

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS

Review of the Use of Special Management Units for ICE Detainees

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1. Purpose / Background.

- 1.1.** This Policy establishes guidance and procedures for U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) review of detainees placed into Special Management Units (SMU) for the purposes of administrative or disciplinary segregation.
- 1.2.** This Policy is intended to complement the requirements of ICE Directive No. 11065.1, *Review of the Use of Segregation for ICE Detainees* (Sept. 4, 2013) (Segregation Directive), the 2019 National Detention Standards, 2011 Performance-Based National Detention Standards, Revised December 2016 (PBNDS 2011), and other applicable ICE detention standards.

2. Policy.

2.1. Confirming Compliance with SMU Policy.

- 2.1.1.** Documentation for each SMU placement should reflect the reason(s) the placement is consistent with applicable ICE policy. Regardless of facility or applicable ICE detention standards, placement in the SMU must only be used when less restrictive housing options have been considered and determined to be contrary to the best interests of the detainee and the security or good order of the facility. Placement in the SMU must never be used as an act of retaliation against a detainee.
- 2.1.2.** Administrative placement in the SMU will be implemented for the briefest terms (*i.e.*, limited and temporary) and under the least restrictive conditions as practicable. A detainee's national origin, cultural background, immigration status, age, disability, sexual orientation, gender identity, race, or religion may not provide the sole basis for a decision to place the detainee involuntarily in the SMU. An individualized assessment must be made in each case.
- 2.1.3.** Every effort shall be made to place detainees with significant physical illnesses or serious mental illnesses¹ in a setting in or outside of the facility in which appropriate treatment

¹ Any action concerning this population must be consistent with ICE Directive No. 11063.2, *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge* (Apr. 5, 2022), or as updated.

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can be provided, rather than an SMU, if separation from the general population is necessary.

- 2.1.4. ERO must provide reasonable modifications, consistent with ERO's Disability Directive², which may ameliorate the need for placement into segregation.
- 2.1.5. ICE generally does not detain individuals known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist. In the rare instance a pregnant, postpartum, or nursing individual is detained, placement of these individuals in an SMU should be used only as a last resort and when no other viable housing options exist. Any such placement in an SMU shall be for the briefest terms and in direct consultation with health services. The Field Office Director, or designee not below the Assistant Field Office Director level, shall work in coordination with the Health Services Administrator or in coordination with the designated contract Facility Administrator and the Field Medical Coordinator, as applicable, to develop an individualized plan to move the detainee to less restrictive housing within a reasonable amount of time.
- 2.1.6. The reason(s) for the detainee's placement in the SMU must be clearly communicated to the individual in a language or manner they can understand prior to or as close to the beginning of the placement as possible. Facilities are required to provide communication assistance to noncitizens who are limited English proficient (LEP) by providing translation and/or interpretation services, including when noncitizens who are LEP are placed in the SMU, to assist with their understanding of conditions of detention as well as their rights and responsibilities while in detention. All written materials/orders provided to detainees must be translated into Spanish, and where practicable, into other languages spoken by a significant segment of the facility's population. Oral interpretation or assistance must be provided to detainees who speak a language into which the written materials have not been translated or who are illiterate.
- 2.1.7. While a detainee may be charged with multiple prohibited acts and may receive multiple sanctions for one incident, sanctions arising from a single incident shall run concurrently.

2.2. Assessing and Recording All SMU Placements.

- 2.2.1. Individualized assessments, including a review of the individual's medical and mental health care needs, shall be completed when deciding to place an individual in an SMU and when conducting SMU placement reviews.
- 2.2.2. All SMU placements, regardless of the length of time spent in segregation, require a written order and must be entered into the ICE ERO database of record, the Segregation Review Management System (SRMS), or its successor system.

² ERO Directive No. 11071.1, *Assessment and Accommodations for Detainees with Disabilities* (Dec. 15, 2016), or as updated.

