

MEMORANDUM

August 31, 2004

To: Victor Cerda, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement

From: American Bar Association Delegation to the Dodge County Detention Facility¹

Copies to: (b)(6) ABA Commission on Immigration

Subject: ational Tour of the Dodge County Detention Facility, Juneau, Wisconsin

This memorandum summarizes and evaluates information gathered at the Dodge County Detention Facility (“DCDF” or “the facility”) in Juneau, Wisconsin, during the delegation’s June 24, 2004 visit to the facility. The information was gathered via observation of the facility by the delegation, an interview with a detainee, and discussions with DCDF and Immigration and Customs Enforcement (“ICE”) personnel.

I. ICE DETENTION STANDARDS

In November 2000, the Immigration and Naturalization Service (INS),² promulgated the “*INS Detention Standards*” to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-six standards contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These standards apply to ICE-operated detention centers and other facilities that house immigration detainees pursuant to a contract or intergovernmental service agreement (“IGSA”).

The *Detention Standards* (the “*Standards*”) went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase-in the *Standards* at all of its contract and IGSA facilities by December 31, 2002. The *Standards* constitute a “floor” rather than a “ceiling” for the treatment of immigration detainees. In other words, they are designed to

¹ The delegation was comprised of attorneys and summer associates from the Chicago office of Latham & Watkins LLP, including (b)(6)

² Effective March 1, 2003, the INS ceased to exist as an agency of the Department of Justice. The INS’ immigration enforcement functions which previously were transferred to Immigration and Customs Enforcement (“ICE”), a division of the newly-created Department of Homeland Security (“DHS”).

establish the minimum requirements to which ICE must adhere in its facilities. Each Field Office or Officer-in-Charge has discretion to promulgate policies and practices affording ICE detainees more enhanced rights and protections, beyond those provided for by the *Standards*.

II. INTRODUCTION

A. The Delegation's June 24th Visit.

On Thursday, June 24, 2004, the members of our delegation met with several members of a representative office in Juneau, Wisconsin. Jail Administrator (b)(6), (b)(7)c supervisor (b)(6), (b)(7)c and ICE Deportation Officer/Jail Liaison Officer (b)(6), (b)(7)c led our delegation on a tour of the facilities and participated in post-tour follow-up discussions. The delegation also met with other DCDF personnel along the tour. The delegation appreciates the cooperation of these individuals. They were direct and accommodating during our tour of the facility and in response to post-tour requests for additional information.

Our report is based on the discussions we had with these DCDF and ICE employees, as well as observations of the facility and an interview with one immigration detainee. In many instances, the detainee's reports were compatible with statements made by facility personnel and/or our observations. In such cases, the delegation was able to more accurately determine whether DCDF policy and procedures successfully implemented the *Standards*. However, in certain instances, the detainee's reports conflicted with statements made by facility personnel. Where we were unable to verify the conflicting reports, the delegation was unable to conclusively determine *Standards* implementation.

B. General Information About the Dodge County Detention Facility.

The Dodge County Detention Facility houses federal immigration detainees according to an intergovernmental service agreement ("IGSA") with ICE. According to the DCDF personnel, the Facility has the capacity to hold over 400 individuals with a current population of 392, two-thirds of whom were immigration detainees.

DCDF houses mostly males. At the time of our visit the facility personnel estimated that only 8 women were housed there.

Further, the facility personnel said that the facility housed immigration detainees from many different countries, but the majority were from Latin American countries, especially Mexico. Another large proportion of the detainees come from Asian countries.

It is unclear exactly how many of the immigration detainees housed at DCDF have criminal records, although it appears from our discussion with DCDF personnel that many have prior criminal records, while some do not. Detainee (b)(6), (b)(7)c indicated that he had a prior criminal record, but that he had served his sentence and was at DCDF only for immigration proceedings.

III. IMPLEMENTATION OF LEGAL ACCESS STANDARDS

A. Legal Access/Visitation.

1. Visitation by Attorneys

The *Standards* suggest that facilities permit legal visitation seven days per week.³ Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.⁴ The visits must be private, and should not be interrupted for head counts.⁵ Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.⁶ Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.⁷

DCDF has implemented most of this section of the *Standards*. Attorneys may visit the detainees seven days per week, and are also offered the option of telephone conferences with their clients.⁸ The attorney must initiate these phone calls, and DCDF staff does not monitor them.⁹ The facility has videoconferencing equipment so that a detainee and his attorney may conduct court hearings without leaving the premises.¹⁰ Law students and interpreters may meet with detainees as long as DCDF has advance knowledge of their visit.¹¹ Independent medical service providers and experts are allowed to visit detainees, but the staff doctor must approve the visit.¹²

The information given in the “DCDF Inmate Handbook and Jail Rules” (the “DCDF Inmate Handbook”) differs from the information that the facility staff provided during the tour.¹³ According to the Handbook, attorney visits are not permitted during mealtime and lockdown.¹⁴ However, the facility staff explained that DCDF discourages attorney-client visits during mealtime, but that the kitchen will provide a regular meal to the detainee should the meeting

³ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

⁴ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

⁵ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

⁶ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

⁸ DCDF Inmate Handbook, p. member (b)(6)

⁹ Notes of delegation member

¹⁰ Notes of delegation member (b)(6)

¹¹ Notes of delegation member

¹² Notes of delegation member

¹³ It should be noted here that the DCDF Inmate Handbook is not specific to immigration detainees and therefore does not reflect any policies or procedures that the facility may have implemented which are specific to detainees and different from those for the general inmate population.

¹⁴ DCDF Inmate Handbook, p. 3.

continue through a meal.¹⁵ They also stated that attorney-client visits are permitted during head counts.¹⁶ As long as these practices are not overly discouraged, and the detainees feel comfortable taking advantage of them, this is a positive sign of the facility's efforts to implement the *Standards*.

Each Pod has approximately two attorney visitation booths.¹⁷ All visits are non-contact, unless special circumstances warrant a contact visit.¹⁸ There is a Plexiglas divider between the detainee and the attorney.¹⁹ Attorneys are not searched, and detainees are only subject to a pat down search after a legal visit.²⁰

Attorneys may call DCDF to determine whether their client is being housed at the facility.²¹ DCDF has the capability to search for detainees by name, although they are not permitted to disclose information beyond whether the detainee is at the facility.²²

There is also a discrepancy between the Inmate Handbook and the information the facility staff gave regarding legal mail.²³ According to the Handbook, an officer may open legal mail in the presence of the detainee.²⁴ However, the facility staff stated that they generally do not open legal mail.²⁵ If it is inadvertently opened, a staff member must prepare a report about the incident that is submitted to the detainee.²⁶

2. Visitation by Family and Friends

The *Standards* suggest that facilities establish written visitation hours and procedures, and to make them available to the public.²⁷ This includes procedures for handling incoming money for detainees.²⁸ The visiting area is to be "appropriately furnished and arranged... as comfortable and pleasant as practicable."²⁹ Visiting hours shall be set on Saturdays, Sundays,

¹⁵ Notes of delegation member

on conversation with Supervisor

¹⁶ Notes of delegation member

on conversation with Supervisor

(b)(6), (b)(7)c

¹⁷ Notes of delegation member

¹⁸ Notes of delegation member

(b)(6)

¹⁹ Notes of delegation member

²⁰ Notes of delegation member

²¹ Notes of delegation member

²² Notes of delegation member

²³ Once again, this discrepancy might be explained if the DCDF maintains different policies for immigration detainees.

