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MEMORANDUM

September 26, 2003

**DRAFT (Final)**

**To:** U.S. Dept. of Homeland Security, Bureau of Immigration and Customs Enforcement  
**From:** American Bar Association Delegation to DuPage County Jail  
**File no:** 502130-0004  
**Copies to:** (b)(6) ABA Commission on Immigration Policy, Practice and Pro Bono,  
Detention Standards Implementation Initiative  
**Subject:** Report on Observations during a General Tour of the DuPage County Jail, in Wheaton,  
Illinois on July 25, 2003

This memorandum summarizes and evaluates information gathered at the DuPage County Jail, Wheaton, Illinois, facility ("DuPage facility"), through observation by delegation participants and discussions with DHS and DuPage facility personnel on the July 25, 2003 visit. The delegation was not able to interview any detainees.

**I. ICE Detention Standards**

The Immigration and Naturalization Service (INS, now working as the Department of Homeland Security, Bureau of Immigration and Customs Enforcement (ICE)) promulgated the "*INS Detention Standards*" in November 2000 to insure the "safe, secure and humane treatment of individuals detained by the INS." 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 INS Service Processing Centers ("S.P.C."), Contract Detention Facilities ("C.D.F."), and state and local government facilities used by the INS through Intergovernmental Service Agreements ("I.G.S.A."). The Detention Standards went into effect at INS S.P.C.s on January 1, 2001. The INS aimed to phase-in the standards in its contract facilities, and state and local facilities, over the next two years. The INS Detention Standards constitute a "floor" not a "ceiling" for treatment of INS detainees. In other words, they are meant to establish the minimal requirements that the INS 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 INS detainees more enhanced rights and protections than those provided for by the *Standards*.

**II. Introduction**

The DuPage facility is a contract detention facility housing up to 32 detainees from various nations, and a maximum of 863 total inmates. The national origin of most detainees is Mexico, though some are from India, Africa, and other nations.<sup>1</sup> The detainees are usually held at DuPage for a short period of time (only a couple of days to a week), although some stay a little longer. The detainee has stayed at the DuPage facility is probably only 15 days, according to Officer (b)(6), (b)(7)c the officer who led our tour.<sup>2</sup> Generally, the detainees housed at the DuPage facility are either about to be transferred to a larger detention facility or about to be deported.<sup>3</sup> The facility is located in what looks like a complex of office buildings in Wheaton, IL, less than an hour outside of Chicago.

This memorandum discusses observations regarding implementation of the ICE *Detention Standards* of the *Detention Operations Manual* at the DuPage County Jail.<sup>4</sup> The memo focuses on select portions of the standards which are specifically aimed at the attainment of “safe, secure, and humane treatment” of immigration detainees. In particular, this memo highlights the following four legal access *Standards*: (1) Legal Access; (2) Telephone Access; (3) Legal Materials; (4) Group Rights Presentations; as well as general observations not relating to legal access that were observed.

### III. Observations of Implementation of Legal Access Standards

#### A. Legal Access / Visitation

##### i. Visitation by Attorneys

The *Standards* provide that facilities should allow detainees to meet privately and in a confidential area with their current or prospective legal representatives, legal assistants and their consular officials. The facility must permit legal visitation seven days a week, including holidays, and for a minimum of eight hours per day on regular business days and a minimum of four hours per day on weekends and holidays.<sup>5</sup>

At the DuPage facility, although the written rules concerning legal visitation hours meet this minimum requirement, it is unclear whether the facility normally does so in practice. Attorneys can visit detainees at the DuPage County Jail and the visiting hours are 7:30 a.m. through 11:00 a.m. and 1:00 p.m. through 4:00 p.m.<sup>6</sup> Officer (b)(6), (b)(7)c explained that if necessary, evening visits could be arranged upon special request for about, usually between 6:30 p.m. and 7:30 p.m.<sup>7</sup> The Inmate/Detainee Handbook says that the professional visitation hours also include 6:00 p.m. through 7:30 p.m.<sup>8</sup>

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(b)(6) notes on conversation with Officer (b)(6), (b)(7)c3

Officer (b)(6), (b)(7)c is not the officer usually in charge of leading the tours of the DuPage facility; she admitted she was less informed than the officer who usually leads the tours.

(b)(6) notes on conversation with Officer (b)(6), (b)(7)c (b)(6) notes on conversations with pro bono immigration attorneys in the Chicago area.

