

Facility Name: Dorchester Detention Center (DDC); Cambridge, MD

Date of Tour: Jul

Tour Participants

(Bracewell & Pat

(b)(6)

ICE Standard	Delegation Observation	Source	ICE Response
<p>Detainee Services Standard 16 – Telephone Access</p>	<ul style="list-style-type: none"> ▪ III(E) – “Even if telephone service is generally limited to collect calls, the facility shall permit the detainee to make direct calls to [courts, the BIA, legal service providers, and after demonstrating compelling need in a family/personal emergency.]” 	<ul style="list-style-type: none"> ▪ Interview (b)(6) (b)(6) 	
<p>Detainee Services Standard 1 – Access to Legal Material</p>	<ul style="list-style-type: none"> ▪ III(C) – “The law library shall contain the materials listed in Attachment A. INS shall provide an initial set of these materials. The facility shall post a list of its holdings in the law library.” 	<ul style="list-style-type: none"> ▪ Interview with (b)(6), (b)(7)c delegation observations 	

		<p>well as a variety of other materials used by the facility (e.g., GED books).</p> <ul style="list-style-type: none"> ICE and DDC staff stated that the DDC meets its library requirement for immigration materials through providing a Lexis database on CD-ROM (in an unopened sleeve). 		
<p>Detainee Services Standard 9 – Group Presentations of Legal Rights</p>	<ul style="list-style-type: none"> I – “Facilities holding INS 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 each facility.” 	<ul style="list-style-type: none"> DDC does not allow groups to make presentations to detainees, because this would disrupt operations of the facility and also amount to solicitation of business by these groups. 	<ul style="list-style-type: none"> Interview with (b)(6), (b)(7)c 	
<p>Detainee Services Standard 13 – Recreation</p>	<ul style="list-style-type: none"> III(B) – “If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting. If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light. Under no circumstances will the facility require detainees to forgo basic law library privileges for recreation privileges.” 	<ul style="list-style-type: none"> Weather permitting, detainees are allowed one hour of outdoor recreation twice per week. Attorney visitation time, and possibly library time, can conflict with the gymnasium portion of detainees’ indoor recreation time. Detainees receiving pain medication are denied recreation time. 	<ul style="list-style-type: none"> Interview with n (b)(6), (b)(7)c Interview with en (b)(6), (b)(7)c Interview with sor (b)(6), (b)(7)c delegation interviews 	
<p>Detainee</p>	<ul style="list-style-type: none"> III(H) – “[Segregated] detainees shall be offered at least one hour 	<ul style="list-style-type: none"> DDC policy appears to take the position that recreation (in particular, 	<ul style="list-style-type: none"> Interview with DDC Warden 	

<p>Services Standard 13 – Recreation</p>	<p>of recreation per day, scheduled at a reasonable time, at least five days per week. This privilege shall be waived only if the detainee’s recreation[n] would unreasonably endanger safety/security.”</p>	<p>physical recreation either outdoors or in the gymnasium) is a privilege. As such, detainees domiciled in locations other than the detainee pods (e.g., special management units, the DDC medical wing, etc.) forego recreation.</p>	<p>(b)(6), (b)(7)c</p>	
<p>Detainee Services Standard 18 – Voluntary Work Program</p>	<ul style="list-style-type: none"> ▪ I – “Every facility with a work program will provide detainees the opportunity to work and earn money.” 	<ul style="list-style-type: none"> ▪ The DDC does maintain a voluntary, compensated work program. However, Warden Williams initially stated that, in his understanding, the ICE does not allow detainees to work for pay at all. Nonetheless, Warden Williams has made exceptions to what he understood was ICE policy by permitting certain detainees who he believes are indigent and truly in need of money to work. 	<ul style="list-style-type: none"> ▪ Delegation observation; Interview with en (b)(6), (b)(7)c 	

MEMORANDUM

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

From: American Bar Association Delegation to Dorchester Detention Center¹

Re: Compliance with ICE Detention Standards at the Dorchester Detention Center facility

Date: September 13, 2004

This memorandum summarizes and evaluates information gathered at the Dorchester Detention Center in Cambridge, Maryland (“DDC”), through discussions with DDC and local Immigration and Customs Enforcement (“ICE”) personnel, interviews with ICE detainees (“detainees”), and observations by delegation members during the delegation’s July 13, 2004, visit.

I. INS/ICE DETENTION STANDARDS

The Immigration and Naturalization Service promulgated the “INS Detention Standards” (“Standards”) in November 2000 to ensure the “safe, secure and humane treatment of individuals detained by the INS.” The Standards contained in the Detention Operations Manual cover a broad range of issues falling within the categories of detainee services (such as access to legal materials and recreational opportunities), security and control (such as disciplinary policy and use of force), and health services. The Standards apply to INS Service Processing Centers (“SPC”), Contract Detention Facilities (“CDF”), and state and local government facilities used by the INS (now the ICE) through Intergovernmental Service Agreements (“IGSA”). The Detention Standards went into effect at INS SPCs on January 1, 2001. The INS intended to phase-in the standards in all of the CDFs and IGSA’s by the end of 2002.

The Standards constitute a “floor” rather than a “ceiling” for treatment of ICE detainees, *i.e.*, they establish the minimal requirements that ICE must adhere to in its facilities. Each District Office or Officer in Charge (“OIC”) may, in his or her discretion, promulgate policies and practices affording detainees more enhanced rights and protections than those provided for by the Standards.

II. INTRODUCTION

A. The Delegation’s July 13 Visit

On Tuesday, July 13, 2004, the members of our delegation toured the DDC located at 829 Fieldcrest Road, Cambridge, Maryland. We initially met with Warden (b)(6), (b)(7)c

¹ The delegation was comprised of (b)(6), and (b)(6) associates at Bracewell & Patterson, L.L.P., an (b)(6) s and summer associates at Bracewell & Patterson, L.L.P.

(b)(6), (b)(7)c who has been Warden of the DD and two ICE representatives (b)(6), (b)(7)c (b)(6), (b)(7)c ICE Supervisor of Detention, and (b)(6), (b)(7)c of the ICE's Baltimore Field

In the course of our tour of the DDC facilities, we also met with several members of the DDC staff, including officers responsible for security, administrative and educational programs, and internal grievance procedures. The tour covered visitation areas, the kitchen, library, indoor gym, an outdoor recreation area, segregation cells, the medical wing for male inmates and detainees, the laundry room, and the hallways around the detainee habitation areas (pods), which we could view through large windows. After the tour, we met with eight male detainees whom we interviewed individually, without DDC staff present, about their experiences in the facility. On account of not having a Spanish speaker in our delegation, we could not interview any Spanish-speaking detainees who did not speak English. Where appropriate, this report will attribute statements to the particular individual who made them.

B. General Information about DDC

The D GSA that has been housing detainees under contract with the ICE since 1993. Warden (b)(6), (b)(7)c informed us that, at the time of our visit, the DDC had a total population of 161 prisoners, 139 male and 22 female. Of this total, there were 52 detainees with the remainder of the population comprised of American prisoners (referred to herein as "inmates") associated with the criminal justice system of Dorchester County and local surrounding area. The inmates average seven-month jail times. Of the 52 detainees, 47 were male and 5 were female.

