number of days to be spent in the segregation unit after an adverse decision is announced.
3. 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.
4. A detainee shall be removed from segregation if a health care professional concludes that continued segregation is detrimental to the detainee's medical or mental health.

## **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.*

## 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 218 or 321)*
- 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 officer 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 more than \$100*
- 323 *Signing, preparing, circulating, or soliciting support for prohibited group petitions*
- \*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*

# **EXHIBIT E**

## 2.12 Special Management Units

### I. Purpose and Scope

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

This detention standard applies to the following types of facilities housing 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.

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”).

2. The facility shall have a Special Management Unit (SMU) with provisions for separating the administrative segregation section, for detainees segregated from the general population for administrative reasons, from the disciplinary segregation section, for detainees segregated from the general population for disciplinary reasons.
3. Detainees housed in the general population, staff, contractors, volunteers and the local community shall be protected from harm by the segregation of certain detainees in an SMU.
4. Any detainee who represents an immediate, significant threat to safety, security or good order shall be immediately controlled by staff and, if cause exists and supervisory approval granted, placed in administrative segregation. ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee’s placement in the SMU.
5. Administrative segregation may also be available to detainees for the purpose of providing “protective custody.” A detainee

shall be placed in “protective custody” status in administrative segregation only when there is documentation and supervisory approval that it is necessary to protect a detainee from harm and that no reasonable alternatives are available.

6. A detainee shall be placed in disciplinary segregation only after a finding by a disciplinary hearing panel that the detainee is guilty of a prohibited act or rule violation classified at a “greatest,” “high” or “high-moderate” level, as defined in “Appendix 3.1.A: Prohibited Acts and Sanctions,” found in “3.1 Disciplinary System.”
7. Health care personnel shall be immediately informed when a detainee is admitted to an SMU and shall conduct an assessment and review of the detainees medical and mental health status and care needs. Health care personnel shall at a minimum conduct a daily assessment of detainees 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 violation, and his/her status shall be reviewed by the facility administrator and the Field Office Director 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 applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

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."

### 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 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 prevent further violation of those rules or 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) Time served in pre-hearing detention may be deducted from any time ordered by the Institutional Disciplinary Panel (IDP).
- 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. 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.

Use of administrative segregation to protect vulnerable populations 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 order a detainee into 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. A detainee transferred from disciplinary segregation to administrative segregation shall enjoy the same privileges as all other detainees in administrative segregation, provided receipt of such privileges poses no threat to the safety, security, or orderly operation of the facility.
- f. A medical professional who 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.

- b. 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.
- c. 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.
- d. All memoranda, medical reports and other relevant documents shall be attached to the administrative segregation order.
- e. 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.
- f. 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

- g. A copy of the administrative segregation order shall also be immediately provided to the Field Office Director or his designee.
- h. The order shall remain on file with the SMU until the detainee is returned to the general population.
- i. 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.

h. When a detainee has been held in administrative segregation for more than 30 days, the facility administrator shall notify the Field Office Director, who shall notify the ICE/ERO Deputy Assistant Director, Detention Management Division in writing.

## **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 violation, except in extraordinary circumstances, such as violations of offense 101 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 and the Field Office Director shall review the status of a detainee in disciplinary segregation after the first 30 days of segregation, and each 30 days thereafter, to determine whether continued detention in disciplinary segregation is warranted.

## **C. 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.

## **D. 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.

*\*\*Detainees must be evaluated by a medical professional prior to placement in an SMU.*

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.

## **E. 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.

## **F. Special Needs**

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

## **G. 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.

## **H. 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.

## **I. 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.”

## **J. 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.

## **K. 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.

## **L. 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.”)

## **M. 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.

## **N. Health Care**

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.

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.

Medical visits shall be recorded on the SMU housing record or comparable form, and any action taken shall be documented in a separate logbook. A detainee’s mental health status shall be reviewed and documented at least once every 30 days.

## **O. 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.

#### **P. 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.

#### **Q. 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.

#### **R. 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.

## **S. 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.

## **T. 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").

## **U. Reading Materials (Non-Legal)**

Detainees in SMU shall have access to reading materials, including religious materials. The Recreation Specialist shall offer each detainee soft-bound, reading materials of this type on a rotating basis.

## **V. 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.

## **W. 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.

## **X. Recreation**

Recreation for detainees housed in the SMU shall be separate from the general population. As necessary or advisable to prevent assaults and to reduce management problems, recreation for some individuals shall be solitary and shall occur separate from all other detainees. In accordance with standard “5.4 Recreation”:

1. 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.*

2. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire
3. 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.

## **Y. 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.



# **EXHIBIT F**

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

**11065.1: Review of the Use of Segregation for ICE Detainees**

**Issue Date:** September 4, 2013  
**Effective Date:** September 4, 2013  
**Superseded:** N/A

**Federal Enterprise Architecture Number:** 306-112-002b

1. **Purpose/Background.** This directive establishes policy and procedures for U.S. Immigration and Customs Enforcement (ICE) review of ICE detainees placed into segregated housing.

This directive is intended to complement the requirements of the 2011 Performance-Based National Detention Standards (PBNDS 2011), the 2008 Performance-Based National Detention Standards (PBNDS 2008), the 2000 National Detention Standards (NDS), and other applicable ICE policies.

The most recent articulation of ICE policy governing segregation is the PBNDS 2011 standard "Special Management Units" (Standard 2.12), which establishes the responsibilities of detention facility staff with respect to segregation placement, review, and notification to ICE, and which also articulates ICE policy regarding appropriate management of segregated detainees. Also relevant is the PBNDS 2011 standard "Disciplinary System" (Standard 3.1), which prescribes appropriate levels of disciplinary segregation for various offenses.