²⁴ DCDF Inmate Handbook, p. 11.

²⁵ Notes of delegation member

²⁶ Notes of delegation member

(b)(6)

²⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

²⁸ Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

²⁹ Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

and holidays, and the *Standards* encourage facilities to accommodate visitors at other times when they are facing a particular hardship.³⁰ Visits should be at least 30 minutes and longer when possible.³¹ If a facility does not provide for visits from minors, the ICE should arrange for visits with children or stepchildren within the detainee's first 30 days at the facility, with continuing monthly visits.³² Visits should be granted to detainees in both disciplinary and administrative segregation unless a detainee violates the visitation rules or threatens the security of the visitation room.³³

DCDF has implemented most of this section of the *Standards*. The visitation schedule is clearly posted at the entrance to the facility.³⁴ Visiting hours are seven days per week, from 9:00 a.m. until 11:00 a.m., and again from 6:00 p.m. until 8:00 p.m.³⁵ However, visitation days are allocated according to the first letter of each detainee's last name such that each detainee may receive visitors two days per week.³⁶ The Inmate Handbook caps the number of visits to two per week, and one per day.³⁷ The schedule ensures that each detainee may receive visitors either on Saturday or Sunday.³⁸ DCDF generally confines visits to these hours, but supervisors may adjust the schedule if a detainee's visitors face a particular hardship.³⁹ Although visits last 30 minutes,⁴⁰ supervisors may extend the visit for up to one hour.⁴¹ All visits are non-contact.⁴²

Depending on the reason for segregation and a detainee's behavior, a detainee in segregation may receive visitors.⁴³

Although the *Standards* do not cap the number of visitors, DCDF requires each detainee to submit a list of 12 individuals in order to receive them as visitors.⁴⁴ The detainees may make

³⁰ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

³¹ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

³² Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

³³ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

³⁴ Notes of delegation member (b)(6)

³⁵ DCDF Inmate Visiting Schedule; DCDF Inmate Handbook, p. 16.

³⁶ DCDF Inmate Visiting Schedule; DCDF Inmate Handbook, p. 16.

³⁷ DCDF Inmate Handbook, p. 17.

³⁸ DCDF Inmate Visiting Schedule; DCDF Inmate Handbook, p.

³⁹ DCDF Inmate Handbook, p. 17; Notes of delegation member (b)(6)

⁴⁰ DCDF Inmate Handbook, p. 17; Detention Operations Manual, Detainee Services, Standard 1, Section III.H.1.

⁴¹ Notes of delegation member

⁴² Notes of delegation member (b)(6)

⁴³ Notes of delegation member

⁴⁴ DCDF Inmate Handbook, p. 17.

periodic changes to their list.⁴⁵ Minors may be included on this list, and may visit if accompanied by an adult.⁴⁶

Visitors may leave money for a detainee's commissary account or send money to the detainee through the mail.⁴⁷ Both the detainee and the individual providing the money will receive a receipt for the deposit.⁴⁸

B. Telephone Access.

1. General Requirements

The *Standards* suggest that facilities provide detainees with reasonable and equitable access to telephones during established facility waking hours.⁴⁹ In order to meet this requirement, facilities must provide at least one telephone for every 25 detainees.⁵⁰

This standard seems to have been met at DCDF. Each housing unit has its own set of phones and the number was approximately one phone per 15 detainees. The telephones are accessible during open dayroom periods depending on the detainee's classification phase ranking.⁵¹

Instructions regarding usage of the phones are posted next to the phones in both English and Spanish. Similarly, the phone numbers of local consulates are posted by each phone or bank of phones in the facility.

2. Direct vs. Collect Calls

The *Standards* allow facilities to generally restrict calls to collect calls;⁵² however, the facility must permit detainees to make direct calls to the local immigration court and the Board of Immigration Appeals, federal and local courts, consular officials, legal service providers, government offices, and to family members in case of emergency.⁵³ The facility shall not require indigent detainees to pay for these types of calls if local, nor for non-local calls if there is a compelling need.⁵⁴ In addition, the facility should allow all detainees to make calls to the ICE

⁴⁵ DCDF Inmate Handbook, p. 17.

⁴⁶ DCDF Inmate Handbook, p. 17.

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⁴⁸ Notes of delegation membe

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⁴⁹ Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

⁵⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.C.

⁵¹ DCDF Inmate Handbook and Jail Rules, p. 16.

⁵² Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵³ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

list of free legal service providers and consulates at no charge to the detainee or the receiving party.⁵⁵

DCDF has not fully implemented this section of the *Standards*. DCDF restricts phone calls to collect calls.⁵⁶ The detainees are allowed to buy phone cards,⁵⁷ but all calls are limited to 15 minutes in duration and cost \$4.25 per call.⁵⁸ This limit places severe restrictions on the detainees' ability to make calls to legal organizations and immigration advocacy organizations. It was unclear whether detainees are able to make any direct calls to legal service providers, courts or consular officials. The delegation did not observe any notification near the phones of the ability to place direct calls, nor was there an indication that DCDF was aware of any preprogrammed technology.⁵⁹ The delegation is concerned that this practice may sharply curtail the detainee's access to his or her legal rights and his or her ability to work on his or her own immigration case. If the facility is equipped with preprogrammed technology for direct calls as outlined in the Telephone Access Standard, this information should be clearly posted and communicated to detainees.

Also, during an interview with one of the detainees it was reported that the 15 minute limit severely restricts the ability to make calls as it often takes that long or longer to connect.⁶⁰

The *Standards* also provide that the facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by automatic cutoff, unless necessary for security purposes or to maintain orderly and fair access to telephones.⁶¹ If time limits are necessary, they shall be no shorter than 20 minutes.⁶²

All phone calls made by the detainee are automatically disconnected after 15 minutes.⁶³ Though the *Standards* make exceptions for security purposes or to maintain orderly and fair access to the phones, it appeared that these considerations were not a priority. Consequently, the unrestricted access to legal calls is not being met at DCDF.

In addition, the *Standards* suggest that the facility ensure privacy for detainees' telephone calls regarding legal matters.⁶⁴ DCDF has not fully implemented this portion of the *Standards* either. The phones where detainees make outgoing calls are all located in the public dayrooms with no privacy safeguards whatsoever. They are out in the open and there are no partitions. At

⁵⁵ Detention Operations Manual, Detainee Services, Standard 16,

⁵⁶ DCDF Inmate Handbook and Jail Rules, p. 16.

⁵⁷ Notes of delegation member on interview with detainee (b)(6), (b)(7)c

⁵⁸ Notes of delegation member on conversation with Supervisor

⁵⁹ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

⁶⁰ Notes of delegation member on interview with detainee (b)(6), (b)(7)c

⁶¹ Detention Operations Manual, Detainee Services, Standard 16, Section F.

⁶² Detention Operations Manual, Detainee Services, Standard 16, Section F.

⁶³ DCDF Inmate Handbook and Jail Rules, p. 16.

⁶⁴ Detention Operations Manual, Detainee Services, Standard 16, Section J.

the very least the phone conversations can be overheard by other detainees and inmates in the Pod, as well as supervisors in the dayrooms. Also, the detainee that our delegation interviewed stated that all phone conversations made on the outgoing phones were recorded and monitored.⁶⁵

It should be noted, however, that there are opportunities at DCDF for detainees to have private phone calls with attorneys. These phone calls must be initiated by the attorney representing the detainee and normally need to be set up in advance.⁶⁶ The attorney teleconferences are held in the library of the Pod where the detainee is housed and therefore some privacy is ensured.⁶⁷ Though this practice conforms more closely to the *Standards*, the detainees' inability to make private and direct calls to attorneys does not reflect the intent of the *Standards*.