The DDC houses detainees from countries such as Mexico, El Salvador, Nicaragua, the Dominican Republic, Jamaica, Trinidad, Morocco, Iran, Russia, Ethiopia, Singapore, and Portugal. Although the DDC did not provide us with a breakdown by country of origin for the detainees, it appeared that approximately half were from Central and South American countries, with many of the rest hailing from Caribbean nations. According to the ICE officials, these detainees were received from the Maryland, Delaware, and southern Pennsylvania region. Based on our interviews and statements by the DDC and ICE Staff, it appears that most of the detainees housed at DDC have criminal records and were transferred from prison/jail facilities in the above areas after serving their sentences for criminal convictions. We were unable to determine how much the ICE pays the DDC per day to house the detainees, but Warden (b)(6), (b)(7)c said the amount has not changed in many years.

Warden (b)(6), (b)(7)c emphasized in our initial meeting that DDC applies one set of rules to everyone, which includes inmates and detainees. Thus, in nearly all respects, detainees and inmates receive the same treatment at DDC. In response to queries from our group on whether it is appropriate to always apply the same rules to inmates and detainees, Warden (b)(6), (b)(7)c answered that DDC treats all inmates with respect and provides an environment superior to most facilities (he stated that DDC is a training center for other jails and receives delegations from jails all over the U.S.) and that equal treatment is necessary to avoid creating tensions between the detainees and the inmates.

C. The Dorchester Detention Center's Handbook

The Standards require that all detention facilities have a site-specific handbook for its detainees to serve as an overview of and guide to the detention policies, rules and procedures in

i. Visitation by Attorneys

The Standards provide that detainees must be allowed to meet privately with their current or prospective legal representatives and legal assistants and to meet with their consular officials.⁸

The DDC Handbook states that inmates will be allowed private consultation with their attorneys. Attorneys are allowed to visit seven days a DDC, with visiting hours from 8:00 am to 9:00 pm. However, according to Warden (b)(6), (b)(7)c attorneys are discouraged from visiting on Wednesdays and Saturdays, so as not to conflict with public visitation. If an attorney's visit conflicts with meal times, the detainee is required to consume his meal before the visit while the attorney waits. There is no limit on the duration of attorney visitation, provided it takes place within the established visiting hours.

Three identical private interview rooms are dedicated to legal visitation. Each room is divided in half to prevent any physical contact. The visitor and detainee can v ther through a window and converse via telephone. According to Warden (b)(6), (b)(7)c the conversations cannot be monitored. Individual sheets of paper can be slipped through a narrow slit beneath the window. None of the detainees we interviewed stated that they had ever received an attorney visit, other than visits by a pro bono attorney who several detainees identified by his attorney apparently visits DDC frequently on behalf of Catholic Charities; Warden (b)(6), (b)(7)c indicated during our visit that Catholic Charities visits the facility twice per week. The DDC appears to meet this section of the Standards.

ii. Visits by Family and Friends

The Standards specify a minimum time limit for visitors of 30 minutes under normal conditions, and encourage more generous limits when possible, especially for family members traveling significant distances to visit. Visits shall be permitted during set hours on weekends and holidays. The Standards state that the OIC can decide whether to permit contact visits based on the facility's detainee population and its physical conditions.⁹

The DDC does not allow any contact visits on site, but the ICE representative said that the ICE could take detainees requesting contact visits to facilities in Ba ere such visits can be accommodated. Neither the ICE representative nor Warden (b)(6), (b)(7)c elaborated on whether detainees knew how they could request such an accommodation, what criteria DDC would use to consider such a request, or whether any detainee ever had made such a request. No detainee mentioned having asked for a contact visit.

Visitation at the DDC takes place in a common visitation area where approximately twelve visitors can simultaneously meet with individual detainees. Visitors and detainees are separated by a glass partition. A series of stools across from each other allow the visitor and detainee to face each other while conversing via telephone.

⁸ DOM, Detainee Services, Standard 16, Section III.

⁹ DOM Detainee Services, Standard 1, III.A

Visitation rules are posted at the DDC's entrance/waiting area and are described in the DDC Handbook. Visits are allowed on Wednesdays and Saturdays from 9 am to 11 am and from 1 pm to 3 pm. The visitation schedule avoids any conflict with detainee mealtimes. Each detainee is allowed a maximum of two visitors for 15 minutes each per day. Visitors under 18, who must be accompanied by an adult, are allowed to visit only on the first Saturday of each month, and count as two visitors.

Visiting privileges may be revoked or suspended as a disciplinary measure. The DDC Handbook includes a provision for special visits, which must be approved in advance by a DDC official. Special visits are based on family emergencies or other special situations. The DDC Handbook states that special visits are available only for detainees who have been incarcerated for 90 days with no infractions. No detainee mentioned having requested a special visit.

Few of the detainees we spoke with had ever had visitors. Several of them stated that their relatives lived in New York or Pennsylvania and it was difficult for them to travel such a distance for a mere 15-minute visit. During the tour, Warden (b)(6), (b)(7)c stated that the 15-minute maximum visiting time could be extended to one hour for visitors who traveled greater distances. However, we spoke with several detainees who complained of not receiving visits from family members who did not live nearby, and none of these detainees were aware that the Warden might grant them more visitation time for such visits.¹⁰ The Warden subsequently told us that he did not want to advertise this possibility, let alone call it a policy, lest detainees abuse it, or the demands on his staff become untenable in an effort to accommodate resulting requests. As far as we could tell, such a request for a longer visit has yet to be made by a detainee, apparently because of a lack of knowledge of this possibility.

By limiting visits to just 15 minutes, the DDC appears to be in conflict with this section of the Standards. The DDC's reluctance to advise detainees that they might request longer visitation times for visitors from afar may serve to further limit detainees' ability to meet with visitors.

B. Telephone Access

The Standards require that detainees be provided reasonable and equitable access to telephones.¹¹ To ensure sufficient access, the facility shall provide at least one telephone for every 25 detainees held.¹² Telephone service can be limited to collect calls; however, the facility must allow a detainee to make free calls to: (1) the local immigration court and Board of Immigration Appeals; (2) federal and state courts where the detainee is or may become involved in a legal proceeding; (3) consular officials; (4) legal service providers regarding retaining counsel or consultation; (5) a government office to obtain documents relevant to his/her case; and (6) in a personal or family emergency, or when the detainee can otherwise demonstrate a compelling need (to be interpreted liberally).¹³ On-site liaison officers can provide these free calls separately within the facility. A detainee should be granted access to these phones within

¹⁰ Interviews with detainees (b)(6), (b)(7)c
¹¹ DOM Detention Standard 15, Section I.
¹² DOM Detention Standard 15, Section III.C.
¹³ DOM Detention Standard 15, Section III.E.

24 hours of his/her request, and incidents of delay extending beyond eight waking hours must be documented and reported to the ICE.¹⁴ The facility shall not monitor calls to attorneys on legal matters, absent a court order.¹⁵ Other types of phone calls can be monitored, subject to notice posted next to the phone and notice placed in the handbook.