<sup>4</sup> *Detention Operations Manual*, <http://www.immigration.gov/graphics/lawsregs/guidance.htm>.

<sup>5</sup> *Detention Operations Manual*, Visitation, at 8.

<sup>6</sup> (b)(6) 's notes.

<sup>7</sup> *Id.*

<sup>8</sup> *DuPage County Corrections Bureau Rules and Regulations* (Revised January 1, 1999) (“*Inmate/Detainee Handbook*”), at 17.

The family visitation rooms and the attorney visitation rooms are in the same area.<sup>9</sup> This visitation area consists of a small room.<sup>10</sup> There are two contact rooms/attorney visitation rooms on the floor.<sup>11</sup> If there are more than two attorneys visiting on a floor, a detainee can meet with his attorney in one of the visitation rooms on another floor.<sup>12</sup> The contact rooms have a glass wall which separates the attorney from the detainee and there is a slot through which items can be passed.<sup>13</sup> The delegation did not see any of the attorney visitation rooms on the detainee's floor. We did pass by the attorney visitation room by the medical unit. In that room, two walls are made out of clear glass (Plexiglas) so that the guards sitting in the guards station can see into the room.<sup>14</sup> We walked through a hallway that passes by one of t and we could hear what was being said by two men inside the visitation room.<sup>15</sup> Officer (b)(6), (b)(7)c said that there would not be a reason for a guard to stand in the hallway and that guards would only pass through.<sup>16</sup> The room itself contained sufficient lighting, chairs, and table space.<sup>17</sup>

Attorneys can call ahead to determine if a detainee is at the facility. The attorney would talk to Officer (b)(6), (b)(7)c to determine if a detainee is still at the DuPage Facility.<sup>18</sup> There is no requirement for G-28 fo take interviews.<sup>19</sup> Attorneys are required to present bar cards when visiting.<sup>20</sup> Under the attorney visitation rules, non-attorneys (i.e., law students, legal assistants, etc.) can visit if they have a letter from the attorney.<sup>21</sup> According to the Inmate/Detainee Handbook, all professional visitors must submit to a pat search before entering a contact room.<sup>22</sup> After a contact visit, a detainee is not subject to a strip search but the detainees can be patted down.<sup>23</sup>

When in segregation, an inmate or detainee needs to request special permission to visit with an attorney.<sup>24</sup> In order to have experts or independent medical service providers visit, there needs to be approval from the Officer in Charge (OIC).<sup>25</sup> Interpreters can visit with permission. There is a set time

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<sup>9</sup> See (b)(6) notes.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> (b)(6) s notes on conversation with Officer (b)(6), (b)(7)c

<sup>13</sup> *Id.* We did not see the rooms. This information was provided by Officer (b)(6), (b)(7)c

<sup>14</sup> Ms. (b)(6) s notes.

<sup>15</sup> *Id.*

<sup>16</sup> Ms. notes on conversation with Officer (b)(6), (b)(7)c

<sup>17</sup> Ms. (b)(6) notes.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Inmate/Detainee Handbook* at 17.

<sup>23</sup> Ms. (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

for recreation and the detainee has to choose between attorney visits and recreation time.<sup>26</sup> This requirement does not reflect the Standard.

According to Officer (b)(6), (b)(7)c attorneys cannot continue visits through meal times or head counts but the allotted time fo would not interfere with meals.<sup>27</sup> This does not fully reflect the Standard, which requires that “[o]n regular business days, legal visitations may proceed through a scheduled meal period. In such cases, the detainee shall receive a tray or sack meal after the visit.”<sup>28</sup>

## ii. Visitation by Family, Friends and the Media

The *Standards* provide that facilities should permit authorized persons to visit detainees within security and operational constraints. To maintain detainee morale and family relationships, INS encourages visits from family and friends. Additionally, facilities should permit members of the media and non-governmental organizations to have access to non-classified and non-confidential information about the facility’s operation.<sup>29</sup> The *Standards* further provide that visits by family and friends “shall be permitted during set hours on Saturdays, *Sundays and holidays*” for a minimum of 30 minutes under normal conditions (emphasis added). And, “INS encourages more generous limits when possible...”<sup>30</sup> The DuPage facility policies do not appear to implement this requirement.

The DuPage Inmate/Detainee Handbook indicates that family and friends visitation hours for “Immigration” or detainees are Tuesday or Saturday, only, from 8:00 a.m. to 10:30 a.m. and 1:00 p.m. to 3:00 p.m.<sup>31</sup> Contrary to the *Standards*, Sundays and holidays apparently are not included among the permissible detainee visitation times for family, friends and media.

