

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
ENFORCEMENT AND REMOVAL OPERATIONS  
ICE HEALTH SERVICE CORPS**

**ORGAN DONATION**

**IHSC Directive: 02-10  
ERO Directive Number: 11729.3  
Federal Enterprise Architecture Number: 306-112-002b  
Effective Date: June 30, 2017  
Technical Update: December 9, 2021**

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**By Order of the Assistant Director  
Stewart D. Smith, DHCs, FACHE**

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Date: 2021.12.13 09:53:41 -05'00'

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1. **PURPOSE:** The purpose of this directive is to set forth the policies and procedures for organ donation by detainees or residents.
  2. **APPLICABILITY:** This directive applies to all U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) personnel, including but not limited to, Public Health Service (PHS) officers, civil service employees, and contract personnel. It is applicable to IHSC personnel supporting healthcare operations in both ICE-owned and contracted detention facilities, and to IHSC Headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. These policies apply to detainees or residents currently detained within ICE-owned and contracted detention facilities, not to posthumous donations.
  3. **AUTHORITIES AND REFERENCES:**
    - 3-1. Section 232 of the Immigration and Nationality Act, as amended, Title 8, U.S. Code, Section 1222 (8 U.S.C. §1222), Detention of Aliens for Physical and Mental Examination;
    - 3-2. Title 8, Code of Federal Regulations, Part 232 (8 CFR 232), Detention of Aliens for Physical and Mental Examination;
    - 3-3. Title 42, U.S. Code, Section 249 (42 U.S.C. §249(a)), Medical Care and Treatment of Quarantined and Detained Persons; and
    - 3-4. Title 42, U.S. Code, Section 252 (42 U.S.C. §252), Medical Examination of Aliens.
  4. **POLICY:** A detainee or resident may request to donate an organ(s) for transplant to improve the health of an immediate family member through an organ donation

while living or through an Advance Directive in the event of his/her death. Detainees may not list themselves as posthumous organ donors while in ICE custody.

**4-1.** Requirements for directed donor organ donation. In order for a detainee or resident to donate organ(s) (including bone marrow) to a specific family member while in ICE custody, the following criteria must be met:

4-1.1 The organ recipient must be a member of the donor's immediate family defined as:

4-1.1.a Spouse, parents, biological and adopted children; and

4-1.1.b Brothers and sisters.

4-1.2 The detainee or resident may not donate blood or blood products, with the exception of bone marrow.

4-1.3 The medical costs associated with organ donation will not be paid at the Government's expense (i.e., DHS, ICE, or IHSC) other than ground transportation and security.

4-1.4 The hospital performing the transplant is responsible to advise the detainee or resident of the specific risks and/or benefits. IHSC does not participate in the risks or benefits statement nor is a witness to the statement.

4-1.5 The detainee or resident must sign a statement that documents his/her:

4-1.5.a Decision to donate the organ to the specified family member;

4-1.5.b Understanding that there are possible risks associated with the operation;

4-1.5.c Acknowledgement that the decision was undertaken of his/her own free will and without coercion or duress; and

4-1.5.d Understanding that the Government (i.e., DHS, ICE, and IHSC) will not be held responsible for any resulting medical complications or financial obligations incurred to include expenses related to medical complications occurring after the organ donation.

4-1.6 The detainee or resident's request for organ donation will be forwarded to the IHSC Medical Director for approval. If the organ donation request is approved, the detention or residential facility

staff will coordinate necessary arrangements for appointments, procedures, and hospitalization related to the organ donation.

**5. PROCEDURES:** If a detainee with a valid advance directive is hospitalized, a copy of the advance directive must be sent to the hospital at the time of, or as soon as possible, after admission.

**5-1.** When a specialist determines a detainee or resident may be a potential candidate for organ donation, and the Clinical Director recommends that further evaluation is medically appropriate, the detainee should be evaluated at an appropriate facility, such as a transplant center, in the vicinity of the institution.

**5-2.** If an organ transplant center considers a detainee or resident suitable for organ donation, the facility's Clinical Director will compile all pertinent medical, surgical, case management, and mental health information and forward to the IHSC Medical Director for approval consideration.

**6. HISTORICAL NOTES:** This directive replaces IHSC Directive 02-10, dated June 30, 2017.

**6-1.** Technical updates incorporates the following:

6-1.1 Language added to address added Performance-Based National Detention Standards, revised 2016: D. Organ Donation by Detainees.

6-1.2 Language added to address Family Residential Standards 2020, Part 4: Care; 4.7 Terminal Illness, Advance Directives and Death, and D. Organ Donation by Residents.

**7. DEFINITIONS:** See definitions for this policy in [IHSC Glossary](#) located in the IHSC Policy Library on SharePoint.

**8. APPLICABLE STANDARDS:**

**8-1. Performance-Based National Detention Standards, 2011 (rev. 2016):**

8-1.1 Part 4: Care.

8-1.1.a 4.7 Terminal Illness, Advance Directives and Death.

8-1.1.b D. Organ Donation by Detainees.

**8-2. Family Residential Standards 2020:**

8-2.1 Part 4:

8-2.1.a Care; 4.7 Terminal Illness, Advance Directives and Death.

8-2.1.b D. Organ Donation by Residents.

**9. PRIVACY AND RECORDKEEPING.** ICE uses detainee health records and information maintained in accordance with the DHS/ICE-013 Alien Health Records System of Records to provide for the care and safety of detainees. IHSC limits access to detainee health records and information to those individuals who need to know the information for the performance of their official duties, and who have appropriate clearances or permissions. IHSC secures paper records in a locked cabinet or room when not under the direct control of an officer or employee with a need for the paper record to perform their duties.

**9-1.** IHSC staff complete annual training on the protection of patient health information and Sensitive Personally identifiable information.

**9-2.** IHSC staff reference the Department of Homeland Security Handbook for Safeguarding Sensitive PII (Handbook) at DHS Handbook for Safeguarding Sensitive PII for additional information concerning safeguarding sensitive PII.

**9-3.** All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule (GRS) or a NARA-approved agency-specific records control 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. Prior to the disposition of any records referenced in this directive, ICE Records Officer approval must be obtained.

**10. NO PRIVATE RIGHT STATEMENT:** This directive is an internal policy statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

**11. POINT OF CONTACT:** Chief, Medical Services Unit.