3. Incoming Calls and Messages

The *Standards* suggest that facilities take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible.⁶⁸ If the facility receives an emergency telephone call for a detainee, the *Standards* suggest that the facility obtain the caller's name and number and permit the detainee to return the emergency call as soon as possible.⁶⁹ However, incoming phone calls and messages are not accepted at DCDF,⁷⁰ with the exception of attorney teleconferences referenced above. Similarly, the procedure for emergency calls is to refer them to the Shift Commander on a case-by-case basis.⁷¹

4. Telephone Privileges in Special Management Unit

The *Standards* provide that detainees in the Special Management Unit ("SMU") for disciplinary reasons shall be permitted to make direct and/or free calls, except under compelling security conditions.⁷²

DCDF has not implemented this portion of the *Standards*. Detainees at DCDF placed in the SMU for disciplinary reasons do not have access to the telephones.⁷³

⁶⁵ Notes of delegation member (b)(6)

⁶⁶ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

⁶⁷ Notes of delegation member (b)(6) on conversation with Supervisor

⁶⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

⁶⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

⁷⁰ DCDF Inmate Handbook and Jail Rules, p. 16.

⁷¹ DCDF Inmate Handbook and Jail Rules, p. 16.

⁷² Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

⁷³ DCDF Inmate Handbook and Jail Rules, p. 22.

C. Access to Legal Materials.

All facilities with detainees “shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents.”⁷⁴

The DCDF has implemented some sections of the Standards regarding access to legal materials. However, DCDF has not implemented other sections of these Standards and, on the whole, fails to provide immigration detainees with the requisite access to legal materials.

1. Access to the Library

The *Standards* suggest that each facility shall have a flexible schedule for law library use that permits all detainees, regardless of housing or classification, to use the law library on a regular basis.⁷⁵ Additionally, each detainee shall be permitted to use the law library for a minimum of five hours per week.⁷⁶

DCDF has not implemented this section of the *Standards*. DCDF does not permit all detainees to use the law library. Rather, library privileges depend on the detainee’s classification. If the detainee’s classification prohibits use of the library, and if the detainee has a specific cite to a statute, then the detainee may submit a written request that the statute be copied for her or him.⁷⁷ The DCDF Inmate Handbook indicates that use of the library will be limited by “inmate demand, facility schedule and safety/security guidelines.”⁷⁸

2. Library Conditions

The *Standards* suggest that a facility provide a law library with sufficient space to facilitate detainees’ legal research and writing.⁷⁹ Furthermore, it must be large enough “to provide reasonable access to all detainees who request its use. It shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.”⁸⁰

DCDF has implemented this section of the *Standards*. DCDF provides several law libraries, and each is well lit, has ample space, and is well-isolated from noise and foot traffic.⁸¹ Specifically, each library provides access to at least two computers, and each contains at least

⁷⁴ Detention Operations Manual, Detainee Services, Standard 1, Section I.

⁷⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷⁷ Dodge County Detention Facility Inmate Handbook and Jail Rules, p. 19.

⁷⁸ Dodge County Detention Facility Inmate Handbook and Jail Rules, p. 19.

⁷⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁸⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁸¹ Notes of delegation member

(b)(6)

two other desks and chairs in addition to those housing the computers.⁸² Additionally, these libraries are located in enclosed rooms that are free of distractions and noise.⁸³

3. Materials Identified in the *Detention Standards*

The *Standards* state that all facility law libraries should contain the materials listed in Attachment A to the chapter on *Access to Legal Materials*.⁸⁴ These materials must be updated regularly, and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner.⁸⁵ Damaged or stolen materials must be promptly replaced.⁸⁶

DCDF has not fully implemented this section of the *Standards*. DCDF provides its immigration detainees with computer/internet access to Loislaw and LexisNexis—no hardbound legal resources are available.⁸⁷ While Loislaw and LexisNexis provide access to numerous legal materials, as well as current statutory and regulatory information, most of the secondary resources listed as required by Attachment A to the chapter on *Access to Legal Materials* are not available under either Loislaw or LexisNexis. For instance, the *Standards* state that facilities have certain resources, including: *Legal Research in a Nutshell*; *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters*; *Legal Research & Writing*; *Rights of Prisoners*; and *Human Rights Watch-World Report*.⁸⁸ None of these sources is available through either Loislaw or LexisNexis.⁸⁹

4. Computer Access, Equipment and Holdings

The *Standards* suggest that facility law libraries provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.⁹⁰

DCDF has implemented this section of the *Standards*. DCDF has at least two computers available in each of its law libraries, and also provides detainees with access to typewriters. Although the delegation interviewed only one detainee, he acknowledged that he

⁸² Notes of delegation member

(b)(6)

⁸³ Notes of delegation member

⁸⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁸⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁸⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

⁸⁷ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

⁸⁸ Detention Operations Manual, Detainee Services, Standard 1, Attachment A.

⁸⁹ Notes of delegation member (b)(6)

⁹⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

had sufficient access to materials should he wish to draft legal documents or conduct legal research.⁹¹

5. Assistance From Other Detainees

The *Standards* suggest that each facility permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.⁹²

not implemented this section of the *Standards*. DCDF's Jail Administrator, (b)(6), (b)(7)c indicated that detainees would receive technical assistance with the computers. However, detainees are not allowed to assist other detainees with research, nor "conduct legal research for other inmates."⁹⁴

6. Photocopies

The *Standards* provide that each facility shall ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.⁹⁵ Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.⁹⁶ Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.⁹⁷

DCDF has implemented this section of the *Standards*. Detainees at DCDF may make copies, for five cents apiece, of all "legal, professional, and religious documents."⁹⁸

7. Correspondence and Other Mail

The *Standards* suggest that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the facility.⁹⁹ General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and even read outside the presence of the detainee if security reasons exist for doing so.¹⁰⁰ Special correspondence—which includes all written

⁹¹ Notes of delegation member (b)(6)

⁹² Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

⁹³ Notes of delegation member (b)(6)

⁹⁴ Dodge County Detention Facility Inmate Handbook and Jail Rules, p. 19.

⁹⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁹⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁹⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁹⁸ DCDF Inmate Handbook, p. 19.

⁹⁹ Detention Operations Manual, Detainee Services, Standard 3, Section III.A.

¹⁰⁰ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & E.

communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media—is treated differently.¹⁰¹ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.¹⁰² Outgoing special correspondence cannot be opened, inspected, or read.¹⁰³ The *Standards* also suggest that facilities provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court.¹⁰⁴ Finally, the *Standards* suggest that facilities to notify detainees of specific information regarding correspondence policies.¹⁰⁵

DCDF has not fully implemented this section of the *Standards*. DCDF provides all detainees with the DCDF Inmate Handbook and Jail Rules, as well as a postcard that detainees may send family members to inform them of DCDF’s correspondence policies. However, these notifications do not provide the following information as required: 1) “the definition of special correspondence, including instructions on the proper labeling for special correspondence . . . [and a] statement that it is the detainee’s responsibility to inform senders of special mail of the labeling requirement.”; 2) the fact that detainees may not send or receive packages without advance approved arrangements; 3) the fact that identity documents, such as passports and birth certificates, are contraband and may be rejected by the facility; 4) instructions about “how to obtain writing implements, paper, and envelopes”; and 5) “the procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.”¹⁰⁶ Without providing information regarding the foregoing matters, DCDF fails to meet the notification requirements of this section the *Standards*. Moreover, it was not clear to the delegation whether the DCDF has implemented the other portions of the *Standards* regarding correspondence and other mail.

