

Detention Standards Implementation Initiative

ABA Commission on Immigration

Facility Name: Ozaukee County Jail

Date of Tour: July 1, 2004

Tour participants

[REDACTED]

(Latham &

Watkins)

ICE Standard	Tour Observation	Source	ICE Response
<p>Access to Legal Materials</p> <ul style="list-style-type: none"> • III.K “The facility shall permit detainees to assist other detainees in research and preparing legal documents upon request” 	<ul style="list-style-type: none"> • The delegation noted that detainees are not able to assist each other in their legal research (p. 14, line 13) 	<ul style="list-style-type: none"> • According to facility staff Lieutenant [REDACTED] and Officer [REDACTED] 	<p>The 2004 review only indicates that the law library is small and only allows one detainee at a time to use the computer. The review also states that employees are not educated in “INS” law.</p>
<p>Voluntary Work Program</p> <ul style="list-style-type: none"> • III.A. “Detainees...will be provided the opportunity to participate in any voluntary work program.” • III.K. “Detainees shall receive monetary compensation for work completed in accordance with the facility’s standard policy.” 	<ul style="list-style-type: none"> • Detainees at OCJ are not permitted to participate in the voluntary work program (p.22, line 19) 	<ul style="list-style-type: none"> • According to Lieutenant [REDACTED] who explained that paying detainees is forbidden by the government 	<p>The 2004 review does not indicate there is a problem in this area.</p>

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MEMORANDUM
August 19, 2004

To: Victor Cerda, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement
From: American Bar Association Delegation to the Ozaukee County Jail¹
Copies to: (b)(6), ABA Commission on Immigration
Subject: Report on observations during a general tour of the Ozaukee County Jail facility

This memorandum summarizes and evaluates information gathered at the Ozaukee County Jail ("OCJ" or "Jail") in Port Washington, Wisconsin during the delegation's July 1, 2004 visit to the facility. The information was gathered via observation of the facility by the delegation and conversations with OCJ and Immigration and Customs Enforcement ("ICE") personnel.

I. ICE DETENTION STANDARDS.

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

The *Detention Standards* went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase-in the standards in all of its contract and IGSA facilities by December 31, 2002. The *Detention Standards* constitute a "floor" and not a "ceiling" for treatment of immigration detainees. In other words, they are meant to establish the minimal

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

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

requirements that ICE must adhere to in its facilities. Each Field Office or Officer in Charge ("OIC") may, in his or her discretion, promulgate policies and practices affording ICE detainees more enhanced rights and protections than those provided for by the *Standards*.

II. INTRODUCTION.

A. The Delegation's July 1st Visit.

On Wednesday, July 1, 2004, our delegation met with OCJ Administrator Lieutenant (b)(6), (b)(7)c and ICE Deportation Officer/Jail Liaison Officer (b)(6), (b)(7)c Lieutenant (b)(6), (b)(7)c and Officer (b)(6), (b)(7)c led the delegation on our tour of the facilities, and they both participated in post-tour follow-up discussions. The delegation appreciates the cooperation of these individuals. They were direct and accommodating during our tour of the facility and in response to post-tour requests for additional information.

Our report is based on the discussions we had with these OCJ and ICE employees, as well as observations of the facility in the course of our tour. We were unable to interview any immigration detainees, as we were unsuccessful in obtaining the necessary information in advance of our visit. As a result, we were unable to confirm or dispute the information given to us, and therefore unable to conclusively determine OCJ's success in implementing the *Standards*.

B. General Information About the Ozaukee County Jail Facility.

The Ozaukee County Jail houses immigration detainees through an intergovernmental service agreement with ICE. According to Lieutenant (b)(6), (b)(7)c the Jail has the capacity to hold 80 detainees. We were informed that at time of our visit, the Jail had a total population count of 261 inmates, 69 of whom were immigration detainees.³

OCJ accommodates mostly male individuals. According to Lieutenant (b)(6), (b)(7)c at the time of our visit, the Jail housed no female immigration detainees and only 11 female inmates, with a high at one time of 30 female inmates.

The OCJ houses immigration detainees from all over the world, but primarily individuals from Mexico, China, and former Soviet Union countries.⁴ Neither Lieutenant (b)(6), (b)(7)c nor Officer (b)(6), (b)(7)c knew whether the OCJ was currently housing any asylum seekers.

III. IMPLEMENTATION OF LEGAL ACCESS STANDARDS.

A. Legal Access/Visitation.

1. Visitation by Attorneys.

³ Notes of delegation member (b)(6), (b)(7)c from conversation with Lieutenant (b)(6), (b)(7)c

⁴ Notes of delegation member (b)(6), (b)(7)c from conversation with Lieutenant (b)(6), (b)(7)c

The *Detention Standards* provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants and to meet with their consular officials.⁵ The Standards also provide that legal visitations should not be terminated for meals.⁶

The OCJ facility has substantially, but not completely, implemented this section of the *Standards*. According to the *Ozaukee County Jail Rules & Regulations and Resident Information Booklet* (the "OCJ Inmate Handbook"), attorneys are not restricted to the normal hours of visitation.⁷ Attorneys are allowed to visit daily between 8:30 am to 11:00 a.m., 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m. However, attorneys are not allowed to visit during meal times or when a lock-down is instituted.⁸ This restriction of not permitting legal visits to proceed through meal times is contrary to the mandate of the *Standards*. An attorney "may request a variance to the normal visiting hours if special circumstances prevail,"⁹ but it is not clear what special circumstances would be required for such an exception to be made.