The DDC has two public phones in each pod, creating a current ratio of approximately one phone per twelve detainees, which is well within the ratio required in the Standards. Detainees may use the phones between the hours of 7 am and 10 pm daily. Considering that the phones were close to the television and sitting area for detainees, privacy may be compromised on these phones. The phones use a collect call system provided by the local phone company. According to the Warden, the price charged is the same as that charged at an ordinary pay phone outside the facility and DDC receives no shared revenues from collect calls. The phones work on a timer and automatically shut off after 20 minutes. Detainees are permitted to call again after time runs out, provided no other detainees are waiting to use the phone. We understand the detainees also can use calling cards to make calls from these phones. One of the detainees we interviewed mentioned using calling cards for domestic calls;¹⁶ another detainee said he could not use calling cards for overseas calls.¹⁷ None of the detainees complained about access to the phone, but several complained that calls within the U.S. did not go through.¹⁸ The Warden said that the phones do not permit three-way calling and that this is likely the source of the detainees' difficulty in placing calls. He also suggested that the intended recipients for the detainees' collect calls might sometimes not be accepting the calls. The Warden stated to us that phone calls placed from these phones are not monitored or recorded, absent some compelling reason to do so (e.g., threats against DDC Staff).

Consistent with the Standards, the ICE liaison office contained a telephone where detainees can place free "direct calls" to courts, consulates, and immigration offices, meaning that detainees need not call collect or use a calling card to make such a call. These phones could also be used to call legal services to retain a lawyer; however, if the detainee could make the call from a phone located in his or her pod, we understand that the detainee would need to make a collect call to the attorney. It was not clear to us whether detainees could also use this free phone for a personal or family emergency, or when the detainee can otherwise demonstrate a compelling need, as required by the Standards. The ICE liaison officer dials the number the detainee wishes to reach to prevent any unauthorized phone calls. It was also not clear to us whether the detainees had complete privacy when using this free phone, or whether the ICE liaison officer was present. Detainees obtain use of this phone by submitting a request to see the ICE liaison officer. These requests are purportedly entertained the following day; thus, it appears that permission to make certain free phone calls would be granted within 24 hours of a detainee's request, as required by the Standards. However, one detainee with whom we met reported that he had made such a request the previous day, which had yet to be granted by the time of our mid-afternoon interview.¹⁹

¹⁴

Id.

¹⁵ DOM Detention Standa

¹⁶ Interview with detainee

¹⁷ Interview with detainee

¹⁸ Interview with detainee (b)(6), (b)(7)b

¹⁹ Interview with detainee

The numerous detainee anecdotes about their inability to connect on calls placed on the phones in the pods raise questions about whether the DDC satisfies this Standard. There is also a question about whether use of the phone in the ICE liaison office meets the Standards.

C. Legal Materials

The Standards provide that all facilities holding detainees must permit detainees to have access to a law library, and provide legal materials, document copying privileges, and the opportunity to prepare legal documents.²⁰ The DDC has adopted its own policy governing detainees' access to legal materials, which in certain respects does not conform to the applicable ICE detention standard.

i. Library Conditions

The Standards provide that each facility shall provide a law library in a designated room with sufficient space to facilitate detainees' legal research and writing. The library shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.²¹

The DDC library is located in a reasonably large and well-lit multi-function room. In addition to the tables for the computers and typewriters, the library contains 2 working tables and one desk. One of the working tables was effectively fully occupied by numerous (numbering at least in the dozens) mass-market paperback books. In addition, the library contains over 40 classroom-style chairs with attached desktops. The latter reflects the fact that the library room also is used for numerous DDC programs, such as the GED classes.

ii. Photocopies and Mail

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.²² In addition, each facility shall 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.²³

A detainee may request that copies be made and such copies are provided free of charge. The DDC requires criminal inmates at the facility to pay for copies. No detainees stated that they were charged for photocopies. However, one detainee that we interviewed indicated that he had not received materials he requested to be copied.²⁴ In addition, detainees may purchase paper, writing implements, envelopes and stamps from the facility's commissary. Warden Williams indicated that materials could be provided free of charge to indigent detainees, provided they were formally requested. The Warden said that such assistance to the indigent had

²⁰ DOM Detainee Services, Standard 1, Section I.

²¹ DOM, Detainee Services, Standard 1, Section III.A.

²² DOM, Detainee Services, Standard 1, Section III.J.

²³ DOM Detainee Service ction III.N.

²⁴ Interview with detainee (b)(6), (b)(7)c

rarely, if ever, been necessary because the detainees at DDC generally have sufficient funds to purchase the materials.

The Standards require that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations for safety, security, and orderly operation of the facility.²⁵ 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 justified due to security concerns.²⁶ Special correspondence – which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media – is treated differently.²⁷ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.²⁸ Outgoing special correspondence cannot be opened, inspected, or read.²⁹

The Warden expressly indicated that DDC staff never opens attorney correspondence prior to its being routed to the detainee recipient, provided the correspondence clearly indicates that it is an attorney-client communication. The DDC Handbook states that detainees will be required to open such correspondence in the presence of a DDC officer, who will verify that it does not contain contraband.³⁰ At least two detainees with whom we met reported that they had received mail. One detainee reported that he had received personal correspondence, which had been opened prior to his receipt.³¹ Another detainee reported that letters were his primary means of corresponding with his attorney.³² A third detainee reported that he has sent letters on a number of occasions but, as of our interview, had yet to receive any response.³³

One detainee mentioned that he had not received a message a relative had left him through a phone call to the DDC's office to notify him of a family emergency.³⁴ The detainee said he had only learned of the emergency later when calling his relative on his own accord. It is not clear to us whether the DDC had any procedures for relaying incoming phone messages to detainees.

Overall, based on our discussions with the Warden, DDC staff, and detainees, it appears as though the DDC's practices substantially meet the Standards' correspondence provisions, subject to the issue of whether some mail may, without justification, be opened before it reaches the detainee.

²⁵ DOM Detainee Services, Standard 4, Section I.
²⁶ DOM Detainee Services, Standard 4, Sections III.B. & E.
²⁷ DOM Detainee Services, Standard 4, Sections III.B., E., & F.
²⁸ DOM Detainee Services, Standard 4, Sections III.B. & E.
²⁹ DOM Detainee Services, Standard 4, Sections III.B. & F.
³⁰ DDC Handbook at p. 1
³¹ Interview with detainee
³² Interview with detainee
³³ Interview with detainee (b)(6), (b)(7)c
³⁴ Interview with detainee

iii. Computer Access, Equipment, and Library Holdings

The Standards require that the library provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.³⁵ The Standards also require all law libraries to contain the materials listed in Attachment A of the Access to Legal Materials chapter of the Detention Operations Manual.³⁶ 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. In addition, the Standards require that the facility post a list of holdings in the law library and designate an employee with responsibility for updating materials, inspecting them weekly, and maintaining them in good working order.³⁷

The law library at the DDC has two typewriters and four computers. Detainees are permitted to use at least one of the computers to access certain Lexis databases on CD-ROM. DDC does not provide detainees with printed instructions on how to use the equipment or software; similarly, no one in our delegation recalled seeing any instructional material posted in the library explaining how to use the library's resources. The Warden said the librarian provides assistance with the software, but one detainee complained that law librarians were not available when needed.³⁸ The computers have no Internet capability, and no printers were visible. A detainee may request that the DDC staff obtain a copy of any legal material that he locates on the computer, although it is unclear exactly how this process works.

The vast majority of the books in the library were for leisure reading. The library also had a rolling bookcase with three shelves on each side. The Warden indicated that this rolling bookcase was the inmates' law library; it consisted of a variety of state and Federal criminal law and procedure books, though several years old. This inmates' law library contained bound volumes of immigration decisions through 1998.