- 2.2.3. Consistent with ICE detention standards and the Segregation Directive, local ERO and ERO Headquarters staff will assess each SMU placement to ensure it is necessary for the safety of the detainee, facility staff, and/or other detainees, as well as the protection of property, and the security or good order of the facility.
- 2.2.4. Justification for the placement and consideration of alternative housing options shall be documented in SRMS.
- 2.2.5. SMU placement reviews, as required per Section 5.1 of the Segregation Directive, shall promote timely reintegration into general population.
- 2.2.6. Because detainees placed administratively in the SMU generally receive the same privileges as detainees housed in the general population, detailed reasoning for withholding any of those privileges must be documented in SRMS.
- 2.2.7. Because facilities may restrict additional privileges from detainees who are placed in disciplinary segregation, the reduction or withholding of the following privileges alongside a disciplinary segregation placement must be in accordance with detention standard requirements and documented in SRMS: recreation, opportunities for general visitation and legal visitation, access to the law library, and telephone access.
- 2.2.8. ERO review of SMU placements shall ensure that each disciplinary placement in the SMU is pursuant to a written order from an institution disciplinary panel (IDP) in accordance with the applicable ICE detention standards.
- 3. **Definitions.** The following definitions apply for purposes of this Policy only:
 - 3.1. **Special Management Unit** – A housing unit for detainees removed from the general population, to include segregation for administrative purposes (*e.g.*, protective custody) or for disciplinary reasons (*e.g.*, after an IDP hearing).
 - 3.2. **Protective Custody** – Separation from general population specifically intended to promote and protect the safety of a detainee (*e.g.*, detainee who refuses to enter the general population because of alleged intimidation from other detainees). Protective custody may be initiated by either the facility or the detainee. ICE must grant all detainee requests for protective custody.
 - 3.3. **Segregation Review Management System (SRMS)** – An electronic database local ERO field offices use to input data and documents for segregation placements. ERO Headquarters maintains and uses SRMS to track and review segregation placements and promote data integrity.

- 3.4. **Extended Segregation Placement** – Where a detainee has been held continuously in segregation for 14 days, 30 days, and every 30-day interval thereafter, or has been held in segregation for 14 days out of any 21-day period.
- 3.5. **Individualized Assessment** – A three-part analysis that includes 1) evaluating the specific reasons why an individual’s placement in segregation is appropriate; 2) the individual’s medical and mental health care needs as well as any known factors that increase the vulnerability of the individual if placed in segregation; and 3) the facility’s specific segregation policies as applied to the individual.
- 3.6. **Significant Physical Illnesses (also referred to as Significant Detainee Illness or SDI)** – A serious or potentially life-threatening illness, injury, or impairment that may involve inpatient care in a hospital or other extended care facility, periods of incapacity due to the illness, or an illness that requires significant coordination with external partners to ensure continuity of care.
- 3.7. **Serious Mental Disorders or Conditions (also referred to as Serious Mental Illness or SMI)** – A condition that a physician, advanced practice provider³, or licensed behavioral health provider⁴ determines when a detained individual meets the following criteria:
- 1) Has a mental disorder that is causing serious limitations in communication, memory, or general mental and/or intellectual functioning (*e.g.*, communicating, conducting activities of daily living, social skills); or a severe medical condition (, traumatic brain injury or dementia) that is significantly impairing mental function; or
 - 2) Is exhibiting one or more of the following active psychiatric symptoms and/or behavior: severe disorganization, active hallucinations or delusions, mania, catatonia, severe depressive symptoms, suicidal ideation and/or behavior, and/or marked anxiety or impulsivity; or
 - 3) Demonstrates significant symptoms of one or more of the following: psychosis or psychotic disorder, bipolar disorder, schizophrenia or schizoaffective disorder, major depressive disorder with psychotic features, dementia and/or a neurocognitive disorder, and/or intellectual development disorder (moderate, severe, or profound).

4. **Responsibilities.**

- 4.1. The **ERO Executive Associate Director (EAD)** is responsible for:

³ An advanced practice provider is a physician assistant/physician associate or nurse practitioner.

⁴ A licensed behavioral health provider is considered a licensed clinical social worker, licensed clinical psychologist, or licensed professional counselor/licensed mental health counselor.