D. Group Rights Presentations.

The *Standards* provide that facilities holding ICE detainees “shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of the IGSA facility.”¹⁰⁷ Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.¹⁰⁸ While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”¹⁰⁹ “The facility shall select and provide an environment conducive to the presentation, consistent with

¹⁰¹ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B., E. & F.

¹⁰² Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & E.

¹⁰³ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & F.

¹⁰⁴ Detention Operations Manual, Detainee Services, Standard 3, Section III.N.

¹⁰⁵ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹⁰⁶ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹⁰⁷ Detention Operations Manual, Detainee Services, Standard 9, Section I.

¹⁰⁸ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹⁰⁹ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

security.”¹¹⁰ In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”¹¹¹

The DCDF has substantially implemented this section of the *Standards*. According to DCDF personnel, there are no restrictions on group rights presentations.¹¹² The facility performs background, criminal history and credentials checks on all speakers who are giving the presentations.¹¹³ DCDF officials informed us that the Midwest Immigrant and Human Rights Center schedules two presentations each year.¹¹⁴ Two weeks before a scheduled presentation, an announcement is made to make the detainees aware of the presentation, but no informational posters are displayed in the housing units. The presentations take place in DCDF’s programming room, which is an environment conducive to the presentation since it is well-lit, has seating available, and can accommodate at least twenty detainees at one time.¹¹⁵ In addition, the detainees do not have to sign up to attend the presentation. The presentations are open to all detainees, including those in segregation.¹¹⁶ While the number of detainees at a single session may be limited, enough sessions are held such that all detainees interested in attending the presentation are able to attend.¹¹⁷ If a particular detainee’s attendance would pose a security risk, he or she likely would not attend the presentation with the other detainees; instead, he or she may attend the presentation in restraints or other officers would be present during the presentation.¹¹⁸

Further, the “Know Your Rights” video is aired on the televisions inside the facility every weekend.¹¹⁹ Prior to the airing of the video, an announcement is made, and every television in the facility is tuned into this video. DCDF has an English and a Spanish version of this video presentation, and both are shown (one each day of the weekend) every week.¹²⁰

¹¹⁰ Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

¹¹¹ Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

¹¹² Notes of de mber (b)(6) on conversation with Supervisor and Jail
 Administrator (b)(6)

¹¹³ Notes of de mber (b)(6) on conversation with Supervisor and Jail
 Administrator (b)(6)

¹¹⁴ Notes of de mber (b)(6) on conversation with Supervisor and Jail
 Administrator (b)(6)

¹¹⁵ Notes of delegation member on observations during tour.

¹¹⁶ Notes of de mber on conversation with Supervisor and Jail
 Administrator (b)(6) (b)(6), (b)(7)c

¹¹⁷ Notes of de mber on conversation with Supervisor and Jail
 Administrator (b)(6)

¹¹⁸ Notes of d mber (b)(6) on conversation with Supervisor and Jail
 Administrator (b)(6)

¹¹⁹ Notes of de mber on conversation with Supervisor and Jail
 Administrator (b)(6)

¹²⁰ Notes of de mber on conversation with Supervisor and Jail
 Administrator (b)(6)

The detainee whom the delegation interviewed had attended a group rights presentation, but did not know which nonprofit organization conducted the presentation.

IV. OTHER PROVISIONS OF THE *ICE DETENTION STANDARDS*

A. Recreation

The *Standards* suggest that all detainees have access to recreation “under conditions of security and safety.”¹²¹ Detainees should be housed in facilities with outdoor recreation.¹²² If a facility only provides indoor recreation, detainees must have access for at least one hour per day, including exposure to natural light.¹²³ Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.¹²⁴

DCDF has substantially implemented this section of the *Standards*. DCDF has two types of indoor recreation rooms, but no outdoor recreation is provided.¹²⁵ One of the indoor recreation rooms is an indoor room with no exposure to natural sunlight.¹²⁶ Although there is a basketball hoop, detainees are only permitted to play handball.¹²⁷ DCDF staff members explained that too many detainees were injured playing basketball, and that handball seems to be a safer sport.¹²⁸ There is no set schedule for use of this recreation room, and the amount of time detainees are permitted to spend in the room is determined by their classification, how much time they want in the room, and how many other inmates also want to use the room.¹²⁹

The second type of recreation room is a dayroom.¹³⁰ Dayrooms are common rooms for the inmates where they are able to socialize, watch television, and play board games.¹³¹ The size and amenities of the dayrooms depend on the classification of the detainees housed in a given Pod.¹³² Each detainee has access to natural sunlight either in his individual cell or in his dayroom.¹³³ Neither room provides equipment for muscular or cardiovascular exercise.¹³⁴

¹²¹ Detention Operations Manual, Detainee Services, Standard 13, Section I.

¹²² Detention Operations Manual, Detainee Services, Standard 13, Section III.A.

¹²³ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

¹²⁴ Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

¹²⁵ Notes of delegation member

¹²⁶ Notes of delegation member

¹²⁷ Notes of delegation member

¹²⁸ Notes of delegation member

¹²⁹ Notes of delegation member (b)(6)

¹³⁰ Notes of delegation member

¹³¹ Notes of delegation member

¹³² Notes of delegation member

¹³³ Notes of delegation member

There is no outdoor recreation.¹³⁵ ICE suggests that detainees be eligible for transfer after 180 days at a facility without outdoor recreation.¹³⁶ In accordance with this policy, DCDF notifies ICE after it has housed a detainee for 165 days in order to allow the detainee to relocate if he so chooses.¹³⁷

B. Access to Medical Care

The *Standards* suggest that all detainees have access to medical services that promote detainee health and general well-being.¹³⁸ Each facility is suggested to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.¹³⁹ For a facility of over 200 detainees, a minimum of five days per week is suggested.¹⁴⁰ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.¹⁴¹ With respect to emergency care, the *Standards* state that in a situation in which a detention officer is uncertain whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.¹⁴² If a detainee is diagnosed as having a medical or psychiatric condition requiring special attention (e.g., special diet), the medical care provider is required to notify the Officer-in-Charge in writing.¹⁴³

DCDF appears to have substantially implemented this portion of the *Standards*. The facility contracts with a company called Health Providers Limited (“HPL”) to provide staffing and medical care 7 days a week. The service is on call 24 hours a day. The DCDF Staff has been very impressed with HPL’s very quick response time to after hours calls.¹⁴⁴ The facility displays the individuals’ various accreditations on the wall of the medical reception area.¹⁴⁵

If there is a need for an outside medical visit, officials at DCDF first clear it with the staff doctor, and then HPL will contact area facilities or a facility they have in Madison to administer

¹³⁴ Notes of delegation member

¹³⁵ Notes of delegation member

¹³⁶ Notes of delegation member (b)(6)

¹³⁷ Notes of delegation member on conversation with Supervisor (b)(6), (b)(7)c

¹³⁸ Detention Operations Manual, Health Services, Standard 2, Section I.

¹³⁹ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁴⁰ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁴¹ Detention Operations Manual, Health Services, Standard 2, Section III.A, D. and G.

¹⁴² Detention Operations Manual, Health Services, Standard 2, Section III.H.