The library also had a room located at the far back wall with a window affording viewing inside. Warden (b)(6), (b)(7)c indicated this room contained the ICE law library books as well as a variety of other materials used by the facility (e.g., GED books). The delegation was unable to verify whether the ICE books were inside this room. ICE and DDC staff stated that the DDC meets its library requirement for immigration materials through providing a Lexis database on CD-ROM. We noticed a CD still in its protective sleeve located on one of the computer stations. Warden (b)(6), (b)(7)c indicated that the CD had just arrived in the mail. As the CD was unopened and the computers were not hooked up, we were unable to ascertain what materials were on this CD and whether the materials were consistent with the requirements in the Standards. One detainee complained the Lexis software was outdated.³⁹

³⁵ DOM Detainee Services, Standard 1, Section III.B.

³⁶ DOM Detainee Services, Standard 1, Section III.C.

³⁷ DOM Detainee Services

³⁸ Interview with detainee

³⁹ Interview with detainee (b)(6), (b)(7)c

There is a question over whether the DDC meets this section of the Standards. Detainees voiced various complaints about difficulties in using the library, and it is unclear whether they are able to get access to and use up-to-date legal materials.

iv. Access to the Library

The Standards require that the facility devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis for a minimum of five hours per week. These five hours should not cause a detainee to miss a meal, recreation time, or any other planned activity.⁴⁰

The DDC permits detainees to sign up in advance in order to participate in the law library session, which is held only on Wednesdays for one hour, rather than five hours, as required by the Standards. Only a limited number of detainees at a time are permitted to attend the law library session, though it was unclear specifically what that number is. For that reason, some detainees appear to be unable to access the law library at regular times, and perhaps not at all during a given week. One detainee said that he “sometimes” has been unable to access the law library during the scheduled time.⁴¹ A detainee working in the laundry room said she was unable to use the law library in her time at DDC because she works during the time access to the library is available to detainees. Another detainee reported that he has had “no problem” accessing the library.⁴² Warden (b)(6), (b)(7) indicated that the DDC has conducted special law library sessions to accommodate detainees that, due to the library’s capacity constraints, could not participate in the regularly scheduled session, though no detainee mentioned this practice and the DDC appears to have no articulated policy on such make-up sessions.

Based on the limited time available each week for detainees to use the law library, it appears that the DDC has not fully implemented this section of the Standards.

The multi-purpose room that serves as the law library also functions as the library with recreational reading materials. Access to the room for this purpose is on Tuesdays only, for 15 minutes at a time, which allows detainees to drop off and pick up reading materials. No inmate suggested he was able to use this recreational library time for legal research.

v. Notaries, Certified Mail, and Miscellaneous Needs Associated with Legal Matters

The Standards require that the facility provide assistance to any unrepresented detainee who requests a notary public, certified mail, or other such services to pursue a legal matter if the detainee is unable to meet the need through family members or community organizations.⁴³

Warden (b)(6) indicated that detainees must fill out a request form for any special requests, and that such requests would be accommodated to the extent they were necessary and

⁴⁰ DOM Detainee Services on III.G.
⁴¹ Interview with detainee
⁴² Interview with detainee (b)(6), (b)(7)c
⁴³ DOM Detainee Services, Standard 1, Section III.P.

could be accommodated. None of the detainees we interviewed indicated any inability to pursue legal matters that required the above services. However, nearly all of the detainees generally complained that the ICE was not very helpful in keeping the detainees apprised of the status of their deportations.

D. Group Rights Presentations

The Standards provide that facilities “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 each facility.”⁴⁴

Warden (b)(6), (b)(7) said that he did not allow groups to make presentations to detainees, because this would disrupt operations of the facility and also amount to solicitation of business by these groups. He added, however, that he had not received any requests for such group presentations. In addition, he noted that a Catholic Charities representative visited the facility once or twice per week and usually offered to assist anyone who did not already have legal representation.

According to the ICE detention supervisor, detainees are required to watch a video presentation before being transported to this facility and by those means are educated about their rights. She added that anyone wishing to give a group presentation would have to ask the ICE representative for the region.

The DDC’s policy of not allowing group presentations is inconsistent with this portion of the Standards

IV. OTHER GENERAL OBSERVATIONS UNRELATED TO THE LEGAL ACCESS STANDARDS

A. Recreation

The Standards require that “all facilities shall provide INS detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.”⁴⁵ Every effort is to be made to provide outdoor recreation facilities, but lacking such, the recreation room should be large, with exercise equipment and having access to sunlight.⁴⁶ If the facility offers outdoor recreation, the Standards require that each detainee have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting.⁴⁷

The DDC’s recreation areas available to detainees consist of three areas: one indoor dayroom per pod; one gymnasium; and one outdoor recreation area. The latter two are available

⁴⁴ DOM, Detainee Services, Standard 9, Section I.

⁴⁵ DOM, Detainee Services, Standard 13, Section I.

⁴⁶ DOM, Detainee Services, Standard 13, Section III.A.1.

⁴⁷ DOM, Detainee Services, Standard 13, Section III.B

to detainees for only two hours per week, an hour on Mondays and another hour on Fridays. This schedule avoids a conflict with personal visitation times.

i. Indoor Recreation

Detainees are allowed to engage in most indoor sedentary recreational activities, such as playing board games or watching television, throughout their waking hours in the day room of their housing unit. In addition, they may read in their cells or engage in light physical activities, such as jogging in place, doing push-ups and sit-ups and the like, throughout the waking day.

When the weather is not conducive to outdoor recreation time (discussed below), the two hours of the non-pod recreation will take place in an indoor gymnasium. The gymnasium is equipped for half-court basketball games. In addition, DDC staff indicated that detainees have access to rubber horseshoe equipment, but none was apparent in the gymnasium. For security reasons, the DDC has no weights or other physical recreation equipment for detainees' use.

Attorney visitation time, and possibly library time, can conflict with the gymnasium portion of detainees' indoor recreation time. We were told that, given a choice, typically opt to schedule other events so as to avoid a conflict. In addition, Warden (b)(6), (b)(7)c stated that detainees preferring not to miss their physical recreation time customarily make attorney visitors wait until after the conclusion of recreation time. In other words, detainees can be put in a position where they must choose between physical recreation and other activities to which they are entitled. However, it does not appear as though this possibility has presented detainees any practical problems thus far given the dearth of attorney visitors to the DDC detainees. As the detainees with whom we met received so few visitors, we were unable to confirm the Warden's statements regarding how detainees are able to work around the potential conflict between recreation and legal visitation.

ii. Outdoor Recreation

Weather permitting, detainees are allowed one hour of outdoor recreation twice per week. The outdoor recreation area is an asphalt basketball court secured by a high (approximately 15-20 feet) chain link and razor wire fence. An equipment locker in each area contains basketballs and rubber horseshoe equipment.⁴⁸ Outdoor recreation is usually held early in the morning, as Warden (b)(6), (b)(7)c stated to us that Maryland prison requirements do not permit outdoor recreation when the temperature exceeds 85 degrees F. During the winter, detainees are denied any outdoor recreation for long periods.⁴⁹ The limited time for outside recreation was, without exception, cited as inadequate and a source of frustration by all the detainees in our interviews.