The other aspects of the visitation by family, friends and media appear do observe the minimum requirements set out by the *Standards*. The length of a visitation with family or friends is limited to one visit for 30 minutes per week, in accordance with the minimum time mandated.<sup>32</sup> Only four people may visit at any one time and rotating of visitors is not permitted.<sup>33</sup> The room seems very cramped to fit four people trying to visit at one time.<sup>34</sup> The visiting room’s layout is similar to a small closet with two walls and a glass door. The visitors are separated from the detainee by a thick glass wall. Visitors are separated from other visitors by walls. Communication between the detainee and visitor takes place via telephone system/intercom. Contact visits with friends and family are not permitted.<sup>35</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Detention Operations Manual*, Visitation, at 7.

<sup>29</sup> *Detention Operations Manual*, Visitation, at 1.

<sup>30</sup> *Detention Operations Manual*, Visitation, at 4.

<sup>31</sup> *See Inmate/Detainee Handbook* at 13-14.

<sup>32</sup> *Inmate/Detainee Handbook at 13-14; Detention Operations Manual*, Visitation, at 4.

<sup>33</sup> *Inmate/Detainee Handbook* at 14.

<sup>34</sup> (b)(6) notes.

<sup>35</sup> *Inmate/Detainee Handbook* at 13-14; (b)(6) notes.

A detainee's visitation privileges may be terminated for any number of reasons including disorderly conduct, refusal to obey orders from visiting staff, but also for insufficient space.<sup>36</sup> There were four rooms for visits.<sup>37</sup> If detainees have 30 minutes per week visitation time, given the visiting hours and days allotted, then there is space on Tuesday and Saturday for 18 visits x 4 rooms, which is 72 visiting spots available per week. Given the maximum number of detainees is 32 for this facility,<sup>38</sup> the space and time allotted are adequate.

## B. Telephone Access

The *Standards* provide that facilities shall permit detainees to have reasonable and equitable access to telephones. This is to include permitting the detainee to make direct, free calls to: the local immigration court and Board of Immigration Appeals; Federal and State courts where the detainee is or may be involved in a legal proceeding; to consular officials; to legal service providers; to a government office, to obtain documents relevant to his/her immigration case; and in a personal or family emergency.<sup>39</sup> The DuPage facility policies do not allow Detainees the access set out by this Standard.

The delegation was not permitted to enter the detainees' living area in which the phones were located. However, the Officer leading the tour informed the delegation that the detainees are permitted to make *only collect calls*.<sup>40</sup> This is in direct contradiction to the above-mentioned Standard.

There is no set time limit on the detainee's phone calls, and they are free to use the phones as often as they choose between the hours of 8:30 a.m. and 10:30 p.m.<sup>41</sup> According to the Officer, the phones are not electronically monitored.<sup>42</sup>

Posted near the phones are instructions in English and Spanish on how to operate the phones.<sup>43</sup> The facility does not post a listing of pro bono telephone numbers or consular telephone numbers, although each of the detainees are given a Know Your Rights Legal Assistance Packet containing such information upon entry.<sup>44</sup>

Detainees, like the other inmates, cannot receive incoming telephone calls, and the facility does not take phone messages from attorneys or others for the detainees.<sup>45</sup> In case of an emergency, in order to reach a detainee, one would have to call the Sergeant's office.<sup>46</sup>

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<sup>36</sup> *Inmate/Detainee Handbook* at 13-14.

<sup>37</sup> (b)(6) notes.

<sup>38</sup> *Id.*

<sup>39</sup> *Detention Operations Manual*, Telephone Access, at 2.

<sup>40</sup> (b)(6) notes on conversation with Officer

<sup>41</sup> *Id.*; *Inmate/Detainee Handbook* at 18. (b)(6), (b)(7)c

<sup>42</sup> (b)(6) s notes on conversation with Officer

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Inmate/Detainee Handbook* at 18.

<sup>46</sup> (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

The facility does not inspect the telephones regularly to make sure that they are in working order; they rely on the complaints of detainees to assess phone maintenance and attempt to repair phones quickly upon request.<sup>47</sup>

### C. Legal Materials

The law library in the DuPage facility does not meet the minimum standards set forth by the *Standards*. Although the library is large enough to accommodate detainee needs, library access for the detainees is substantially limited; the library is missing some important materials relating to immigration law and necessary electronic equipment (typewriters/computers); and, the facility does not appear to provide the needed assistance for non-English-speaking or illiterate detainees.