¹⁴³ Detention Operations Manual, Health Services, Standard 2, Section III.J.

¹⁴⁴ delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c and Jail Administrator (b)(6), (b)(7)c

¹⁴⁵ Notes of delegation member (b)(6)

the appropriate treatment.¹⁴⁶ The nearest hospital is approximately 8 miles away.¹⁴⁷ For mental health needs, the County Mental Health Association has psychiatrists on-call.¹⁴⁸ The jail plans to institute a job share program with HPL where a psychiatrist will work at DCDF while also working at an outside HPL facility.¹⁴⁹

All detainees at DCDF are screened for medical issues upon their initial processing.¹⁵⁰ Each detainee is questioned regarding prior health history, current health, medical history, suicide risk, mental health, drug and/or alcohol dependence, TB, dental health, and STD/communicable diseases.¹⁵¹ If flags are raised the individual is referred to medical for attention. HIV is not routinely checked.¹⁵² Those who are initially flagged as having some mental health issue, including suicidal tendencies, may be kept separately and monitored closely by the staff.¹⁵³

For non-English-speaking detainees, DCDF often uses other inmates to assist with medical screening and other medical issues, through what DCDF calls the Inmate Labor Interpreters program.¹⁵⁴ The facility also has access to both a local phone service and the AT&T Language Line, to provide translation services. The delegation has some concerns over confidentiality when a translator is used, especially when it is an inmate. There is not a formal confidentiality agreement used in the facility for translation. However, DCDF officials informed the delegation that the Inmate Labor Interpreters use other inmates only for basic questions, not during treatment.¹⁵⁵

146	f delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
147	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
148	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
149	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
150	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
151	delegation member	(b)(6)	on conversation with Supervisor	(b)(6), (b)(7)c and Jail Administrator
152	f delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
153	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
154	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			
155	delegation member		on conversation with Supervisor	and Jail Administrator
	(b)(6)			

The DCDF Inmate Handbook states that “[p]rescription/non-prescription medications will be distributed as ordered by the medical staff.”¹⁵⁶ The Inmate Handbook also provides that inmates “may request over-the-counter medications using the medication request slips provided in [their] housing area. All requests for over-the-counter medications must be submitted to the Pod Officer on duty PRIOR to medication distribution times. [Detainees] will have at least 10 minutes after [their] cell doors are opened in the morning to submit a medication request for morning med distribution.”¹⁵⁷

The DCDF does not have regular sick calls, as suggested in the *Standards*. Instead, to see a nurse or doctor an inmate/detainee may submit a Request for Health Care form.¹⁵⁸ Listed in the Inmate Handbook and on the request form are the charges that will be incurred by an inmate/detainee for a visit to the medical facility.¹⁵⁹ If the visit is initiated by a DCDF Corrections Officer, there will be no charge.¹⁶⁰ All requests will be initially screened by a nurse (it is unclear if this will be charged regardless of the action taken). The request slips are processed by the Pod officer at the time they are submitted. Some cells are also equipped with a call button, which when pressed alerts the officers that the inmate/detainee in the cell is requesting medical attention. In addition, each Pod Officer’s station has a general first aid kit. The staff receives first aid training at least once each year, in cardiopulmonary resuscitation (CPR) as well as on the use of an automated external defibrillator (“AED”).

Finally, with regard to detainee medical records, HPL, as the service provider, handles, owns, and maintains all the detainee/inmate medical records on-site. When a detainee/inmate is transferred, DCDF medical staff provides a one page medical summary that the inmate will take with them.¹⁶¹

C. Access to Dental Care.

The *Standards* suggest that detainees have an initial dental screening exam within 14 days of the detainee’s arrival and require the facility to provide a number of services, including emergency dental treatment and repair of prosthetic appliances.¹⁶² For detainees who are held in detention for over six months, routine dental treatment may be provided, including amalgam and composite restorations, prophylaxis, root canals, extractions, x-rays, the repair and adjustment of prosthetic appliances and other procedures required to maintain the detainee’s health.¹⁶³

¹⁵⁶ DCDF Inmate Handbook, p.12.

¹⁵⁷ DCDF Inmate Handbook, p.13.

¹⁵⁸ A copy of the Request for Health Care form is attached.

¹⁵⁹ DCDF Inmate Handbook, p.15.

¹⁶⁰ Request for Health Care form.

¹⁶¹ delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7) and Jail Administrator (b)(6)

¹⁶² Detention Operations Manual, Health Services, Standard 2, Section III.E.

¹⁶³ Detention Operations Manual, Health Services, Standard 2, Section III.E.

The DCDF has not fully implemented this section of the *Standards*. There is no on-site dentist at the DCDF,¹⁶⁴ and therefore, the detainees do not receive the initial dental screening as suggested by the *Standards*. If dental care is needed, the DCDF has a contract with a local dentist, (b)(6) who provides the necessary dental care, either in the facility or at his local office.¹

D. Hunger Strikes.

The *Standards* suggest that all facilities follow accepted standards of care in the medical and administrative management of hunger-striking detainees.¹⁶⁶ Facilities must do everything within their means to monitor and protect the health and welfare of the hunger-striking detainee and must make every effort to obtain the hunger striker’s informed consent for treatment.¹⁶⁷ In IGSA facilities, the “OIC of the facility shall notify [ICE] that a detainee is refusing treatment. Under no circumstances are IGSA facilities to administer forced medical treatment unless granted permission from [ICE].”¹⁶⁸

DCDF appears to have implemented this section of the *Standards*. If an inmate or detainee declares a hunger strike, the inmate/detainee’s commissary privileges are revoked.¹⁶⁹ The medical staff then assesses the mental state of the patient, and regularly monitors the patient, including his or her food intake, liquid intake, weight, vital signs, etc.¹⁷⁰ DCDF personnel noted that inmates will sometimes declare a hunger strike with the hope of being transferred back to the Broadview facility – the ICE center where many detainees are initially held in the Chicago area.¹⁷¹

After meals, if a tray comes back with all of the food on it, the staff will make a note on the meal pass.¹⁷² If this behavior goes on for a 24 hour period, the detainee/inmate is referred to medical staff. In the case of a detainee, the DHS liaison is notified, as well.¹⁷³

E. Detainee Classification

The *Standards* suggest that detention facilities use a classification system and physically

¹⁶⁴ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6) and Jail Administrator (b)(6), (b)(7)c

¹⁶⁵ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6) and Jail Administrator (b)(6)

¹⁶⁶ Detention Operations Manual, Health Services, Standard 1, Section I.

¹⁶⁷ Detention Operations Manual, Health Services, Standard 1, Section I.

¹⁶⁸ Detention Operations Manual, Health Services, Standard 1, Section III.D.

¹⁶⁹ Notes of delegation member

¹⁷⁰ Notes of delegation member

¹⁷¹ Notes of delegation member (b)(6)

¹⁷² Notes of delegation member

¹⁷³ Notes of delegation member

separate detainees in different categories.¹⁷⁴ A detainee's classification is to be determined on "objective" criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.¹⁷⁵ Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.¹⁷⁶ Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.¹⁷⁷

Additionally, all facility classification systems shall allow classification levels to be re-determined and include procedures by which new arrivals can appeal their classification levels.¹⁷⁸ Finally, the detainee handbook's section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.¹⁷⁹

DCDF has substantially implemented this section of the *Standards*. All detainees and inmates are classified when they first arrive at the facility.¹⁸⁰ All are initially issued khaki colored pants and orange shirts to represent that they are new inmates. Within the first 72 hours, further classification occurs to determine where the individual will be housed.¹⁸¹ However, the Handbook does not explain the classification levels and the conditions and restrictions associated with each.