The delegation met with the Warden after touring the facility, the delegation asked Warden (b)(6), (b)(7)c why detainees were only given two opportunities a week for outdoor recreation. He responded that security concerns make it difficult to afford additional outdoor recreation time. ICE Supervisor (b)(6), (b)(7)c also stated that the opportunity given detainees to play cards and other games in the common areas of the pods constituted recreation time.

⁴⁸ The fact that the rubber horseshoe equipment was located in the outdoor recreation area we visited might explain why no such equipment was apparent in the gymnasium.

⁴⁹ Interview with detainee (b)(6), (b)(7)c

As further discussed in Section C below, detainees receiving pain medication are denied recreation time. Therefore, some detainees said they chose not to receive any pain medication in order to maintain their access to recreation. One detainee receiving ibuprofen for back pain ultimately refused further attention from the doctor in order to be able to go outside during recreation.⁵⁰

In view of the outdoor recreational facilities the DDC has available, the limited outdoor recreation time given to detainees at the DDC does not meet the requirements set forth in the Standards of one hour per day, five days a week. In addition, it does not seem justified to deny detainees the opportunity to spend time outside during recreation time simply because they may be taking medications.

iii. Recreation for Detainees in Segregation

DDC policy appears to take the position that recreation (in particular, physical recreation either outdoors or in the gymnasium) is a privilege. As such, detainees domiciled in locations other than the detainee pods (e.g., special management units, the DDC medical wing, etc.) forego recreation.

B. Educational Opportunities

The Standards do not explicitly address educational opportunities for detainees. The DDC Handbook states that “inmates” are “eligible to enroll in the education and/or substance abuse programs, except those who are a security risk to the facility.”⁵¹

The classes and programs offered at the facility include GED classes, and substance abuse counseling. However, the detainees are not allowed to participate in GED and other classes. One detainee showed us a form by which he had requested to participate in GED classes. A hand-written note on the form by a DDC official indicated that the detainee’s request was rejected because “of [his] status as an INS detainee” *i.e.*, a detainee rather than an inmate.⁵² ICE Supervisor Goodson subsequently told us these requests likely were rejected because either the detainees already had high school degrees, and therefore were not in need of a GED, or because non-citizens, which includes by definition all detainees, might not be eligible for the benefits of a state-funded GED program.

C. Access to Medical Care

The Standards provide that “[a]ll detainees shall have access to medical services that promote detainee health and general well-being.”⁵³ In addition, the Standards provide that “[e]ach facility will have regularly scheduled times, known as sick call, when medical personnel will be

⁵⁰ Interview with detainee
⁵¹ DDC Handbook at p. 8. (b)(6), (b)(7)c
⁵² Interview with detainee
⁵³ DOM Health Services, Standard 2, Section I.

available to see detainees who have requested medical services.”⁵⁴ With respect to emergency care, the Standards state that in situations in which a detention officer is uncertain of whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.⁵⁵

The Standards require adequate access to appropriate medical treatment for detainees and apply the medical care standard to IGSA facilities, such as DDC.⁵⁶ The Standards expect every participating facility to provide initial medical screenings to detainees followed by a full physical exam within fourteen days, primary and emergency medical care, specialized health care, and nearby hospitalization if necessary.⁵⁷ TB screening is expected for every incoming detainee as part of the initial medical exam, and suicide prevention, mental health services, and detoxification procedures should be available as needed.⁵⁸ The Standards call for facilities with 50 to 200 detainees (such as the DDC) to provide sick call at least three times a week.⁵⁹

The medical facilities at DDC are new, clean, and apparently well equipped. DDC recently added a significant new medical wing -- eight new individual cells -- primarily to serve male inmates and detainees, but also available as a backup to the separate women’s medical facilities. Detoxification facilities are available for incoming inmates or detainees under the influence of a substance. The new facility also addresses suicide prevention, with measures in place such as observation areas and special sheetless mattresses with built in pillows. Though the new medical wing is able to handle substantial mental health issues in-house, a hospital is located just two miles away and, according to Warden (b)(6), (b)(7)(c) can provide emergency medical care when necessary.

All detainees who arrive at DDC undergo an initial medical screening, which includes a TB test with appropriate isolation rooms for those suspected of positive results. HIV testing is performed at intake only upon request. Detainees receive complete medical exams within 14 days of arrival.

Detainees complain primarily about two issues regarding medical care at DDC; the difficulty detainees face when wanting to see a doctor and the consequences a medical request may have on their two non-pod hours of recreation time per week.

Though the Standards require sick call three times a week, the DDC conducts routine sick call twice weekly, on Tuesdays and Fridays. As a general matter, if a detainee suffers from a non-emergency ailment (e.g., a headache) on a day when the doctor is unavailable, then the detainee must wait until Tuesday or Friday when the doctor returns, though the Warden indicated on our tour that the medical wing is staffed by a medic at all times. Furthermore, according to the DDC Handbook, when an inmate submits a sick call request form, the inmate may incur a \$2

⁵⁴ DOM Health Services, Standard 2, Section III.F
⁵⁵ DOM Health Services, Standard 2, Section III. H.
⁵⁶ DOM Health Services, Standard 2, Sections I and II.
⁵⁷ *Id.* at Section III-A.
⁵⁸ *Id.* at Section III-D.
⁵⁹ *Id.*

charge to his or her account.⁶⁰ No special provisions regarding detainees indicate a different policy for that population, though the DDC reserves the right to waive the \$2 fee. Inmates must submit a request form to see a doctor prior to gaining access, and often completing a request does not result in a doctor visit. One detainee complained of filling out doctor requests without ever receiving access to the doctor, though he did receive pain medication from a nurse.⁶¹ Another detainee, who injured himself during recreation and required stitches, reported that he did not receive any pain medication despite sending multiple requests.⁶² One nurse reportedly denied another detainee's request to see a doctor regarding a rash on his arm but relented when the rash had spread considerably.⁶³

If a detainee receives prescribed medication for pain from the doctor, the detainee will be denied the opportunity to participate in either indoor or outdoor physical recreation activities while taking the medication. Rather than allowing the detainee to go _____ or to the gymnasium with orders to not engage in any physical activity, Warden (b)(6), (b)(7)c keeps the detainee in the pod, stating that in his opinion, the detainee would be tempted to engage in physical activities and thereby exacerbate any injuries. Non-prescription pain relief medication, such as Tylenol and Advil, is available at the commissary according to the DDC Handbook⁶⁴, but none of the detainees mentioned this as an option for relief of pain. Any item from the commissary must be purchased through the detainee's account, so detainees without any funds may be unable to access over-the-counter pain relief medication.

Finally, although the Standard _____ that detainees shall not be compelled to undergo undesired medical treatment, Warden (b)(6), (b)(7)c stated he could demand treatment for a detainee without any sort of waiver.

Overall, the DDC appears to have quality health care facilities, and may meet this section of the Standards, although some detainees complained of inadequate access to doctors.