#### i. Library Conditions

The library is a large room with plenty of chairs and tables. It appears that the library could comfortably accommodate about 20-25 people at a time.<sup>48</sup> There were several small tables, which could seat four detainees or inmates. The \_\_\_\_\_rs to be a good place to do legal work. It is a well lit area and there is an officer (Officer (b)(6), (b)(7)c) who is in charge of taking care of the library and the library materials.

Officer (b)(6), (b)(7)c seemed to enjoy working in the library and wanted to help the detainees and the other inmates.<sup>49</sup> \_\_\_\_\_s well informed on the library materials and seemed to be making a good faith effort to help those who wanted to use the library.<sup>50</sup>

#### ii. Library Access

The *Standards* mandate that each facility devise a flexible schedule so that the detainees “shall be permitted to use the law library for a minimum of five (5) hours per week.”<sup>51</sup> In addition, detainees may not be forced to forego minimal recreation time, meals, or other planned activities in order to use the library.<sup>52</sup>

The library hours are 7:00 a.m. through 3:00 p.m.<sup>53</sup> The detainees normally have access to the library **only on Fridays** from 7:00 a.m. through 11:00 a.m.<sup>54</sup> If a detainee needs more time, he can put in a request. Officer (b)(6), (b)(7)c said that he would allow someone to have more library time provided he is working.<sup>55</sup>

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<sup>47</sup> *Id.*

<sup>48</sup> (b)(6) notes.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Detention Operations Manual*, Access to Legal Material at 3.

<sup>52</sup> *Detention Operations Manual*, Access to Legal Material at 3.

<sup>53</sup> (b)(6) notes on interview with Officer (b)(6), (b)(7)c

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

Since many of the detainees at the DuPage facility are held there for only a few days, the provision of library access only one day of the week not only fails to meet the minimum standards set in the Detention Operations Manual, but also is likely totally insufficient to meet the needs of the majority of the detainees held there.

### iii. Legal Materials

The *Standards* require all law libraries to hold the legal materials contained in Attachment A-2 of the *Access to Legal Materials* chapter of the *Detention Operations Manual*. 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 the materials, inspecting them weekly and maintaining them in good order.<sup>56</sup>

Officer (b)(6), (b)(7)c is in charge of checking and updating the library materials and he says that he does so on a monthly basis.<sup>57</sup> All texts in the library are in English. If a detainee needs a book that is not in the library, he can request the book be ordered.<sup>58</sup> However, the detainee would have to pay for the book. For a book to be ordered, the request would need to be placed with Officer (b)(6), (b)(7)c.<sup>59</sup> Detainees can request extra supplies such as pens and paper.<sup>60</sup> These are provided free of charge.

There is a pile of “Know Your Rights” packets in the library, and a section of books and binders on immigration law. However, the library did not post a list of the holdings, and, more importantly, the library did not have several items from the List of Legal Reference Materials (Attachment A-2).<sup>62</sup> Some examples of the missing materials are:

1. *Immigration Law and Defense*
2. *Immigration Law and Crimes*
3. *Guide for Immigration Advocates*
4. *Country Reports on Human Practices*
5. *Human Rights Watch- World Report*
6. *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*
7. *Considerations for Asylum Officers Adjudicating Asylum Claims for Women*
8. *Immigration and Naturalization Service Basic Law Manual*
9. *Lawyer’s Committee Handbook on Representing Asylum Applicants*
10. *Rights of Prisoners*
11. *Federal Habeas Corpus, Practice and Procedure*
12. *Legal Research in a Nutshell*.<sup>63</sup>

<sup>56</sup> *Detention Operations Manual*, Access to Legal Materials at 2-3.

<sup>57</sup> (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>61</sup> *Id.*

<sup>62</sup> Due to time constraints we were unable to check and see if the library had some of the materials listed in Attachment A-2, specifically, 23-30.

<sup>63</sup> Ms (b)(6) notes.