2. **Policy.** Placement of detainees in segregated housing is a serious step that requires careful consideration of alternatives. Placement in segregation should occur only when necessary and in compliance with applicable detention standards. In particular, placement in administrative segregation due to a special vulnerability should be used only as a last resort and when no other viable housing options exist.

ICE shall ensure the safety, health, and welfare of detainees in segregated housing in its immigration detention facilities. Consistent with the agency's detention standards and relevant special housing policies, ICE shall take additional steps to ensure appropriate review and oversight of decisions to retain detainees in segregated housing for over 14 days, or placements in segregation for any length of time in the case of detainees for whom heightened concerns exist based on known special vulnerabilities and other factors related to the detainee's health or the risk of victimization. The security and safety of ICE employees, facility staff members, detainees, and the public remains the first consideration in the exercise of the procedures and requirements of this Directive.

3. **Definitions.** The following definitions apply for the purposes of this Directive:

3.1. **Administrative Segregation.** Administrative segregation is a non-punitive form of separation from the general population for administrative reasons. Administrative segregation is authorized only as necessary to ensure the safety of the detainee, facility staff, and other detainees; the protection of property; or the security or good order of the facility, and therefore should be for the briefest term and under the least restrictive conditions practicable, consistent with the rationale for placement. Generally, detainees in administrative segregation shall receive the same privileges as detainees housed in the general population, consistent with safety and security concerns. Administrative segregation may be necessary for, among other reasons, detainees requiring or requesting protective custody from others who may be likely to harm them; detainees awaiting an investigation or hearing for a violation of facility rules; detainees scheduled for release, removal, or transfer within 24 hours; or detainees presenting a clear threat to the security of the facility.

3.2. **Disciplinary Segregation.** Disciplinary segregation is a punitive form of separation from the general population for disciplinary reasons. Disciplinary segregation is authorized only pursuant to the order of a facility disciplinary panel, following a hearing in which the detainee is determined to have committed serious misconduct in violation of a facility rule, and only consistent with the Disciplinary Severity Scale from the applicable ICE detention standards, and only when alternative dispositions would inadequately regulate detainee behavior.

3.3. **Special Vulnerabilities.** Detainees with special vulnerabilities include those who are known to be suffering from mental illness or serious medical illness; who have a disability or are elderly, pregnant, or nursing; who would be susceptible to harm in general population due in part to their sexual orientation or gender identity; or who have been victims – in or out of ICE custody – of sexual assault, torture, trafficking, or abuse.

4. **Responsibilities.**

4.1. **The ERO Custody Management Division (CMD)** has responsibilities under:

- 1) Section 5.2 (Segregation Placements Related to Disability, Medical or Mental Illness, Suicide Risk, Hunger Strike, Status as a Victim of Sexual Assault, or other Special Vulnerability);
- 2) Section 7.2 (Custody Management Division);
- 3) Section 7.5 (Detention Monitoring Council); and
- 4) Section 8 (Training).

4.2. **The ERO Field Operations Division** has responsibilities under:

- 1) Section 7.1 (ERO Field Operations);
- 2) Section 7.5 (Detention Monitoring Council); and
- 3) Section 8 (Training).

**4.3. ERO Field Office Directors (FODs) have responsibilities under:**

- 1) Section 5.1 (Extended Segregation Placements);
- 2) Section 5.2 (Segregation Placements Related to Disability, Medical or Mental Illness, Suicide Risk, Hunger Strike, Status as a Victim of Sexual Assault, or other Special Vulnerability);
- 3) Section 5.3 (Field Office Reports to ICE Headquarters);
- 4) Section 5.4 (Notification of a Detainee's Release from Segregation); and
- 5) Section 6 (Facility Compliance).

**4.4. The ICE Health Service Corps (IHSC) has responsibilities under:**

- 1) Section 5.1 (Extended Segregation Placements);
- 2) Section 5.2 (Segregation Placements Related to Disability, Medical or Mental Illness, Suicide Risk, Hunger Strike, Status as a Victim of Sexual Assault, or other Special Vulnerability);
- 3) Section 7.3 (IHSC Coordination and Review);
- 4) Section 7.5 (Detention Monitoring Council); and
- 5) Section 8 (Training).

**4.5. The Office of Detention Policy and Planning (ODPP) has responsibilities under:**

- 1) Section 7.4 (Office of Detention Policy and Planning); and
- 2) Section 7.5 (Detention Monitoring Council).

**4.6. The Detention Monitoring Council (DMC) has responsibilities under:**

- 1) Section 7.5 (Detention Monitoring Council).

**4.7. The Segregation Review Coordinator has responsibilities under:**

- 1) Section 7.5 (Detention Monitoring Council).