D. Religious Issues

The Standards require that detainees of different beliefs be provided reasonable and equitable opportunities to participate in the practices of their respective faiths. These opportunities shall exist for all equally, regardless of the number of practitioners of a given religion, regardless whether the religion could be characterized as "mainstream," "Western" or "Eastern," or anything else.⁶⁵ Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility or the extraordinary costs associated with a specific practice.⁶⁶ The OIC may limit participation in a particular religious activity or practice to the members of that particular group.⁶⁷ All facilities shall designate space for religious activities and

⁶⁰ DOM Handbook at p. 9. Exceptions to this fee include follow-up directed by medical staff, physical examinations and medical emerg _____ ned by medical staff.

⁶¹ Interview with detainee

⁶² Interview with detainee (b)(6), (b)(7)c

⁶³ Interview with detainee

⁶⁴ DDC Handbook at p.10.

⁶⁵ DOM Detention Standard 14, Section I.

⁶⁶ *Id.*

⁶⁷ DOM Detention Standard 14, Section III.B

have resources available for community groups that provide religious services at the facility not provided by a Chaplain.⁶⁸ Detainees will have the opportunity to engage in-group religious activities, consistent with the safe, secure and orderly operation of the facility. Policies shall be in place to facilitate the observance of important “holy days.”⁶⁹ Detainees’ religious dietary requirements shall also be accommodated, within reason.⁷⁰

DDC does not have a Chaplain. Each Sunday, DDC offers separate non-denominational church services for male and female inmates officiated by local husband and wife pastors, respectively. These services are held in the indoor gym area, as the DDC does not have special facilities used solely for religious purposes. DDC also provides self-directed Islamic studies each Friday; the Warden made a point of stating that these “Islamic studies” sessions are not organized religious services. Warden (b)(6), (b)(7) said detainees are not permitted to engage in group-prayer while in the pod, on grounds that this would result in them imposing their religious beliefs on other detainees (Warden (b)(6), (b)(7) stated this restriction, which he said applied to all religions, was the result of court decisions). Consistent with the Warden’s statement, two Muslim detainees we spoke with said that a group of Muslims had been prevented from praying together in the pod.⁷¹ The explanation given by one of them, however, was that they had been told such overt prayer sessions would attract negative attention from other detainees.⁷² Rather, detainees are permitted individually to pray each day in their cells with the cell door ajar. This practice may conflict with the Standards’ requirement that detainees have the opportunity to engage in-group religious activities, consistent with the safe, secure and orderly operation of the facility.⁷³

Warden (b)(6), (b)(7) stated to the delegation that DDC observes Ramadan and provides special diets for Muslim detainees. Diets are also adjusted upon request during Lent for Christian detainees. Several detainees we interviewed stated that the only observation of Ramadan is that detainees receive meal trays at the usual time of day and simply allow the food to sit until sundown, at which time they eat it all at once.⁷⁴ According to the DDC Handbook, detainees are allowed to possess a woven, handmade religious symbol and string necklace, affixed together as one unit.⁷⁵ The string can be no larger than 1/8 inch in diameter and must be loose fitting, and the symbol must be no bigger than 2 x 2 x 1/4 inches.

Several Muslim detainees complained of the lack of Islamic leadership available for services and the suitability of the Koran in the library.⁷⁶ In the post-tour meeting, when asked about the possibility of bringing a Muslim imam to DDC for weekly services, the Warden replied that he would accommodate such a volunteer if one were interested in performing that service for detainees.

⁶⁸ DOM Detention Standard 14, Section III.E.
⁶⁹ DOM Detention Standard 14, Section III.H.
⁷⁰ DOM Detention Standard
⁷¹ Interviews with detainees (b)(6), (b)(7)c
⁷² Interview with detainee (b)(6), (b)(7)c
⁷³ DOM Detention Standard
⁷⁴ Interviews with detainees
⁷⁵ DDC Handbook at p. 10. (b)(6), (b)(7)c
⁷⁶ Interviews with detainees

It is unclear whether logistical, security, legal or other reasons are the grounds for barring the Muslim detainees from less restricted practice of their religion. The DDC is allowed to gauge religious activity in light of the needs of safe, secure and orderly operation of the facility. The inadequate opportunity given to Muslims to practice their religion raises questions about whether the DDC meets this section of the Standards.

E. Detainee Classification

The Standards allow IGSA facilities to continue using systems established locally, if the classification criteria are objective and all procedures meet ICE requirements under the Standards.⁷⁷ Detainees are to be classified upon arrival, using data provided by ICE. Upon classification, detainees should receive uniforms based on their classification level, Dark Blue being the lowest threat (Level 1), Bright Orange being the intermediate threat (Level 2) and Dark Red being the highest threat (Level 3).⁷⁸ Level 1 detainees are not to be housed with Level 3 detainees, but can be kept with Level 2 detainees; however, under no circumstances may a Level 2 detainee with a history of assaultive or combative behavior be placed in a Level 1 housing unit.⁷⁹ Classification levels can be changed due to incidents while in custody or because of specific facts that surface after the detainee's processing.⁸⁰

DDC Staff performs in-take processing and creates a file for each detainee with any prior criminal history (if known). This in-take processing is done within 72 hours of arrival, excluding holidays and weekends. The detainee files have a green cover so they can be distinguished from the local inmates' files. DDC Staff indicated to us that ICE did not always provide information regarding prior criminal history, if any, of detainees at the time of processing. We viewed three detainee files requested at random by the Warden and noted that two out of the three files contained information on criminal history. Several of the detainees we interviewed also professed that they did not have any criminal records and were only being detained for violation of immigration laws.

DDC segregates all the male detainees from the regular inmates. Warden (b)(6), (b)(7)c noted that he sometimes makes an exception to this rule in rare circumstances where the detainee encounters difficulty getting along with other detainees and the DDC Staff believes the detainee is better off with the regular inmates. The Warden informed us that, at the time of our visit, one male detainee was housed with DDC inmates, that this intermixing was done only with the detainee's consent, and that he still wore a blue uniform indicating his detainee status.⁸¹ This separation of detainees also occurs in the maximum-security area, as that area contains individual cells and contains no common area where detainees could intermix with inmates. As discussed below, female inmates and detainees are housed together.

According to DDC Staff and ICE officials, only Level 1 and 2 detainees are sent to DDC. If a detainee were to act in such manner as to result in a Level 3 classification, such a detainee

⁷⁷ DOM Detention Standard 3, Section I.

⁷⁸ DOM Detention Standard 3, Section III.A.

⁷⁹ DOM Detention Standard 3, Section III.F.

⁸⁰ DOM Detention Standard 3, Section III.G.