- 4.1.1. Ensuring an effective, timely, and comprehensive review of quarterly Detention Monitoring Council (DMC) segregation reports and consideration of individual cases, when appropriate.
- 4.1.2. Consulting with DMC stakeholders with respect to the evaluation of policy implementation and development of remedial plans, as necessary.
- 4.2. **ERO Custody Management Division (CMD)** is the office with primary responsibility for this Policy.
 - 4.2.1. The **Assistant Director for CMD**, or their designee, is the executive manager responsible for the implementation, development, oversight, and future update of this Policy (in consultation with the Office of Regulatory Affairs and Policy), as well as for the preparation of the quarterly segregation reports to the ERO EAD and the DMC.
 - 4.2.2. The **Deputy Assistant Director (DAD) for the Custody Programs Division**, or their designee, is responsible for:
 - 1) Implementing and maintaining mechanisms to promote adherence to this Policy, the Segregation Directive, and relevant ICE detention standards; and
 - 2) Maintaining SRMS, or its successor system, to store and report information about SMU placements.
 - 4.2.3. The **ERO Headquarters Segregation Review Coordinators** are responsible for:
 - 1) Providing ERO Headquarters-level compliance review of SMU placements;
 - 2) Facilitating training to the ERO field offices and appropriate ERO Headquarters staff upon issuance of this Policy and refresher training thereafter, as requested or needed;
 - 3) Maintaining historical records and responding to information and document requests; and
 - 4) Generating reports, as required.
 - 4.2.4. The **DAD for the Oversight, Compliance, and Acquisition Division**, or their designee, is responsible for ensuring Detention Service Managers (DSM) and Detention Standards Compliance Officers (DSCO) monitor and assess facility compliance with this Policy and related applicable ICE detention standards.
- 4.3. The **ERO Field Office Directors** are responsible for:
 - 4.3.1. Ensuring compliance with this Policy in their area of responsibility;

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- 4.3.2. Assigning a program manager at the Supervisory Detention and Deportation Officer level or higher to serve as a Field SMU Program Manager, and ensuring every detention facility in their area of responsibility is assigned at least one Field SMU Program Manager;
- 4.3.3. Establishing internal controls within their area of responsibility to ensure oversight, compliance, supervision, recordkeeping, and reporting in accordance with this Policy;
- 4.3.4. Ensuring that appropriate personnel have access to the data system(s) necessary to complete the procedures under this Policy;
- 4.3.5. Ensuring SMU-related documentation is collected, complete with sufficient detail (*e.g.*, why the placement or continued placement is necessary and reasonable, any identified special vulnerabilities⁵, what alternative housing options were considered, *etc.*), and entered into SRMS, or its successor system, in accordance to prescribed timeframes;
- 4.3.6. Ensuring individualized assessments are completed when deciding to place an individual in an SMU, and when conducting SMU placement reviews; and
- 4.3.7. Providing ICE Health Service Corps (IHSC) with local ERO field office support in finding appropriate housing options that minimize the opportunity to self-harm for detainees in the SMU who are suicidal or require more intense monitoring.
- 4.4. **IHSC** is responsible for overseeing the implementation of the procedures listed in Section 5.4 of this Policy.
 - 4.4.1. The **IHSC Medical Director**, or their designee, is responsible for:
 - 1) Ensuring IHSC coordinates with local ERO field offices in seeking alternatives to SMU placement for detainees with an identified significant physical illness (also referred to as Significant Detainee Illness or SDI) and/or serious mental disorder or condition (also referred to as Serious Mental Illness or SMI), potentially including transfer to a hospital or to another facility⁶; and
 - 2) Facilitating training to appropriate IHSC staff, as requested or necessary, on IHSC's responsibilities pursuant to this Policy.

⁵ As defined in the ICE Segregation Directive.

⁶ Transfers will be consistent with applicable transfer policies, including ICE Policy No. 11022.1, *Detainee Transfers* (Jan. 4, 2012); ERO Policy No. 11309, *Detained Noncitizen Transfers Required Due to a Healthcare Condition* (May 19, 2022); and ICE Directive No. 11063.2: *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge* (Apr. 5, 2022).

4.4.2. The IHSC Field Medical Coordinator, Behavioral Health Case Manager, Health Services Administrator, or their designee, is responsible for:

- 1) Ensuring qualified health care professionals⁷ conduct an assessment and review of a detainee's medical and mental health status and care needs while in an SMU in accordance with ICE detention standards; and
- 2) Ensuring applicable and relevant health details are included with required segregation review and reporting documentation, as appropriate.

4.5.1. ERO Field SMU Program Managers, or their supervisory-level designee, are responsible for:

- 1) Collecting SMU-related documentation with sufficient detail as to why the placement or continued placement is necessary and reasonable, and entering this information into SRMS, or its successor system, in accordance to prescribed timeframes; and
- 2) Conducting individualized assessments, and coordinating with the designated health care professional, before an individual is placed into an SMU, or as soon as practical thereafter.

5. Procedures and Requirements.

5.1. Document and Review Segregation Placements.

5.1.1. The SMU Program Manager (or supervisory-level designee) must obtain the appropriate segregation order from the detention facility as soon as practical, but no later than 72 hours after the detainee's placement into the SMU. Appropriate segregation orders include:

- 1) Administrative Segregation Order (I-886);
- 2) Disciplinary Segregation Order (I-883); or
- 3) Facility equivalents to the above forms.