## **5. Field Review of Detainee Segregation Status.**

### **5.1. Extended Segregation Placements.**

- 1) The FOD shall take steps to ensure that he or she is notified in writing by the facility administrator whenever a detainee has been held continuously in segregation for 14 days, 30 days, and at every 30-day interval thereafter, or has been held in segregation for 14 days out of any 21 day period.
- 2) ICE personnel, including IHSC personnel and Detention Service Managers (DSMs), should also notify FODs whenever they become aware of a detainee who meets these criteria and has not yet been the subject of a notification to the FOD.
- 3) Upon receipt of such notification, the FOD shall immediately commence a review of the detainee's segregation case, including, where relevant, the full detention file and EARM records.
- 4) In cases of administrative segregation, the review shall include an assessment of whether the current placement is appropriate based on the applicable detention standards (including the substantive grounds for placement and the procedural requirements for status reviews) and ICE policies, including:
  - a) Whether the placement is based on a specified threat to the safety of the detainee or others, or to the secure and orderly operation of the facility. The facility must have articulated the facts behind the placement decision;
  - b) Whether a supervisory officer completed the administrative segregation order prior to placement, with a copy immediately provided to the detainee;
  - c) Whether documented reviews by a supervisor, including an interview with the detainee, have occurred within the first 72 hours of placement into segregation and every week thereafter; and
  - d) Whether, as part of the documented reviews, the facility administrator or assistant administrator has provided written approval of any decision to continue involuntary segregation of a detainee for protective reasons (at facilities governed by the NDS, written approval by a supervisory officer is sufficient).
- 5) In cases of disciplinary segregation, the review shall include an assessment of whether the current placement is appropriate based on the applicable detention standards and ICE policies, including:
  - a) Authorization by an order of the facility disciplinary panel following a disciplinary hearing;
  - b) Consistency of the disciplinary panel order with the Disciplinary Severity Scale from the applicable ICE detention standards; and

- c) Documented reviews by a supervisor every week after initial placement, including an interview with the detainee, to determine whether the detainee has received all services to which he or she is entitled.
- 6) If review of the segregation case indicates that the detainee is Limited English Proficient (LEP), the FOD shall also consider whether the initial placement or ongoing retention in segregation were the result of insufficient interpretation, including during interactions with facility staff, or due to other LEP related communication difficulties.
- 7) In his or her evaluation of the placement, the FOD must consider the initially identified reason(s) for placement, any new relevant information from subsequent facility reviews, and answers to the FOD's inquiries, and shall determine whether the continued placement in segregation is necessary, excessive, or in violation of applicable detention standards. As extended segregation should be used only when necessary, after engaging in an individualized assessment of the case, the FOD must consider as part of his or her evaluation whether a less restrictive housing or custodial option is appropriate, and, in coordination with ICE headquarters when necessary, arrange for utilization of such less restrictive options that are appropriate and available, including:
  - a) In consultation with the detention facility administrator, the return of the detainee to the general population;
  - b) In consultation with the detention facility administrator, options to limit isolation, including additional out of cell time and the ability to participate in group activities;
  - c) Transfer 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, or better medical or mental health staffing, a facility that has a dedicated protective custody unit, or a facility that has a Special Management Unit with enhanced privileges; or
  - d) Consistent with requirements of mandatory detention, public safety, and other immigration enforcement considerations, release from custody.
- 8) If, at any time during the review, the FOD learns that the segregation placement meets any of the criteria described in subsection 5.2.2, the FOD shall immediately follow the procedures outlined in subsection 5.2.

**5.2. Segregation Placements Related to Disability, Medical or Mental Illness, Suicide Risk, Hunger Strike, Status as a Victim of Sexual Assault, or other Special Vulnerability.**

- 1) A detainee's age, physical disability, sexual orientation, gender identity, race, 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. Unaccompanied alien children must be treated in accordance with applicable statutes, regulations, and policies.

- 2) The FOD shall take steps to ensure that he or she is notified in writing as soon as possible by the facility administrator, but no later than 72 hours after the initial placement into segregation, whenever any of the following criteria have been met:
  - a) A 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 or a serious medical illness or serious physical disability.
- 3) ICE personnel, including IHSC personnel and DSMs, should also notify FODs whenever they become aware of a detainee who meets the above criteria and has not yet been the subject of a notification to the FOD.
- 4) Upon receipt of such notification, the FOD shall immediately notify CMD, in writing, of the segregation case, for dissemination to IHSC and the other members of the DMC subcommittee and the Segregation Review Coordinator, to permit expedited review. In addition, the FOD shall arrange for notification of the detainee's attorney, if the detainee's record indicates that he or she has an attorney.
- 5) Upon receipt of such notification, IHSC shall:
  - a) For detainees with a medical or mental illness, or identified as being a suicide risk or on a hunger strike, evaluate the appropriateness of the placement and ensure appropriate health care is provided. Such detainees shall be removed from segregation if the IHSC determines that the segregation placement has resulted in deterioration of the detainee's medical or mental health, and an appropriate alternative is available.
  - b) For detainees with a disability, evaluate the appropriateness of the placement and, in coordination with the FOD, consult with facility staff about any necessary accommodations; and
  - c) For all such detainees, review the detainee's treatment plan, monitor the detainee's care on an ongoing basis, and review segregation placement at least every 14 days, in coordination with the FOD and the members of the DMC subcommittee.
- 6) The FOD, in consultation with IHSC where appropriate, shall:
  - a) Ensure that any setting used to house detainees who are at risk for suicide or other self-harm permits close supervision and minimizes opportunities for self-harm.
  - b) For a detainee placed in administrative segregation due to a special vulnerability, as defined above in section 3.3, ensure that the placement is only used as a last resort and when no other viable housing options exist.



- c) For a detainee placed in administrative segregation because he or she was alleged to have been a victim of sexual assault, ensure the detainee is not held in administrative segregation on that basis for more than five days, except in highly unusual circumstances or at the detainee's request.
- d) For any detainee meeting the criteria in 5.2.2, including detainees in segregation at their own request, conduct a review to assess whether any less restrictive housing or custodial options are appropriate and available based on an individualized assessment of medical and security concerns involved in each case, and, in coordination with ICE headquarters when necessary, arrange for utilization of such less restrictive options that are appropriate and available, including:
  - i) In consultation with the detention facility administrator, return to the general population;
  - ii) In consultation with the detention facility administrator, options to limit isolation, including additional out of cell time and the ability to participate in group activities;
  - iii) Transfer 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 or better medical or mental health staffing, a facility that has a dedicated protective custody unit, or a facility that has a Special Management Unit with enhanced privileges;
  - iv) Transfer to a hospital; or
  - v) Consistent with requirements of mandatory detention, public safety, and other immigration enforcement considerations, release from custody.
- 7) The FOD shall complete the same reviews as are required by Section 5.1 whenever a detainee has been held continuously in segregation for 14 days, 30 days, and at every 30 day interval thereafter.