⁸¹ Interview with detainee (b)(6), (b)(7)c

would be transferred out of the DDC. All the detainees wear dark blue uniforms, with the regular inmates wearing orange uniforms. Warden (b)(6), (b)(7)c explained that this permits the Staff to easily distinguish detainees from the regular inmates. However, this classification system is not consistent with the Standards, as DDC does not use visual cues to distinguish Level 1 from Level 2 detainees. In addition, this mixing of detainees could result in a Level 2 detainee with a history of assaultive or combative behavior being placed in a housing unit populated primarily by Level 1 detainees, which would constitute a further deviation from the Standards. With one previously mentioned exception, none of the detainees we interviewed mentioned having problems with the other detainees. The DDC Handbook contains a cursory description of the classification system (e.g., it does not discuss different levels or treatment of detainees vs. regular inmates) and also includes a description of the classification review process, including the process for appeal.⁸²

F. Accommodations

Two of the DDC accommodation areas house male criminal inmates while the remaining two areas are dedicated to male detainees. Female detainees are kept in a different part of DDC in a smaller pod and, because of their small population, are co-mingled with the criminal female inmates. The pods have a common area (i.e., dayroom) with one television, two telephones, and an area with tables and attached stools where detainees can play games. Each cell sleeps two detainees and contains a toilet and a sink. The detainees can be out in the common areas between 6 am and 11 pm. Showers can be used between 6:30 am and 10 pm. The Delegation did not tour the interior of any pods. It was apparent that little outside light penetrates the pods, as exterior windows are small. The air conditioning in the pods, although the DDC office areas are air-conditioned. Warden (b)(6), (b)(7)c indicated that air conditioning is installed only where computers are located. Warden (b)(6), (b)(7)c said that large fans are used for air circulation when necessitated by high temperatures. Warden (b)(6), (b)(7)c complained that the northeast pods received no natural light during the winter because blankets covered the exterior windows of the facility.⁸³ Warden (b)(6), (b)(7)c explained that the cold air seeping through the windows necessitated this measure.

G. Personal Item Retention

The Standards require that all facilities provide for the control and safeguarding of detainees' personal property.⁸⁴ The Standards require detention facilities, including IGSA facilities, to properly control and safeguard detainees' property during their detention.⁸⁵

The DDC Handbook addresses the facility's personal item retention policy, but our delegation found the language unclear and is concerned that detainees may also find the language confusing. We understand that upon intake of detainees, the DDC takes possession of detainee property and either stores it or sends it to the detainee's "home" if it exceeds \$50 in value.⁸⁶

⁸² DDC Handbook at p. 3.

⁸³ Interview with detainee (b)(6), (b)(7)c

⁸⁴ DOM, Detainee Services, Standard 7, Section I.

⁸⁵ DOM, Detainee Services, Standard 8, Section I.

⁸⁶ DDC Handbook at p. 1.

Detainees are allowed to keep in their possession only corrective eyewear, hearing aids, false teeth, wedding bands without stones, and personal legal materials. The DDC stores items considered “contraband” as defined in the DDC Handbook and one change of clothes at the facility and sends to a family member or friend any other material in the detainee’s possession within 30 days of arrival. It is unclear where materials are sent if no relative or friend is available to receive the property.

Detainees are allowed to keep very limited items in their possession. One detainee, who stated that the version of the Koran from the library was inadequate, complained of denied access to his Koran, which he claimed was paperback and smaller than the one available through the jail.⁸⁷ The Warden later suggested his request had been denied because the Koran was a hardcover, which is not allowed. The DDC staff said that requests for legal materials the detainee placed in storage would be accommodated, provided the volume of materials requested was reasonable, although it is not clear whether detainees may have access to other property held in storage.

Overall, the DDC appears to meet this section of the Standards.

H. Dietary Requirements

The Standards require that detainees be provided with nutritious, attractively presented, and sanitarily prepared meals.⁸⁸ Furthermore, as a reflection of the multiple cultural and religious issues involved, the Standards require all facilities to provide detainees requesting a religious diet a reasonable and equitable opportunity to observe their religious dietary practice within reasonable limits.⁸⁹ The Standards call for nutritious meals prepared in a sanitary manner, with appropriate accommodations for medical or religious needs.⁹⁰

DC maintains a policy akin to the guidelines outlined in the Standards. Warden (b)(6), (b)(7)c emphasized the quality of the facility’s meal service and the fact that inmates receive meals a day for a total of 3000 daily calories. Food is prepared in the facility’s kitchen by certified food service staff under contract to the DDC, as well as by inmates participating in the work program. Detainees are not allowed to work in the kitchen, as they are not permitted to participate in this type of voluntary work program (discussed below). Meals are adjusted according to dietary needs for medical reasons or strict vegetarian purposes. Snacks are available for purchase in the commissary.

I. Detainee Work Program

The Standards state that all facilities should provide detainees that are physically and mentally able the opportunity to work and earn money and be allowed to participate in any voluntary work program.⁹¹

⁸⁷ Interview with detainee (b)(6), (b)(7)c
⁸⁸ DOM Detainee Services, Standard 7, Section I.
⁸⁹ DOM Detainee Services, Standard 7, Section III.E.
⁹⁰ DOM Detainee Services, Standard 7.
⁹¹ DOM Detainee Services, Standard 18, Section III.A.

The DDC does maintain a voluntary work program. Under this program, the compensation is two dollars per day. While the program is clearly open to inmates, DDC officials exhibited inconsistency between policy and practice regarding whether the work program is open to detainees. Both (b)(6), (b)(7)c and Warden (b)(6), (b)(7)c agreed that the ICE does not permit detainees to work in certain areas such as the kitchen. However, Warden (b)(6), (b)(7)c initially stated that, in handling, the ICE does not allow detainees to work for (b)(6), (b)(7)c. Nonetheless, Warden (b)(6), (b)(7)c has made exceptions to what he understood was ICE policy by permitting certain detainees (b)(6), (b)(7)c he believes are indigent and truly in need of money to work. During our tour, the delegation met a female detainee working in the laundry area. This female detainee reported that she had not used the law library in her time at DDC because she works during the time access to the library is available to detainees.

The ICE representative was quick to correct the Warden's misunderstanding, stating that all detainees are eligible for the voluntary work program jobs and, as an example, explained that male detainees are allowed to perform the hallway and dayroom detail, *i.e.* janitorial work. Furthermore, several members of our delegation observed that posted lists of DDC residents who had been cleared for jobs within the facility included the names of four detainees. Nevertheless, during the interviews several detainees said that they are not allowed to participate in the voluntary work program due to their status as detainees.⁹² It appears that there are not enough jobs to accommodate everyone who might have requested one, which might have contributed to the evident confusion on the topic. However, there appears to be a miscommunication or a lack of communication between the Warden and ICE concerning the overall eligibility of detainees for the voluntary work program.

J. Detainee Grievance and Disciplinary Procedures

The Standards require that every facility develop and implement standard procedures for handling detainee grievances and encourage the facility to informally resolve differences before resorting to a more formal grievance process.⁹³ The Standards also require that the facility must 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.⁹⁴ IGSA facilities must allow any detainee dissatisfied with the facility's response to his/her grievance to communicate directly with ICE.⁹⁵

i. Detainee Grievance Procedures

DDC's grievance system provides for an informal process. Detainees can request an inmate request slip wherein they can write down their complaint and submit it through the COs; oral requests are not accepted. Although not completely clear, it appeared that this same inmate request slip would be used for any detainee request and was not limited to grievances.

⁹² Interviews with detainees (b)(6), (b)(7)c
⁹³ DOM Detainee Services,
⁹⁴ *Id.*
⁹⁵ DOM Detainee Services, Standard 8, Section III.C.

According to one detainee we interviewed, the correctional officers routinely ask the detainees if they have any complaints, and if so, give them an inmate request slip.⁹⁶ The grievance would be addressed by one of the supervisory staff. It was not clear to us whether an informal grievance would be addressed within five days, as required by the Standards.