5.1.2. The SMU Program Manager (or supervisory-level designee) must also obtain the following additional documents from the detention facility for detainees placed into the SMU as a result of a disciplinary violation:

- 1) Facility-level investigative report;

⁷ Qualified health care professionals are physicians, physician assistants, nurses, nurse practitioners, or others whom, by virtue of their education, credentials, and experience, the law permits to evaluate and care for patients.

- 2) Unit Disciplinary Committee hearing documents, if applicable, per ICE detention standards; and
- 3) Institution Disciplinary Panel hearing documents, per ICE detention standards.

5.1.3. The SMU Program Manager (or supervisory-level designee) must conduct an individualized assessment of the initial SMU placement as soon as practical and ensure that all SMU placements and associated supporting documentation, as described in Sections 5.1.1 and 5.1.2 of this Policy, are documented in SRMS or its successor system.

5.1.4. The Field Office Director (or supervisory-level designee) must conduct segregation reviews that, at a minimum, include a review of the accompanying Administrative Segregation Review Form (I-885) or Disciplinary Segregation Review Form (I-887) and comply with Section 5.1 of the Segregation Directive.

5.1.5. The Field Office Director (or supervisory-level designee) will conduct an individualized assessment at each required review interval⁸ to determine whether placement or continued placement in the SMU is necessary, excessive, or in violation of applicable ICE detention standards, and evaluate whether less restrictive or alternative housing options are appropriate.

- 1) Segregation decisions and reviews must rely on reasonable judgment and consider the most current and best available information.
- 2) ERO should actively engage with the detainee and mental and medical care providers, as appropriate, to obtain relevant information.
- 3) Considerations shall include the detainee's behavior and physical and/or mental state, the facility layout and capabilities, safety and security concerns, sensitivities due to the detained population at the facility (*i.e.*, personal conflicts, gang affiliation, *etc.*), and whether a less restrictive housing or custodial option is appropriate and available, whether at the facility or elsewhere in the ERO detention network.
- 4) Assessments shall include, where relevant, a review of the full detention file and EARM records for extended segregation placements, as well as the SMU log and the Special Housing Management Unit Record, or equivalents.
- 5) Both the review of the SMU placement and documentation in SRMS or its successor system must be completed within 72 hours of the respective required review interval.

⁸ Per ICE's detention standards, all facilities must have written procedures for the regular review of all detainees held in segregation, including detainee interview requirements, consistent with the procedures/timeframes specified in the standards.

- 5.1.6.** If the Field Office Director (or supervisory-level designee) does not concur with the placement reason(s) or severity of punishment for a disciplinary infraction, then they will:
- 1) Return the detainee to the general population in consultation with the facility administrator; or
 - 2) Transfer the detainee to another facility where they can be housed with the general population or in an environment better suited to their needs; or
 - 3) Release the detainee from custody unless release is prohibited by law, would pose a national security or public safety concern, or would be contrary to or inconsistent with other immigration enforcement considerations.
- 5.1.7.** The Field Office Director will ensure the local ERO field office participates in the weekly facility-level, multi-disciplinary SMU meeting to review segregation placements.

5.2. ERO Headquarters Compliance Review.

- 5.2.1.** ERO Headquarters Segregation Review Coordinators shall provide guidance to the Field SMU Program Managers with respect to reasons or factors officers may consider when conducting individualized assessments to determine placement in an SMU, to ensure that officers are applying the same standards throughout the country and to promote standardization of data reporting.
- 5.2.2.** ERO Headquarters Segregation Review Coordinators shall evaluate SMU placements in SRMS or its successor system for completeness and compliance with this Policy and applicable ICE detention standards.
- 5.2.3.** ERO Headquarters Segregation Review Coordinators shall notify the Field SMU Program Manager or responsible party (e.g., Deportation Officer, Enforcement and Removal Assistant) when an SMU placement is not documented in (b)(7)(E) or its successor system, insufficient details are provided regarding the placement, and/or the system data entry is out of compliance and recommend appropriate corrective action(s).
- 5.2.4.** ERO Headquarters Segregation Review Coordinators shall provide data analysis and generate reports per the needs of the Agency.

5.3. Onsite Compliance Review.

- 5.3.1.** Field Office Compliance Officers, DSMs, and DSCOs shall observe and review SMU placements within their facilities of purview and notify the Field SMU Program Manager if the facility is out of compliance with applicable ICE detention standards.