### **5.3. Field Office Reports to ICE Headquarters.**

- 1) The FOD shall develop a written report of his/her findings and any actions taken, and transmit it to CMD, with respect to detainees who meet the following criteria:
  - a) All detainees held continuously in segregated housing for more than 14 days or for 14 days out of any 21 day period who:
    - i) The FOD determines should have their segregation placements reviewed by headquarters;
    - ii) Meet one of the criteria listed in Section 5.2.2; or

- iii) Are detained at facilities that have been designated by the DMC subcommittee for heightened review.
  - b) All detainees held continuously in segregated housing for more than 30 days, and at 30-day intervals thereafter in the unusual circumstance where a detainee is held in segregated housing for 60 days or longer.
- 2) At a minimum, the FOD's written report will include:
- a) A clear articulation of the reason(s) for the segregation placement, whether those reasons were valid, and whether they remain valid;
  - b) Whether the placement is in compliance with applicable detention standards (including the substantive grounds for placement and the procedural requirements for status reviews);
  - c) For detainees meeting one of the criteria listed in Section 5.2.2, a description of the disability, illness, special vulnerability or other relevant factor;
  - d) For detainees placed in administrative segregation due to a special vulnerability, as defined above in section 3.3, whether the placement is used only as a last resort and when no other viable housing options exist;
  - e) For detainees placed in administrative segregation because he or she was alleged to have been a victim of a sexual assault, whether the placement is justified by extraordinary circumstances or at the detainee's request;
  - f) Options for alternate housing or custodial arrangements that were considered; and
  - g) An assessment of the best course of action.
- 3) With respect to detainees held continuously in segregation for more than 14 days or for 14 days out of any 21 day period but not meeting the criteria in subsection 5.3.1, the FOD shall report to CMD the date of the placement, the reason for the placement, the date the FOD completed his or her review, and any additional information the FOD believes is noteworthy.
- 4) Upon request, the FOD will provide CMD with all documentation from the facility used to support the segregation decision and reasons for continued placement.
- 5) Reports required by this subsection shall be transmitted as soon as possible but no later than three work days after the end of the 14 day, 30 day or subsequent intervals.

**5.4. Notification of a Detainee's Release from Segregation.**

- 1) The FOD shall take steps to ensure that he or she is notified in writing by the facility administrator whenever a detainee who has been the subject of a prior notification pursuant to Section 5.1 or 5.2 is subsequently released from segregation.
- 2) The FOD shall notify CMD of any such developments, so that the DMC subcommittee can consider whether to cease its review of the segregation placement. After a detainee has been released from segregation, the FOD will not be expected to provide further information to CMD unless so requested.

**6. Facility Compliance.** It is the responsibility of the FOD to ensure all detention facilities in his or her area of responsibility (AOR) are aware of the notification requirements under this policy, as well as their obligations under relevant detention standards and ICE policies on the appropriate use of segregation.

**7. ICE Headquarters Oversight and Reporting Regarding Use of Segregation.**

**7.1. ERO Field Operations.** ERO Field Operations shall assist FODs in carrying out their duties under this policy, including by providing guidance on available transfer and/or release options and other ICE resources.

**7.2. Custody Management Division.**

- 1) CMD shall assist the DMC subcommittee and Segregation Review Coordinator by collecting and disseminating segregation reports and notifications received from the FODs, and by developing a system for use by the DMC subcommittee and Segregation Review Coordinator that will maintain information about the segregation placements.
- 2) CMD, with assistance from IHSC, shall compile and maintain a list of relevant facility resources and capabilities. This list shall include facilities that have dedicated protective custody housing units; segregation housing units with substantial out-of-cell time, commingling, or other enhanced privileges; and information about facility medical resources and capabilities, including the extent of medical and mental health staffing, and the number of dedicated medical beds, medical housing units, and appropriate cells for monitoring high-risk or suicidal detainees.
- 3) Using available resources and considering any applicable statutory requirements, CMD, in coordination with IHSC, other ICE components, and FODs, shall on an ongoing basis seek to enhance the availability of facility resources and capabilities described in 7.2.2 above.

**7.3. IHSC Coordination and Review.**

- 1) IHSC shall assist CMD in compiling information about facility medical resources and capabilities, including the extent of medical and mental health staffing, and the number of dedicated medical beds, medical housing units, and appropriate cells for monitoring high-risk or suicidal detainees.
- 2) IHSC shall review cases identified by FODs or other ICE personnel as raising disability, medical or mental health concerns in the context of segregation. Based on its review, IHSC shall provide feedback to FODs and the DMC subcommittee on appropriate placement for detainees in light of their disability or medical or mental health conditions.
- 3) IHSC shall work with facilities and ERO Field Operations to determine suitable accommodations for detainees with disabilities and to ensure appropriate treatment for detainees with medical or mental health conditions.

**7.4. Office of Detention Policy and Planning.** In the context of serving as co-chair of the DMC subcommittee, ODPP shall participate in the review of segregation placements, the analysis of data, the preparation of reports, and the development of remedial plans and new policies as necessary. In addition, ODPP shall consult with a variety of stakeholders with respect to policy, planning, and implementation.