If a detainee is dissatisfied with the result obtained via the inmate request slip, a grievance complaint form, known as Form No. 602, can be obtained and the details of the grievance/complaint and all attempts to remedy it can be filled in. This form is submitted directly to the Warden for investigation. As with the informal review process, the DDC Handbook does not address, nor did the Warden specify, how quickly a decision would be made in response to such a request, *i.e.*, within five days as required by the Standards. Warden Williams stated that he keeps the original copies of all grievance complaints in his office. DDC officials stated that a Detainee Grievance Log exists, although it was not clear to us whether this Grievance Log included only detainee's complaints or also included the complaints by DDC inmates. There did not seem to be any Detainee Grievance Committee process in place as required by the Standards; rather, grievances would be moved up the chain of command.

As we did not interview any non-English speaking detainees, we cannot state whether assistance would or might be provided in filling out the inmate request slip or Form No. 602. However, Warden (b)(6), (b)(7)c indicated to us in our initial meeting that someone assists detainees who cannot speak English (it was unclear to us whether this assistance is provided by another detainee or by DDC Staff). None of the detainees we met with has ever filed a grievance. We were also unable to ascertain whether an emergency grievance procedure exists. The DDC Handbook contained a description of the formal and informal grievance complaint process, but did not make any mention of the procedures for contacting the ICE to appeal the decision of the DDC Warden. The DDC Handbook also did not include any information on the opportunity to file a complaint about officer misconduct directly with the Justice Department as required by the Standards.⁹⁷

ii. Discipline Procedures

The Standards provide that each facility have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedures.⁹⁸ Furthermore, such discipline may not be retaliatory in nature⁹⁹ and several sanctions are banned.¹⁰⁰

The DDC Handbook outlines a list of prohibited acts as well as a list of sanctions that may be applied for violation of these rules. None of these sanctions are banned by the Standards. Male inmates are placed in maximum-security pending a reclassification hearing, while women are placed into the female processing area during the same period. All of these areas house the detainees in individual cells and therefore do not violate detainee segregation standards.

⁹⁶ Interview with detainee (b)(6), (b)(7)c

⁹⁷ DOM Detention Standard 8, Section III.G.

⁹⁸ DOM Security and Control, Standard 3, Section III.A.1.

⁹⁹ DOM Security and Control, Standard 3, Section III.A.2.

¹⁰⁰ DOM Security and Control, Standard 3, Section III.A.3.

For purposes of discipline and rules, Warden (b)(6), (b)(7)c told us that he does not differentiate between criminal inmates and detainees. (b)(6), (b)(7)c of the ICE explained to us that none of detainees have a maximum-security classification and anyone incurring classification while at DDC would be removed from the facility. However, Warden (b)(6), (b)(7)c added that he preferred to handle such problems “in house” and rarely sent a detainee to another facility.

According to the DDC Handbook, every inmate is entitled to a hearing for each alleged infraction.¹⁰¹ The inmate is served a copy of the infraction within 48 hours of the offense or within 48 hours of the inmate returning to the custody of DDC. A disciplinary hearing is held within 96 hours of a detainee being served with a copy of the infraction. There can be no hearing within the first 24 hours unless the inmate waives this right. The inmate has a right to representation and witnesses at the hearing. An inmate found guilty might appeal the hearing within 5 working days, via an Inmate Request Slip, to the Chief of Security.

No detainee expressed complaints about the disciplinary hearing process during our interviews. At least two of the detainees interviewed had faced such proceedings and appeared to believe that they had been treated fairly.¹⁰² Both detainees were male and were placed in segregation for their roles in separate fights. One was allowed to return to the detainee pod afterwards while the other (an American-raised Trinidadian with a criminal record) was placed into a pod with local inmates for his personal protection, a decision he requested and agreed with despite his status as a detainee; however, he also stated that because he was housed in the non-detainee pod, he had been overlooked by an ICE official on a recent visit.¹⁰³ One detainee from Russia said that he had never had any problems personally but felt that guards unfairly singled out Hispanic detainees.¹⁰⁴ However, neither of the Hispanic detainees interviewed by our delegation made such an allegation.¹⁰⁵

iii. Use of Force

The Standards provide a number of guidelines concerning the use of physical force.¹⁰⁶ In general the use of force is only authorized when all other reasonable efforts have failed¹⁰⁷ or when a detainee is acting violently or appears to be on the verge of acting violently.¹⁰⁸

Members of our delegation asked Warden (b)(6), (b)(7)c what he does when a detainee gets out of line or poses a threat and he responded: “We handle it.” Warden (b)(6), (b)(7)c later clarified these comments during the tour by referencing the comment to special protective gear used by the officers in an emergency, though the protective gear had never been used before. The Warden stated that his officers are required to practice confrontation avoidance.

¹⁰¹ DDC Handbook at p. 7.
¹⁰² Interviews with detainee (b)(6), (b)(7)c
¹⁰³ Interview with detainee
¹⁰⁴ Interview with detainee (b)(6), (b)(7)c
¹⁰⁵ Interviews with detainee (b)(6), (b)(7)d
¹⁰⁶ DOM Security and Control
¹⁰⁷ DOM Security and Control, Standard 15, Section I.
¹⁰⁸ DOM Security and Control, Standard 15, Section III.A.

Furthermore, Warden (b)(6), (b)(7) said that the DDC officers were well trained in the use of force. Several different officers were asked about their preparation for use of force and all responded uniformly that they were well versed in the proper techniques. Under Maryland state law, DDC officers are trained in the use of force as part of their initial training and the officers annually undergo hours of in-house training. Warden (b)(6), (b)(7) seems to rigorously enforce this policy.

The DDC maintains a “CERT” unit to respond to emergency situations. This team consists of eight officers who drill weekly and appear to be well equipped. Overall, the DDC policies do not seem to differ substantially from the Standards.

DDC does not use soft restraints, however it appears that it uses handcuffs. DDC uses two devices, not listed as permissible, known as a restraint chair and a restraint bed. The Warden explained that both devices are used sparingly, only in extreme cases, and always with medical supervision.

The closest items resembling four point restraints were the aforementioned restraint chair and bed. DDC follows a strict protocol for the use of these devices that is only slightly different from the Standards. None of the detainees we interviewed had complaints about the use of force. While several had experienced the use of physical force, none reported it as excessive even when specifically asked.¹⁰⁹ The majority of the detainees questioned had no experience with the use of physical force and none had seen it applied inappropriately to other inmates. At least one inmate complained that some of the officers could be abrasive in language and had invaded his personal space in confronting him, but no physical contact had ever been made.¹¹⁰

V. CONCLUSION

Our overall impression of the DDC facility was that it was a clean and orderly facility that was tightly run according to a set of rules that offered little flexibility. Warden (b)(6), (b)(7) and the DDC do not try to meet the specifications set forth in the Standards, and the ICE representatives accept this. Warden (b)(6), (b)(7) stated objective was to treat everyone the same, however, this has the effect of ignoring legitimate differences between inmates and detainees which are reflected by the Standards.

By far the most common complaint by detainees was the inadequate recreational opportunities. A limit of two hours per week outside the pod, with much of that recreational time either spent in an indoor gym or, if outside, then early in the morning, is inconsistent with the Standards.

In addition, several detainees complained of difficulties in following, let alone contesting, their immigration cases with such limited access to legal materials at the DDC. Significantly, even those who had signed voluntary departure agreements were still waiting for departure, as much as half a year after agreeing to depart the U.S.

¹⁰⁹ Interviews with detainee

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

¹¹⁰ Interview with detainee (b)(6), (b)(7)c