5.3.2. Field Office Compliance Officers, DSMs, and DSCOs shall attend and report findings and concerns at the weekly facility-level, multi-disciplinary SMU meeting.

5.3.3. Field Office Compliance Officers, DSMs, and DSCOs shall notate their findings in SRMS, or its successor system, based on the detainee's review timeline.

5.4. Provision and/or Oversight of Medical Services.

5.4.1. IHSC staff shall evaluate the appropriateness of SMU placements involving a detainee with a special vulnerability. This evaluation includes:

- 1) Consulting with facility staff about any reasonable modifications for detainees with a disability, consistent with ERO's Disability Directive;
- 2) Making every effort to place these detainees in a setting in or outside of the facility in which appropriate treatment can be provided, rather than in an SMU, if separation from the general population is necessary. Where a reason for concern exists, a qualified medical or behavioral health provider must conduct a complete evaluation; and
- 3) Ensuring a mental health provider conducts face-to-face clinical contact with detainees with a serious mental illness at least weekly to monitor the detainee's mental health status, identify signs of deterioration, and recommend additional treatment as appropriate.

5.4.2. IHSC staff shall participate in the weekly headquarters-level mental health and medical segregation meeting and provide updates about detainees' mental and physical health.

5.4.3. IHSC staff shall make recommendations on treatment options and/or alternatives or less restrictive housing for detainees whose mental or physical health is decompensating.

5.4.4. IHSC staff shall notate their findings and observations in SRMS, or its successor system, regarding the detainee's medical and mental health.

6. Recordkeeping.

6.1. All relevant documents produced or provided in accordance with this Policy must be maintained in accordance with an approved National Archives and Records Administration (NARA) retention schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the Agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.

6.2. The current system of record for SMU placements managed by ERO Headquarters is SRMS. In addition to biographical information, depending on applicable ICE detention

standards, SRMS houses the following documents (or facility equivalent, when acceptable):

- 6.2.1. Administrative Segregation Orders;
- 6.2.2. Disciplinary Segregation Orders;
- 6.2.3. Institution Disciplinary Panel documents;
- 6.2.4. Unit Disciplinary Panel documents;
- 6.2.5. Incident Reports; and
- 6.2.6. ICE Segregation Placement Reviews.

7. Authorities/References.

- 7.1. ICE Directive No. 11065.1, *Review of the Use of Segregation for ICE Detainees* (Sept. 4, 2013).
- 7.2. 2011 Performance-Based National Detention Standards (Revised 2016):
 - 7.2.1. Standard 2.12 “Special Management Units.”
 - 7.2.2. Standard 3.1 “Disciplinary System.”
 - 7.2.3. Standard 4.6 “Significant Self-Harm and Suicide Prevention and Intervention.”
 - 7.2.4. Standard 4.8 “Disability Identification, Assessment and Accommodation.”
- 7.3. 2008 Performance-Based National Detention Standards:
 - 7.3.1. Standard 2.15 “Special Management Units.”
 - 7.3.2. Standard 3.19 “Disciplinary System.”
 - 7.3.3. Standard 4.24 “Suicide Prevention and Intervention.”
- 7.4. 2019 National Detention Standards:
 - 7.4.1. Standard 2.9 “Special Management Units.”
 - 7.4.2. Standard 3 “Disciplinary System.”

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- 7.4.3. Standard 4.5 “Significant Self-Harm and Suicide Prevention and Intervention.”
- 7.4.4. Standard 4.7 “Disability Identification, Assessment, and Accommodation.”
- 7.5. ICE Policy No. 11062.2, *Sexual Abuse and Assault Prevention and Intervention* (May 22, 2014).
- 7.6. ICE Policy No. 11022.1, *Detainee Transfers* (Jan. 4, 2012).
- 7.7. ICE Directive No. 11063.2, *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge* (Apr. 5, 2022).
- 7.8. ERO Policy No. 11309, *Detained Noncitizen Transfers Required Due to a Healthcare Condition* (May 19, 2022).
- 7.9. ICE Directive No. 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals* (July 1, 2021).
- 7.10. ERO Policy 11071.1, *Assessment and Accommodations for Detainees with Disabilities* (Dec. 16, 2016).
- 7.11. Memorandum from Thomas Homan, Executive Associate Director for ERO, *Further Guidance Regarding the Care of Transgender Detainees* (June 19, 2015).
8. **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. Nor are any limitations hereby placed on otherwise lawful enforcement prerogatives of ICE.



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