**7.5. Detention Monitoring Council.**

- 1) CMD and ODPP shall co-chair a subcommittee of the DMC that will ensure an effective, timely and comprehensive review of the segregation reports sent to Headquarters from the FODs. The subcommittee shall include representatives from ERO Field Operations, IHSC, the ICE Office of the Principal Legal Advisor, the Office of Professional Responsibility, and the ICE Office of Acquisition Management. A representative from the DHS Office for Civil Rights and Civil Liberties (CRCL) may participate in subcommittee meetings as CRCL deems appropriate, but CRCL shall not use information ICE shares with CRCL pursuant to such participation in any CRCL investigation or inquiry.
- 2) The DMC shall designate a Segregation Review Coordinator who will manage and track the segregation reports sent by the FODs and related information, for presentation to the DMC subcommittee.
- 3) On an on-going basis, members of the DMC subcommittee shall review the FOD segregation reports and other available information regarding detainees who meet the following criteria:
  - a) All detainees held continuously in segregated housing for over 14 days or for 14 days out of any 21 day period who:
    - i) Are noted by the FOD as requiring headquarters review;

- ii) Meet one of the criteria listed in Section 5.2.2;
  - iii) Are detained at facilities that have been designated by the DMC subcommittee for heightened review;
  - iv) Are nominated for review by any DMC member; or
  - v) Are nominated for review by the DHS Officer for Civil Rights and Civil Liberties through a formal referral.
- b) All detainees held continuously in segregated housing for over 30 days, and at 30 day intervals thereafter.
- 4) On an ongoing basis, members of the DMC subcommittee shall collaborate in evaluating whether a particular detainee's placement in segregation is appropriate or warrants reconsideration, obtaining additional information as needed, and effectuating less restrictive housing or custodial options when appropriate. The DMC subcommittee shall meet as needed to assess progress in reviewing segregation placements, to consider particular cases, and to ensure timely and effective intervention when necessary.
  - 5) The DMC subcommittee shall designate facilities for heightened review based on an assessment of such factors as whether they have a disproportionate number (compared to current ICE averages) of detainees in segregation, make disproportionate use of long-term segregation, or have a record of using segregation inappropriately or of not being in compliance with standards with respect to segregation.
  - 6) The DMC subcommittee shall review significant findings from oversight inspections regarding the use of segregation at detention facilities, including monitoring by DSMs, CMD inspections, Office of Detention Oversight inspections, and CRCL investigations.
  - 7) On a quarterly basis, the DMC subcommittee shall prepare a report to the full DMC and the Director, compiling data about the numbers of detainees held in segregation who met the criteria listed in 5.1 and 5.2.2, the reasons for their segregation, the results of the reviews of particular cases, areas of concern regarding particular cases or facilities that warrant further examination, and other relevant information.
  - 8) On at least a quarterly basis, the full DMC shall convene to discuss national trends and information received about the use of segregation in ICE detention facilities and lessons learned from reports and data presented to the DMC, and to develop and recommend immediate and long-term remedial plans as necessary.

**8. Training.**

- 1) ERO Field Operations shall provide training to FODs about their responsibilities under this policy.
- 2) IHSC shall provide training to Field Medical Coordinators about their responsibilities under this policy.
- 3) CMD shall provide training to DSMs about their responsibilities under this policy.

**9. Authorities/References.****9.1. 2011 Performance-Based National Detention Standards, including the following provisions:**

- 1) Standard 2.12 "Special Management Units."
- 2) Standard 3.1 "Disciplinary System."
- 3) Standard 4.6 "Significant Self-Harm and Suicide Prevention and Intervention."

**9.2. 2008 Performance-Based National Detention Standards, including the following provisions:**

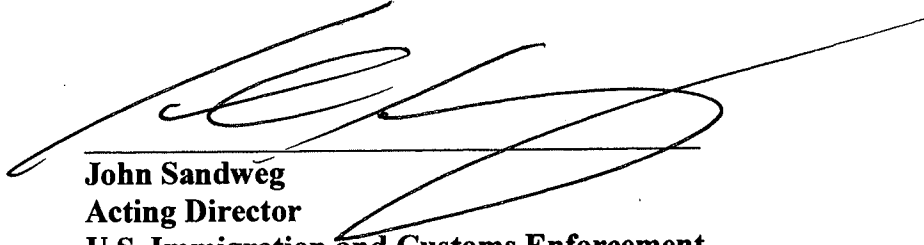
- 1) Standard 2.15 "Special Management Units."
- 2) Standard 3.19 "Disciplinary System."
- 3) Standard 4.24 "Suicide Prevention and Intervention."

**9.3. 2000 National Detention Standards, including the following provisions:**

- 1) Standard 2.13 "Special Management Unit (Administrative Segregation)."
- 2) Standard 2.14 "Special Management Unit (Disciplinary Segregation)."
- 3) Standard 2.5 "Disciplinary Policy."
- 4) Standard 3.3 "Suicide Prevention and Intervention."

**9.4. ICE Policy 11062.1, "Sexual Abuse and Assault Prevention and Intervention" (May 11, 2012).****9.5. ICE Policy 11022.1, "Detainee Transfers" (January 4, 2012).**

10. **No Private Right Statement.** This document is an internal policy statement of ICE. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.



**John Sandweg**  
**Acting Director**  
**U.S. Immigration and Customs Enforcement**



# **EXHIBIT G**

# The News Tribune

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## Congressman Adam Smith speaks with detainees amid hunger strike at Tacoma immigration center

By Alexis Krell

Staff writer March 20, 2014

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- Hunger strike at Tacoma's immigration detention center enters day 4
- 330 detainees decline meals at Northwest Detention Center, in hunger strike supporters say started Friday

A Washington congressman visited detainees Thursday who recently took part in a hunger strike to protest conditions at the federal immigration detention center in Tacoma.