#### iv. Photocopies

The *Standards* provide that the facility must ensure detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for a legal proceeding involving the detainee. At the DuPage facility, Officer (b)(6), (b)(7)c makes photocopies at the request of the detainees.<sup>64</sup> Photocopies are free and there is no limit to any a detainee can request. There is no indication that staff members review confidential materials.<sup>65</sup>

#### v. Correspondence and Other Mail

The *Standards* provide that “[t]he facility shall notify detainees of its policy on correspondence and other mail through the detainee handbook or equivalent provided to each detainee upon admittance.”<sup>66</sup> In addition, “[a]t a minimum, the notification shall specify.... [t]hat general correspondence and other mail addressed to detainees shall be opened and inspected in the detainee’s presence, unless the OIC authorizes inspection with out the detainee’s presence for security reasons; [t]hat special correspondence may only be opened in the detainee’s presence, and may be inspected for contraband, but not read;” etc.<sup>67</sup>

At the DuPage facility, the “Inmate/Detainee Handbook” is purportedly given to each arriving detainee, and it contains a section on mail regulations.<sup>68</sup> Therefore, it appears that detainees are advised of their rights in this area. The facility policies appear generally to reflect the *Standard* with respect to delivery of incoming mail (within 24 hours) and regular collection of outgoing mail. However, all incoming and outgoing mail other than special correspondence is inspected for contraband, but not in the presence of detainees. Only special correspondence is opened in the presence of detainees.<sup>69</sup> This departs from minimum requirements of the *Standards*. The procedures where there is dispute on mail allow an appeal to the Chief and therefore seem to observe the *Standards*.

According to the *Standards*, indigent detainees are entitled to free postage for a specified number of legal and personal documents. Specifically, the *Standards* provide that “[t]he facility will provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential legal representative, or any court.”<sup>70</sup> We were advised that, although mail supplies (paper and pen/pencil) are supplied to detainees, the detainees were **charged for all postage**, which is incompatible with the Postage Allowance provision of the *Standards*.<sup>71</sup>

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<sup>64</sup> (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>65</sup> (b)(6) otes

<sup>66</sup> *Detention Operations Manual*, Correspondence and Other Mail, at 1.

<sup>67</sup> *Detention Operations Manual*, Correspondence and Other Mail, at 2.

<sup>68</sup> *Inmate/Detainee Handbook*.

<sup>69</sup> *Inmate/Detainee Handbook* at 19-20; (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>70</sup> *Detention Operations Manual*, Access to Legal Materials at 5; *see also id.*, Correspondence and Other Mail, at 6 (“The OIC shall establish procedures to provide indigent detainees the postage allowance that is available at government expense. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.”).

<sup>71</sup> (b)(6) notes on conversation with Office (b)(6), (b)(7)c



## vi. Computer Access, Equipment and Holdings

The *Standards* mandate that an adequate number of typewriters and/or computers, carbon paper, writing implements, writing tablets and non-toxic liquid paper be available for use by the detainees.

There are no computers in the library at the DuPage facility and there is only one typewriter for all of the detainees as well as for all of the inmates.<sup>72</sup> This typewriter is the only way a detainee can type a legal document. We were unable to determine the policy and frequency of repairs of broken typewriters or restocking of supplies.

## vii. Assistance to Illiterate and Non-English Speaking Detainees

The *Standards* mandate that: “[u]nrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention and indicate difficulty with the legal materials must be provided with more than access to a set of English-language law books.”<sup>73</sup> Facilities must establish procedures to meet this obligation, such as helping the detainee obtain assistance from other detainees with appropriate language and reading-writing abilities and assist in contacting pro-bono legal-assistance organizations.<sup>74</sup>

It appears this requirement is not being met at the DuPage facility’s library. Although Officer (b)(6), (b)(7) is willing to help inmates and detainees with their legal research, he does not assist in translating materials for the non-English-speaking or illiterate detainees, and there appear to be no procedures in place for meeting that obligation.<sup>75</sup>

## 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 the DHS facility. All facilities must cooperate fully with authorized persons seeking to make such presentations. Officer (b)(6), (b)(7) stated that she tries to show an INS vid etainee’s rights on Fridays, but that the presenta not occur every Friday.<sup>76</sup> Officer (b)(6), (b)(7) did not indicate that any in-person group rights presentations are given.<sup>77</sup>

## VI. Other General Observations Unrelated to the Legal Access Standards

### A. Recreation Issues

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.” Every effort is to be made to provide outdoor recreation facilities, but lacking such, the recreation room should be large, with exercise equipment and access to sunlight. The DuPage County

<sup>72</sup> (b)(6) notes.

<sup>73</sup> *Detention Operations Manual*, Access to Legal Materials, at 4-5.