DCDF uses the standards prepared by the National Institute of Corrections when reviewing an inmate for classification. DCDF uses 3 "phases" for classification. These phases represent the amount of freedom a detainee/inmate is given in the facility. There is no commingling of Phase 1 and Phase 3, only detainees/inmates from a phase immediately preceding or following another can be commingled.¹⁸²

F. Voluntary Work Program

The *Standards* suggest that all facilities with work programs provide an opportunity for physically and mentally capable detainees to "work and earn money."¹⁸³ Participation must be voluntary, and detainees may not work more than eight hours per day, and 40 hours per week.¹⁸⁴

¹⁷⁴ Detention Operations Manual, Detainee Services, Standard 4, Section I.

¹⁷⁵ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

¹⁷⁶ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

¹⁷⁷ Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & III.E.

¹⁷⁸ *Id.* at Sections III.G. & H.

¹⁷⁹ *Id.* at Section III.I.

¹⁸⁰ DCDF Inmate Handbook, pg. 4 and notes of delegation member

¹⁸¹ DCDF Inmate Handbook, pg. 4 and notes of delegation member

¹⁸² Notes of delegation member

¹⁸³ Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.

¹⁸⁴ Detention Operations Manual, Detainee Services, Standard 37, Sections III.A. & H.

DCDF has substantially implemented this section of the *Standards*. Detainees are provided an opportunity to work in the facility should they choose to do so.¹⁸⁵ Unlike the criminal inmates, however, they may not work outside of DCDF.¹⁸⁶ Detainees may work in the laundry room and the kitchen, or serve as a translator, barber or maintenance worker.¹⁸⁷ Eligibility may depend on a detainee’s classification, and those with physical or mental handicaps are afforded the opportunity to work.¹⁸⁸ Detainees are compensated for their work.¹⁸⁹ Although the *Standards* limit a detainee’s work schedule to eight hours per day, and 40 hours per week, the Handbook does not have a set limitation on hours worked.¹⁹⁰ [REDACTED] about the maximum time detainees are permitted to work, Jail Administrator [REDACTED] (b)(6), (b)(7)c suggested that detainees would be capped at 50 hours per week, but she did not indicate that DCDF has officially addressed this question.¹⁹¹

G. Detainee Grievance Procedures

The *Standards* suggest that every facility develop and implement standard procedures for handling detainee grievances and encourage that the facility initially seek to resolve grievances informally before having to engage in a more formalized procedure.¹⁹² Translating assistance for both formal and informal grievances must be provided upon request.¹⁹³ The *Standards* also require that each facility establish a reasonable time limit for: (1) “processing, investigating, and responding to grievances;” (2) “convening a grievance committee to review formal complaints;” and (3) “providing written responses to detainees who filed formal grievances, including the basis for the decision.”¹⁹⁴ All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.¹⁹⁵

The DCDF appears to have substantially implemented [REDACTED] of the *Standards*, but some concerns remain. According to DCDF Supervisor [REDACTED] (b)(6), (b)(7)c if a detainee has a grievance, he or she will ask an officer for an “Inmate Grievance [REDACTED] e detainee will fill out the form with the following information: type of grievance (original or appeal), his or her full name, his or her Jail ID Number, the date the grievance form was filled out, his or her assigned

¹⁸⁵ DCDF Inmate Handbook, p

¹⁸⁶ Notes of delegation member [REDACTED] (b)(6)

¹⁸⁷ DCDF Inmate Handbook, p

¹⁸⁸ Notes of delegation member [REDACTED] (b)(6)

¹⁸⁹ DCDF Inmate Handbook, p. 19.

¹⁹⁰ DCDF Inmate Handbook, p. 18-19.

¹⁹¹ Notes of delegation member [REDACTED] (b)(6) from information given by Jail Administrator [REDACTED] (b)(6), (b)(7)c

¹⁹² Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.A.

¹⁹³ Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1. & 2.

¹⁹⁴ Detention Operations Manual, Detainee Services, Standard 5, Section I.

¹⁹⁵ Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.C.

¹⁹⁶ Notes of delegation member [REDACTED] (b)(6) (Interview with [REDACTED] (b)(6), (b)(7)c .

Housing Pod, and the circumstance or action believed to be unjust.¹⁹⁷ Upon completing and signing the form, the detainee will give the form back to the officer, who then seals it in an envelope in front of the detainee.¹⁹⁸ The officer logs the grievance so that it can be tracked.¹⁹⁹ If the officer cannot resolve the detainee’s grievance, the officer must go to the supervisor.²⁰⁰ The supervisor must respond to the grievance within five days, unless an investigation is needed.²⁰¹ After the supervisor’s response, if the detainee is not satisfied, he or she can appeal the decision to DCDF’s Deputy Jail Administrator.²⁰² The Handbook states that the Deputy Jail Administrator must respond within ten working days of receiving the appeal.²⁰³ If the detainee is not satisfied with the Deputy Jail Administrator’s response, he or she can appeal the decision to DCDF’s Jail Administrator.²⁰⁴ The Jail Administrator must receive the appeal within two days of the detainee’s receipt of the Deputy Jail Administrator’s response and must respond within ten working days.²⁰⁵ If the Jail Administrator’s response is unsatisfactory, the detainee can appeal the decision to the State of Wisconsin by contacting the State Jail Inspector.²⁰⁶ DCDF personnel informed us that the ICE would be notified immediately if the grievance concerned a human rights issue.²⁰⁷

The Handbook provides that inmates should “first attempt to settle any dispute or complaint on an informal basis with Dodge County Detention Facility Staff.”²⁰⁸ Only after the dispute cannot be resolved on an informal basis may an inmate request a grievance form from the staff.²⁰⁹ The Handbook does not provide notice of the availability of assistance in preparing a grievance, although DCDF personnel informed us that assistance would be provided if necessary (e.g., if the detainee did not speak English).²¹⁰ The Handbook explains the procedures for

¹⁹⁷ DCDF Inmate Grievance Form.

¹⁹⁸ DCDF Inmate Grievance Form; Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

¹⁹⁹ Notes of delegation member on conversation with Supervisor (b)(6), (b)(7)c

²⁰⁰ Notes of delegation member on conversation with Supervisor

²⁰¹ Notes of delegation member (b)(6) conversation with Supervisor

²⁰² Notes of delegation member conversation with Supervisor (b)(6), (b)(7)c+ DCDF Inmate Handbook, p. 9.

²⁰³ DCDF Inmate Handbook, p. 9.

²⁰⁴ Notes of delegation member (b)(6) on conversation with Supervisor DCDF Inmate Handbook, p. 9.

²⁰⁵ DCDF Inmate Handbook, p. 9. (b)(6), (b)(7)c

²⁰⁶ Notes of delegation member (b)(6) on conversation with Supervisor DCDF Inmate Handbook, p. 9.

²⁰⁷ Notes of delegation member (b)(6) conversation with Supervisor (b)(6), (b)(7)c Administrator (b)(6)

²⁰⁸ DCDF Inmate Handbook, p. 8.

²⁰⁹ DCDF Inmate Handbook, p. 8.