Congressman Adam Smith, D-Bellevue, said he met with three detainees and toured the Northwest Detention Center on the Tideflats. The tour was closed to the press.

"I think there are legitimate concerns about the conditions of the facility," Smith said. "I think that they raised some legitimate issues. My biggest concern is that there are no legislative standards for what the conditions should be."

He identified the \$1 per day wages for working detainees and commissary prices as concerns the detainees had.

U.S. Immigration and Customs Enforcement officials said two detainees remained under medical observation Wednesday, but were occasionally eating. Supporters have said the strike started with hundreds of the center's 1,300 detainees declining meals starting March 7, in protest of deportations, and conditions at the facility, including its food.

Smith said he didn't see food served at the facility on his afternoon visit.

"That's the thing, I come in one day, I'm not going to be able to tell," he said. "As we were walking around, some of the detainees were shouting at us: 'Get us better food.'"

The congressman also brought up what he said was the larger issue of deportation.

"How aggressive we are with deportations is an issue as well," he said. "A little bit more discretion on this issue is something I think would make sense. To keep families together and not rip them apart."

Smith said his next step is to review audits of the facility, which is run by a private company called The GEO Group.

"There is a variety of different audits that are done by ICE, by GEO," he said. "I want to take a look at those, and figure out how consistent they are. How reliable they are."

GEO emailed a statement Wednesday that mentioned such review of the center.

"All of GEO's residential facilities under direct contract with ICE are audited and inspected by the agency on a routine and unannounced basis. GEO's facilities are also independently accredited by the American Correctional Association, which is widely recognized as the foremost independent detention accreditation agency in the United States."

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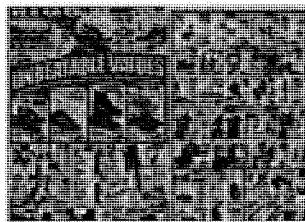
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# **EXHIBIT H**

**The Seattle Times**

Winner of Nine Pulitzer Prizes

## Opinion

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Originally published Wednesday, March 19, 2014 at 5:08 PM

### **Guest: What's behind the hunger strike at Northwest Detention Center**

The hunger strike at Northwest Detention Center reveals a human-rights crisis, according to guest columnists Dan Berger and Angélica Cházaro.

By Dan Berger and Angélica Cházaro

Special to The Times



MORE than 700 people detained at the Northwest Detention Center in Tacoma began a hunger strike on March 7 in protest of their conditions. Those still reported to be on hunger strike are on medical watch and have been threatened with force-feeding if they continue to refuse food. According to their attorneys, participants have experienced other reprisals for the strike, including solitary confinement and threats to their asylum efforts.

In a public statement, the hunger strikers demanded an end to deportations and the separation of families. They also demanded better food, medical care and wages for work inside the facility (they currently receive just \$1 a day for their labor), and an end to exorbitant commissary prices. Detainees pay \$8.95 for a bottle of shampoo and \$1 for a single plastic plate.

These problems are not limited to federal detention centers. Along with people being held in local jails and state and federal prisons, the detainees have launched what may be the most urgent human-rights movement in our country today. Just this week, a New York inmate died on Rikers Island when his jail cell overheated.

The U.S. prison system is the largest in the world. With 5 percent of the world's population, we have 25 percent of the world's prison population. Sentences are longer and conditions harsher than at many prisons throughout the world.

The use of long-term solitary confinement — where some 80,000 Americans now spend 23 or 24 hours a day without human contact and are often denied adequate nutrition, reading material or visits with loved ones — has sparked a growing series of lawsuits, legislative hearings and demonstrations.

In California, prisoners have staged a series of hunger strikes since 2011. At its height in the summer of 2013, 30,000 people in prisons around the state refused food.

Similar to the Tacoma detainees' demands, the California prisoners call for an end to group punishment and for prison officials to follow United Nations protocols on the use of solitary confinement as well as adequate food. Similar smaller hunger strikes have occurred in prisons in Ohio, North Carolina, Illinois and Virginia since 2011.

Deportations have expanded dramatically in recent years. According to the Pew Research Center, the number of deportations has increased from approximately 165,000 people a year in 2002 to almost 400,000 people annually for the last five years.

Soon, the Obama administration will have deported 2 million people, who are processed through a network of detention centers. By congressional order, these detention centers must hold 34,000 people on any given day. Many of those facilities are privately run. The Northwest Detention Center, one of the biggest in the country, is managed by The Geo Group, a company that describes itself as the "world's leading provider" of private prisons and detention centers.

Such investment in detention and deportation has sparked a series of efforts among undocumented workers and youth around the country. The hunger strike in Tacoma follows a two-week hunger strike that activists, many of them undocumented, staged outside a Phoenix detention center starting Feb. 24. This week, citing Tacoma as inspiration, migrants in the Conroe, Texas, detention center launched a hunger strike.

Nonviolent civil-disobedience actions have prevented deportations in 16 cities around the country, including at the Northwest Detention Center in Tacoma days before the hunger strike began.

Such activism has prompted a series of legislative hearings, judicial rulings and conversations about long-term isolation, mass incarceration and the force-feeding of detainees. Still, there is much work to be done. While the United States may like to be a world leader in human rights, its routine practices of confinement violate both international standards and human decency.

We do not often look to prisons and detention centers to understand the social and political needs of our generation. But we should. Some of the most passionate advocates for fairness, justice and human rights are incarcerated.