<sup>74</sup> *Detention Operations Manual*, Access to Legal Materials, at 4-5.

<sup>75</sup> (b)(6) notes.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

facility's recreation area consists of one large indoor recreation area.<sup>78</sup> There are no outdoor recreation areas at the DuPage County facility.<sup>79</sup>

Detainees at the DuPage facility are allowed at least 45 minutes to 1 hour per day to relax in the large indoor recreation facility.<sup>80</sup> However certain "Trustees," those inmates who work in the kitchen, are permitted an extra hour of recreation per day.<sup>81</sup> Officer (b)(6), (b)(7)c indicated that, because detainees do not typically remain in the DuPage facility for very long an of DHS work restrictions, detainees are not eligible for "Trustee" status.<sup>82</sup>

## B. Detainee Handbook

According to Officer (b)(6), (b)(7)c the handbook is reviewed by the Major approximately once every three years.<sup>83</sup> When we asked for the Detainee Handbook, Officer (b)(6), (b)(7)c gave us a copy of the Inmates Rules and Regulations. This is purportedly given to all de en they enter the facility; it is the same booklet that is given to the inmates.<sup>84</sup> There is a page on the front of the handbook that the inmate/detainee must sign to show they have received a copy of the rules and regulations.<sup>85</sup>

The handbook addresses most of the areas specified in the *Standards*, including stating the detainee's basic responsibilities, meal times,<sup>86</sup> count procedures,<sup>87</sup> visiting hours,<sup>88</sup> and it lays out the initial issue of clothes and what personal items may be retained by the detainee.<sup>89</sup> The handbook describes the telephone policy but does not discuss the Detainee Message System because the facility does not take messages or allow for in-coming phone calls.<sup>90</sup> The handbook did not cover all areas specified by the *Standards*. Examples of the areas not covered include: the recreation policy, the location of the list of pro bono legal organizations, information on legal rights presentations, and the policy on religious diets. Even though the policies on these areas are not described in the handbook, DuPage County Jail does have policies concerning some of these areas such as recreation and religious diets.<sup>91</sup>

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<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Inmate/Detainee Handbook* at 30.

<sup>81</sup> *Id.*

<sup>82</sup> (b)(6) Notes

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Inmate/Detainee Handbook* at 2.

<sup>86</sup> *Inmate/Detainee Handbook* at 27.

<sup>87</sup> *Inmate/Detainee Handbook* at 29.

<sup>88</sup> *Inmate/Detainee Handbook* at 17.

<sup>89</sup> *Inmate/Detainee Handbook* at 16.

<sup>90</sup> (b)(6) notes on conversation with Officer (b)(6), (b)(7)c

<sup>91</sup> *Id.*

#### IV. Conclusion

The *Detention Standards* require that each facility provide detainees with access to make free calls to the local immigration court and Board of Immigration Court of Appeals, to legal service providers, and others, and that each facility provide indigent detainees with postage for certain legal correspondence. The purpose of these requirements is to ensure that indigent detainees' rights are protected by offering those detainees opportunities to pursue their legal claims.

Based on our facility visit, it did not  
According to our conversations with Officer (b)(6), (b)(7)c  
free calls nor free postage to the detainees. implementing these Standards.  
the facility provides neither

The facilities failure to provide detainees with such free calls and postage has potentially serious consequences for detainees at the DuPage facility. Because indigent detainees lack the ability to place calls or send correspondence regarding their immigration cases, they risk missing deadlines, waiving opportunities to appeal, and other damaging effects to their cases. The purpose of requiring the free telephone calls and free postage is not only to insure fair and equitable treatment but also to avoid violations of due process.

Other noteworthy issues of concern include: failure to provide a list of free legal service providers by the telephones; potentially problematic attorney visitation hours, failure to meet the minimum required hours of detainee access to the law library, failure to provide a complete set of materials relating to immigration law in the library, and failure to inform detainees of certain rights and regulations in the facility's Inmate/Detainee Handbook.

Overall, the staff at the DuPage County facility did not seem very informed of the *Standards*. The fact that so few detainees are detained at the facility and for such a short time seems to greatly impair the effectiveness of, or inclination towards, attempts at implementing the *Standards*. As noted by this delegation, there is significant room for improvement, particularly with respect to the provision of direct, free telephone access for applicable calls for the detainees, free postage for indigent detainees to mail special correspondence, increasing access to the library, and updating and improving the legal and technical resources available to the detainees in the law library.