²¹⁰ Notes of delegation member (b)(6)

resolving a grievance and the levels of appeal.²¹¹ The Handbook does state that the grievance process is “available to express complaints without the fear of reprisal or punitive disciplinary action.”²¹²

There does not seem to be any indication that DCDF personnel convene a grievance committee to review formal complaints. In addition, the DCDF Inmate Handbook does not provide procedures for the opportunity to file a complaint about officer misconduct directly with the Justice Department.

The detainee whom the delegation interviewed had never filed a grievance. He received the DCDF Inmate Handbook containing the procedures for filing a grievance, but believes that he cannot complain because he feels he will be viewed as a troublemaker.²¹³ While certain discrepancies may be explained by differences in the procedures for detainees and the general inmate population, the detainee’s comments are particularly troubling if the detainees do not have recourse under the DCDF’s actual policies, or if they effectively do not have such recourse; if the detainees are discouraged from exerting their rights, even if the procedures protecting those rights are technically available to them, the facility fails to meet the requirements of the *Standards*.

H. Religious Practices.

The *Detention Standards* suggest that detainees of different religious beliefs be provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.²¹⁴ According to the *Standards*, these “opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”²¹⁵ Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.²¹⁶ Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.²¹⁷

DCDF has not fully implemented this section of the *Standards*. Before a detainee is transferred to DCDF, the Broadview Detainee Processing Center confiscates all of his or her personal belongings, including religious effects. Therefore, detainees generally have no access

²¹¹ DCDF Inmate Handbook, pp. 8-9.

²¹² DCDF Inmate Handbook, p. 8.

²¹³ Notes of delegation member (b)(6) on interview with (b)(6)

²¹⁴ Detention Operations Manual, Detainee Services, Standard 14, Section I.

²¹⁵ Detention Operations Manual, Detainee Services, Standard 14, Section I.

²¹⁶ Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

²¹⁷ Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

to their religious belongings.²¹⁸ However, DCDF personnel indicated that the Broadview facility often allows detainees to keep a personal copy of a religious text (Bible, Koran, etc.) should the detainee wish to bring this to the DCDF. Thus, it is not clear whether or not this section of the *Standards* has been implemented, and it may be beyond the DCDF’s control.

Further, DCDF may not be providing “reasonable and equitable opportunities to participate in the practices of their respective faiths.” While DCDF does provide Christian and Islamic services, as well as access to the Bible and Koran in English and Spanish, no other types of religious services or materials are offered.²¹⁹ Bolstering this conclusion is the statement of the one detainee the delegation interviewed. He indicated that the facility did not offer any Buddhist religious services, nor provide access to any Buddhist texts or books.²²⁰ Staff did indicate, however, that at the request of a detainee or outside religious group/member,²²¹ special arrangements could be made for other religious services.²²²

I. Special Management Unit

The *Standards* suggest that each facility establish a Special Management Unit (“SMU”) that will isolate certain detainees from the general population.²²³ A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act.²²⁴ The disciplinary committee may order placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee’s behavior.²²⁵

All cells in the SMU must be equipped with beds which are securely fastened to the cell floor or wall.²²⁶ Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene.²²⁷ Recreation shall be provided to detainees in disciplinary segregation in accordance with the “Recreation” standard.²²⁸ Access to legal material shall remain open and requests for access shall be accommodated no more than 24 hours after receipt of the initial detainee request.²²⁹ Similarly, access to the law library shall be granted to detainees in

²¹⁸ Notes of delegation member .

²¹⁹ Notes of delegation member (b)(6) .

²²⁰ Notes of delegation member , on interview with detainee (b)(6)

²²¹ An outside religious group or member may request permission to conduct religious ceremonies, however, a criminal and background check permission is granted.

²²² Notes of delegation member (b)(6)

²²³ Detention Operations Manual, Security and Control, Standard 12, Section I.

²²⁴ Detention Operations Manual, Security and Control, Standard 12, Section III.A.

²²⁵ Detention Operations Manual, Security and Control, Standard 12, Section III.A.

²²⁶ Detention Operations Manual, Security and Control, Standard 12, Section III.D.6.

²²⁷ Detention Operations Manual, Security and Control, Standard 12, Section III.D.11.

²²⁸ Detention Operations Manual, Security and Control, Standard 12, Section III.D.13.

²²⁹ Detention Operations Manual, Security and Control, Standard 12, Section III.D.15.

segregation, and access by request only is an option.²³⁰ “As a rule, a detainee retains visiting privileges while in disciplinary segregation.”²³¹ Also, a detainee in disciplinary segregation shall not be denied legal visitation.²³²

In accordance with the “Telephone Access” standard, detainees in disciplinary segregation shall be restricted to telephone calls for calls relating to the detainee’s immigration case or other matters, calls to consular/embassy officials, and family emergencies.²³³ Also, detainees in segregation shall have the same correspondence privileges as detainees in the general population.²³⁴

DCDF has not fully implemented this section of the *Standards*. First, there are no beds in the SMU.²³⁵ Second, detainees in segregation are denied telephone privileges.²³⁶ Third, they are allowed reading materials but are not given access to the law library.²³⁷

However, DCDF has implemented some of this section of the *Standards*. Detainees in segregation are allowed to receive and send mail. They are also allowed to visit with clergy, counselors, and attorneys.

J. Disciplinary Policy

The *Standards* suggest that facility authorities “impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures” in order “to provide a safe and orderly living environment.”²³⁸ Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”²³⁹ Any disciplinary action taken must not be capricious or retaliatory and the following sanctions may not be imposed: “corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.”²⁴⁰ In addition, the *Standards* provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.²⁴¹ An

²³⁰ Detention Operations Manual, Security and Control, Standard 12, Section III.D.15.e.

²³¹ Detention Operations Manual, Security and Control, Standard 12, Section III.D.17.

²³² Detention Operations Manual, Security and Control, Standard 12, Section III.D.17.

²³³ Detention Operations Manual, Security and Control, Standard 12, Section III.D.19.

²³⁴ Detention Operations Manual, Security and Control, Standard 12, Section III.D.18.

²³⁵ Notes of delegation member (b)(6), on conversation with Supervisor (b)(6), (b)(7)c

²³⁶ DCDF Inmate Handbook, p. 22.

²³⁷ DCDF Inmate Handbook, p. 22.

²³⁸ Detention Operations Manual, Security and Control, Standard 3, Section I.

²³⁹ Detention Operations Manual, Security and Control, Standard 3, Section III.A.1.

²⁴⁰ Detention Operations Manual, Security and Control, Standard 3, Sections III.A.2 and III.A.3.

²⁴¹ Detention Operations Manual, Security and Control, Standard 3, Section III.B. and III.C.

intermediate level of investigation or adjudication must be established to adjudicate low or moderate infractions.²⁴²

The DCDF has substantiated this section of the Standards. According to DCDF’s programming director, (b)(6), (b)(7)c the facility’s disciplinary process is based on a Wisconsin statute.²⁴³ During this process, assistance will be provided if needed (i.e., if the detainee does not understand English).²⁴⁴ When a rules violation occurs, a written report is filed.²⁴⁵ If the violation is considered minor, then an officer will talk with the detainee and come up with a punishment based on the minor violation.²⁴⁶ For minor violations, such as use of profanity, failure to follow cleaning procedures, or abuse of jail-issued items,²⁴⁷ the resulting punishment will likely be a verbal or written reprimand,²⁴⁸ twenty-four hours or less in punitive segregation,²⁴⁹ or the loss of privileges.²⁵⁰ For major violations, such as unauthorized organized activity, assault on staff or inmate, or failure to take medication as issue,²⁵¹ the resulting punishment will likely be “loss of good time for up to two days per violation,” up to ten days in segregation per violation, over twenty-four hours confinement in the detainee’s cell, or restrictions on or loss of privileges for over twenty-four hours.²⁵²

Supervisor (b)(6), (b)(7)c also outlined the due process procedure for a major rule violation. When a major rule occurs, the reporting officer first notifies the Shift Supervisor of the violation.²⁵³ Within twenty-four hours, the detainee can have a hearing, which is conducted by four corrections officers, who are “program specialists.”²⁵⁴ The decision resulting from the hearing can be appealed three times.²⁵⁵ First, the detainee can appeal to a Supervisor.²⁵⁶ The Handbook specifies that the Supervisor must render a decision within five days of receiving the

²⁴² Detention Operations Manual, Security and Control, Standard 3, Section III.C.