*Dan Berger, a historian of activism, teaches ethnic studies at the University of Washington Bothell. Angélica Cházaro, an immigrant-rights attorney, teaches at the University of Washington School of Law.*



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# **EXHIBIT I**

POLITICS IMMIGRATION

## Prison Hunger Strike Puts Spotlight on Immigration Detention

Alex Altman @aaltman82 | March 17, 2014

**An inmate hunger strike at a Washington detention center is raising questions about immigration detention quotas and enforcement**

Eleven days ago, Paulino Ruiz stopped eating.

After nine months at Northwest Detention Center in Tacoma, Wash., which houses immigration detainees awaiting deportation, Ruiz was sick of eating a boiled potato at every meal. He was offended by the harsh treatment meted out by guards. And he was tired of making just \$1 per day for custodial work.

Perhaps most of all, he felt let down by the immigration policies of Barack Obama. Ruiz, 26, came to the U.S. at age three and says he is a legal resident of the U.S. But when he was released from prison last year after serving time for robbery, he was put on a path to deportation. "You can only get pushed so far," Ruiz explains in a phone interview with TIME from inside the low-slung facility that sprawls across Tacoma's tide flats. "More people have been deported since [Obama's] been in office than anyone else in history."

Ruiz chose the right time to protest. A facility-wide hunger strike started at breakfast on March 7 at the



Demonstrators opposing deportations hold up signs while chanting in English and Spanish outside of the Northwest Detention Center in Tacoma, Wa. on March 11, 2014.

Thomas Soerenes—The New s Tribune/AP

detention center, spreading by word of mouth, until by dinnertime about 750 of the facility's 1,300 detainees were declining to eat, according to U.S. Immigration and Customs Enforcement (ICE). The strike turned a spotlight on immigration detention and deportation policies just as the White House is taking a fresh look at the issues.

On March 13, Obama announced he had ordered a review of his Administration's immigration-enforcement policies. The next day, the President met for nearly two hours with 17 leading immigration-reform advocates at the White House. Obama told them he has asked Jeh Johnson, the new Secretary of the Department of Homeland Security (DHS), to conduct the review.

Two of the enforcement policies Obama inherited are at the center of the Tacoma hunger strike. One is the so-called "bed mandate," an arcane provision embedded in the annual DHS spending bill. The other is mandatory detention, which requires suspected immigration violators to be held indefinitely while a deportation review is pending, often without bond.

Introduced in 2007, the bed mandate sets a target for the number of undocumented immigrants DHS must house to receive its annual appropriation. The current quota is about 34,000 people. Immigration analysts say it forces law enforcement to pursue and detain undocumented immigrants simply to meet quotas, stripping them of discretion as they carry out their jobs. As a result, facilities like Northwest Detention Center are crammed with detainees who have committed minor infractions, such as traffic violations. Their detention costs taxpayers about \$160 per day, which quickly adds up: in the 2013 fiscal year, the U.S. shelled out more than \$2 billion on immigration detention.

"It's neither good policy nor good use of resources," says Muzaffar Chishti, director of the Migration Policy Institute's office at New York University's School of

Law.

In recent months, House Democrats have sought to strike the statute by stressing its ballooning costs — an appeal aimed at fiscal conservatives. They argue that alternatives to lengthy detention for nonviolent offenders, such as monitoring bracelets or supervised release—would be far cheaper and equally effective. “Neither party wants to see taxpayer money wasted,” says Rep. Bill Foster, an Illinois Democrat who has twice co-sponsored amendments to end the mandate. “This is something we can do on a bipartisan basis.”

But bipartisanship has flopped so far. In June, an amendment sponsored by Democratic Congressman Ted Deutch of Florida was defeated in a largely party-line vote, with just eight Republicans joining the vast majority of Democrats in a failed effort to scrap the mandate. Deutch and Foster have tried to revive the issue without luck so far.

Republicans say administration officials are allowing budget cuts to serve as an excuse for lax immigration enforcement. The GOP believes Obama has a habit of picking and choosing which parts of federal law he wants to enforce, and defends the mandate as a statute that compels the government to lock up offenders or lose its funding. “This is not optional. It’s not discretionary,” Rep. John Culberson of Texas, a Republican, told Johnson at a hearing earlier this month. “There’s no prosecutorial discretion on the part of a police officer or your detention folks as to whether or not you’re going to fill 34,000 beds. You shall fill 34,000 beds.”

But immigration reformers believe the private-prison industry is unduly affecting the public debate. Private prison operators spend millions lobbying lawmakers on immigration detention and other issues that directly impact their bottom line.

Like most detention centers, the facility in Tacoma is

operated by a private contractor, the Geo Group. That corporation's political-action committee has given more than \$100,000 to state, local and federal candidates so far in the 2014 cycle, according to the Center for Responsive Politics. "It's a wasteful taxpayer giveaway to special interests that hurts law enforcement and is inconsistent with the way we approach immigration in this country," Deutch says.

The protesters in Tacoma were also reacting to the policy known as mandatory detention, which often locks up offenders indefinitely. The policy was expanded by a pair of laws passed in 1996 and strengthened by the Patriot Act after Sept. 11, 2001. It requires that categories of non-U.S. citizens be imprisoned without evaluating the threat they may pose, often without giving them a bond hearing. "You have people who might get arrested for something minor, but aren't allowed to fight their case," says Sandy Restrepo, a Washington State immigration lawyer involved with the hunger strike. "Either they have really high bonds set, or they're ineligible for bond."

Some of these detainees are legal residents of the U.S. Brought to the U.S. at age three from the Mexican state of Michoacan, Ruiz says he was raised in Oregon, where he graduated from high school. According to Ruiz, he spent years working construction and landscaping before he was arrested in 2008 for a drunken robbery. When he was released from prison last year, he says, he was remanded to the custody of ICE because of an immigration hold, and has been held without bond as he appeals his deportation. He says he has no ties to Mexico and his entire family lives in the U.S., including his ailing father. "I'm not a bad person," Ruiz says. "I just made a mistake. I took responsibility for that. It hurts not to be able to be back with my family."

It is unclear whether the review Obama ordered will result changes to either the bed quota or to the practice of mandatory detention. Earlier this month, in testimony before the House Homeland Security

Subcommittee of the House Appropriations Committee, DHS Secretary Johnson told lawmakers that he interpreted the 34,000-bed mandate “to mean that we have to maintain 34,000 detention beds. Some of those beds might be empty at any given time.” That parsing, which the GOP disputes, would allow the Administration to detain fewer undocumented immigrants on a day-to-day basis even if Congress declined to change the law.

But the review ordered by Obama is unlikely to result in sweeping changes to enforcement—not least because the President does not want to hand Congressional Republicans an excuse to back further away from their halfhearted interest at rewriting U.S. immigration law. “We don’t know what the review will mean,” Chishti says. “He’s not promising anything. My own view is it will be modest.”

After more than a week, the number of detainees in Tacoma who are still skipping meals has dwindled to just a few. Andrew Munoz, a spokesman at the Department of Homeland Security’s Seattle office, said that ICE respected the right of detainees to register their opinions about their treatment. “While we continue to work with Congress to enact commonsense immigration reform, ICE remains committed to sensible, effective immigration enforcement that focuses on its priorities, including convicted criminals and those apprehended at the border while attempting to unlawfully enter the United States,” Munoz said.

Even if DHS decides to change course, it may be too late for immigrants like Ruiz. Suspended in limbo after a serious mistake, he finds himself caught in the gears of an immigration-enforcement machine that can’t often be stopped once it is engaged. “I’ve got my whole life invested in this country,” he says. “I feel like I deserve another opportunity.”

***Correction appended, March 18:*** This story originally misspelled the surname of Florida

Representative Ted Deutch.



# **EXHIBIT J**

Honorable \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDRES RAMIREZ-MARTINEZ,  
MANUEL URIOSTEGUI, and  
ERICSON GONZALES

Plaintiffs,

v.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT;  
THOMAS S. WINKOWSKI, Principal  
Deputy Assistant Secretary of the U.S.  
Immigration and Customs Enforcement;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; JEH JOHNSON, Secretary  
of Homeland Security; NATHALIE R.  
ASHER, Director of the Seattle Field  
Office of U.S. Immigration and Customs  
Enforcement,

Defendants.

No. \_\_\_\_\_

DECLARATION OF ANDRES  
RAMIREZ-MARTINEZ IN SUPPORT  
OF MOTION FOR TEMPORARY  
RESTRAINING ORDER

I, Andres Ramirez-Martinez, declare as follows:

1. I am over the age of eighteen, have personal knowledge of the matters herein, and am competent to testify in this case.

2. I am a detainee at the Northwest Detention Center in Tacoma, Washington. My living unit at the Northwest Detention Center was F-3. I am currently housed in administrative segregation in the D-3 unit.

1           3.       Beginning on Monday, March 24, 2014, I voluntarily participated in a hunger  
2 strike in the F-3 unit. Nearly everyone in the F-3 unit went on strike. Although I was on a hun-  
3 ger strike I chose to continue my work as a food porter in the unit. During the first three days of  
4 the hunger strike I served breakfast and lunch to the detainees who were not participating in the  
5 strike. I did not see anyone harass these individuals or try to intimidate them into joining the  
6 strike. Nor did I see anyone interfere with them as they ate their meals. The hunger strike did  
7 not affect daily operations in our unit and, to my knowledge, there was no disruption of the facil-  
8 ity.

9  
10           4.       I went on hunger strike because I have concerns about national immigration poli-  
11 cy, the fairness of bond decisions, and the conditions at the Northwest Detention Center.

12           5.       On Thursday, March 27, 2014, several corrections officers entered the F-3 unit  
13 while many of us were still on hunger strike. They told another detainee to come with them for a  
14 meeting with an assistant warden to discuss the concerns of the hunger strikers. The detainee left  
15 with the officers.

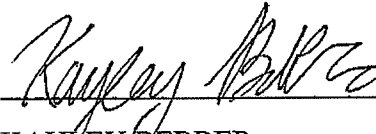
16           6.       The officers then returned to take other detainees to the meeting. Many of the re-  
17 maining hunger striking detainees in the unit asked the officers if they could participate in the  
18 meeting. A corrections officer agreed and then started to identify detainees who would also be  
19 allowed to attend the meeting. Corrections officers escorted the detainees out of the F-3 unit.

20  
21           7.       Initially I expressed interest in participating in the meeting. When I saw many  
22 corrections officers enter the unit, I changed my mind and went and sat on my bed. However,  
23 before the officers left one of them pointed at me and instructed me to go to the meeting. As  
24 soon as we were outside of the F-3 unit, I was handcuffed and placed in administrative segrega-  
25 tion where I am locked in an isolation cell for all but one hour a day when I have access to the  
26 "yard." My cell has a bed, sink, and toilet. I am also only allowed to shower three days a week  
27 and am taken to the shower in handcuffs. I cannot participate in programming. I was not told  
28 why I was placed in administrative segregation, or when I would be released from segregation.



1 I, Kayley Bebber, declare that I am a bilingual translator who is thoroughly familiar with the  
2 Spanish and English languages. I certify that I have translated the foregoing declaration from  
3 Spanish to English and that the English text is a true and accurate translation of the original  
4 document to the best of my knowledge and belief.

5  
6 DATED April 2, 2014

7   
8 KAYLEY BEBBER