²⁴³ Notes of delegation member on conversation with Supervisor

²⁴⁴ Notes of delegation member

²⁴⁵ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

²⁴⁶ Notes of delegation member on conversation with Supervisor

²⁴⁷ DCDF Inmate Handbook, p.23.

²⁴⁸ DCDF Inmate Handbook, p. 21.

²⁴⁹ Notes of delegation member on conversation with Supervisor (b)(6), (b)(7)c DCDF Inmate Handbook, p. 21.

²⁵⁰ Notes of delegation member conversation with Supervisor (b)(6), (b)(7)c DCDF Inmate Handbook, p. 21.

²⁵¹ DCDF Inmate Handbook, p.23.

²⁵² DCDF Inmate Handbook, p. 21.

²⁵³ Notes of delegation member on conversation with Supervisor

²⁵⁴ Notes of delegation member on conversation with Supervisor

²⁵⁵ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

²⁵⁶ Notes of delegation member on conversation with Supervisor

appeal.²⁵⁷ If the detainee is not satisfied with the Supervisor’s decision, then he or she can appeal the decision to the Deputy Jail Administrator.²⁵⁸ The Handbook specifies that the Deputy Jail Administrator must receive the appeal within two days of receiving the Supervisor’s response and that the Deputy Jail Administrator has ten working days to respond to the appeal.²⁵⁹ If the detainee is again unsatisfied with the decision, he or she can appeal to the Jail Administrator.²⁶⁰ This appeal must be received within two days of receiving the Deputy Jail Administrator’s response and the Jail Administrator has ten working days to render a decision.²⁶¹ Further, the decision of the Jail Administrator is final.²⁶²

The Handbook does notify the detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the appeal procedure of disciplinary findings.²⁶³ In addition, the Handbook notifies detainees of the facility’s rules of conduct and the sanctions imposed for the violation of these rules.²⁶⁴ However, the Handbook does not advise the detainees of their “right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment” or their “right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs.”²⁶⁵

The detainee the delegation interviewed stated that he had never been shackled or submitted to restraints, other than the times when he was transported to and from the facility. At those times, he would be handcuffed and have shackles around his legs along with a chain around his waist.²⁶⁶

K. ICE Presence at the Facility.

The *Detention Standards* suggest procedures be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”²⁶⁷ The *Standards* suggest that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.²⁶⁸ The purpose of such visits is to monitor housing

²⁵⁷ DCDF Inmate Handbook, p. 22.

²⁵⁸ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

²⁵⁹ DCDF Inmate Handbook, p. 22.

²⁶⁰ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c

²⁶¹ DCDF Inmate Handbook, p. 22.

²⁶² DCDF Inmate Handbook, p. 22.

²⁶³ DCDF Inmate Handbook, p. 21-24.

²⁶⁴ DCDF Inmate Handbook, p. 23-24.

²⁶⁵ Detention Operations Manual, Security and Control, Standard 3, Section III.A.5.a. and III.A.5.b.

²⁶⁶ Notes of delegation membe (b)(6) on interview with (b)(6)

²⁶⁷ Detention Operations Manual, Detainee Services, Standard 15, Section I.

²⁶⁸ Detention Operations Manual, Standard 15, Section III.A.

conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration removal process.²⁶⁹ The *Standards* also suggest that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff.”²⁷⁰ All facilities that house ICE detainees must have “written procedures to route detainee requests to the appropriate ICE official” and must assist detainees “who are disabled, illiterate, or know little or no English.”²⁷¹ Moreover, the *Standards* suggest that detainee requests be forwarded to the appropriate ICE office within 72 hours and “answered as soon as possible or practicable, but not later than 72 hours from receiving the request.”²⁷²

DCDF appears to have substantially implemented this section of the *Standards*. An ICE officer makes weekly, unannounced visits to the DCDF.²⁷³ Each week, he comes at a different time. The ICE officer will also come whenever he is requested.²⁷⁴ The DCDF provides specific immigration forms for the detainees to fill out if they want to speak to someone from ICE.²⁷⁵ There are stacks of forms for the detainees to fill out in each Pod, which are identified and explained to the detainees during their orientation.²⁷⁶ It was unclear to the delegation whether DCDF has written procedures for this, but the officers suggested that the detainees were aware of this option and that the officers knew how to and were diligent in processing the requests.²⁷⁷

V. CONCLUSION

The Dodge County Detention Facility has implemented many of the *ICE Detention Standards* but has also failed to implement a number of sections.

To facilitate legal visitation, DCDF should allow (and not discourage) legal visits to proceed through meal times and provide detainees with missed meals afterwards.

To provide adequate telephone access to detainees, DCDF should ensure that detainees can place free, direct calls to pro bono legal service providers and others. DCDF should not cut

²⁶⁹ Detention Operations Manual, Standard 15, Section III.A.

²⁷⁰ Detention Operations Manual, Standard 15, Section III.B.

²⁷¹ Detention Operations Manual, Standard 15, Section III.B.

²⁷² Detention Operations Manual, Standard 15, Section III.B.1.

²⁷³ (b)(6) on conversation with Supervisor Jail Administrator

²⁷⁴ (b)(6) on conversation with Supervisor Jail Administrator

²⁷⁵ (b)(6) on conversation with Supervisor (b)(6), (b)(7) Jail Administrator
(a Detainee Written Request Form is attached).

²⁷⁶ (b)(6) on conversation with Supervisor Jail Administrator

²⁷⁷ (b)(6) , on conversation with Supervisor Jail Administrator

off phone calls before 20 minutes have expired and should not limit legal phone calls unless necessary. DCDF should not record or monitor, in any matter whatsoever, legal phone calls (absent a court order), and if regular phone calls are monitored, DCDF should provide detainees with the procedure for obtaining an unmonitored call for legal purposes. Further, a posting near detainee telephones should provide a list of free pre-programmed numbers to all consulates, as well as relevant courts, immigration offices, and all free legal service providers on the ICE-approved list. Reflecting the needs of the multinational immigrant jail population, instructions regarding the use of the phone system need to be in different languages.

To support the detainees' access to legal materials and legal representation, DCDF should continue to provide detainees with sufficient paper, envelopes, and stamps to meet their legal needs and allow detainees to type and print submissions to the court using a computer and/or typewriter. DCDF should provide access to all of the legal materials listed in the *Detention Standards* in their law library. Further, DCDF should allow other detainees to assist illiterate and non-English speaking detainees with the preparation and research of legal materials and should post directions for using the computer and the immigration programs in languages other than English.

Lastly, in order to fully provide legal access for all detainees, detainees in segregation should be given access to telephone for legal calls and to the law library.