In order for an attorney to visit a detainee at OCJ, he or she must present proper credentials. While a bar card would satisfy this requirement, it is not absolutely necessary.¹⁰ The attorney may visit a client without prior notice to the facility (*i.e.*, the attorney need not arrange for the visit in advance). However, Lieutenant (b)(6), (b)(7) stated that it would be "helpful" and would "speed the process along" if someone knew an attorney was planning on visiting with a detainee.¹¹

There are five attorney visitation booths at the facility. These booths provide enough space for five attorney visits to occur simultaneously. The booths appear to provide for privacy and confidentiality. However, Lieutenant (b)(6), (b)(7) informed us that if a detainee or an attorney hits the panic button in any of the booths, all conversations in the room will be recorded.¹²

All attorney visitation areas allow for contact visits. Unlike the booths used for family visits, the attorney booths do not have Plexiglas dividers to separate the detainees from their attorneys. Detainees are not subject to strip searches after attorney visits; they are subject to "pat down" searches after meeting with their attorneys, in accordance with the *Standards*.

2. Visitation by Family and Friends.

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

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

⁷ OCJ Inmate Handbook, at 10.

⁸ Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

⁹ OCJ Inmate Handbook, at 10.

¹⁰ Statement by (b)(6), (b)(7)c Lieutenant, Ozaukee County Sheriff's Department (b)(6), (b)(7)c

¹¹ Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

¹² Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

To maintain detainee morale and family relationships, the *Detention Standards* encourage visitation with family and friends.¹³ To that end, the *Standards* require that all detention facilities allow visitation and establish written visitation procedures.¹⁴ The *Standards* require a minimum of 30 minutes per visitation, under normal conditions, and encourage more generous limits when possible.¹⁵ The facility must allow visitation by immediate family members, and other relatives, friends, and associates.¹⁶ As to minor visitors, the *Standards* provide that:

At facilities where there is no provision for visits by minors, [ICE] will arrange for a visit by children and stepchildren, on request, within the first 30 days. After that time, on request, [ICE] will consider a transfer, when possible, to a facility that will allow such a visitation. Monthly visits will be continued on request, if transfer is not, [sic] approved, available or until effected.¹⁷

The OCJ conforms with some portions of this section of the *Standards*, but not others. The OCJ provides for family and friend visitation, and provides written visitation procedures to the detainees through the OCJ Inmate Handbook, as well as through weekly videos and posters on the walls near the phones.¹⁸ According to the OCJ Inmate Handbook, all inmates are allowed two visits per week, each lasting 30 minutes.¹⁹ Lieutenant (b)(6), (b)(7)(c) stated that the two 30 minute visitations may be combined into a one-hour session. However, visitation is restricted to certain days of the week (Tuesday, Wednesday and Thursday for males; Monday and Friday for females).²⁰ Visitation times are limited to 9:00-11:00 a.m. 1:00-4:00 p.m. and 7:00-9:00 p.m. Although the OCJ Inmate Handbook states that inmates may have no more than two visitors per 30 minute visiting period, Lieutenant (b)(6), (b)(7)(c) suggested that there is no limit to how many people may visit, except "common-sense" constraints predicated upon room size and the manageability of each group.²¹

Visitations are held in medium sized rooms, divided by Plexiglas partitions into a number of visitation booths, with thick walls of Plexiglas separating detainees from their visitors. Detainees and visitors may speak to each other only via the telephone handsets provided in each booth.²²

¹³ Detention Operations Manual, Detainee Services, Standard 17, Section I.

¹⁴ Detention Operations Manual, Detainee Services, Standard 17, Section III.A.

¹⁵ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

¹⁶ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

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

¹⁸ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)

¹⁹ OCJ Inmate Handbook, at 13

²⁰ OCJ Inmate Handbook, at 14

²¹ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)

²² Notes of delegation member (b)(6), (b)(7)(c) on observations during tour.

The OCJ Inmate Handbook also states that appointments for visits must be made 24 hours in advance. Visitors arriving 15 minutes after the beginning of their scheduled visitation time may not be allowed to visit. If a detainee's visitor does not show for a scheduled visitation, the detainee loses that visitation appointment for the week. **The delegation is concerned that the severity of these policies may not reflect the *Standards*' policy goal to facilitate contact between detainees and their family and friends.**

More importantly, the OCJ disregards the *Standards* by categorically prohibiting persons under the age of 18 from visiting OCJ detainees. The *Standards* require that, upon request, immigration detainees be able to visit with their minor children within the first 30 days, and then once a month thereafter.²³ Although the OCJ Inmate Handbook suggests that minors are allowed to visit detainees,²⁴ Lieutenant (b)(6), (b)(7) stated that no minors are allowed into the facility. Ebert also stated that no arrangements are made for monthly visits between detainees and their minor children at other facilities, nor have there been any recent transfers of detainees to facilities that allow visitation by minor children.²⁵

Finally, another policy that might discourage visitation is the requirement that detainees keep a visitor's list of no more than ten names. Only persons on this list, with the exception of attorneys and clergy, may visit the detainee.²⁶ Detainees may revise their visitors' list to include other individuals but they must first make space on their list by removing persons already listed. Thus, if a detainee has 10 family members and friends on her list, she must remove one name from the list to include a previously unlisted person. Visitors who are not included on the list will not be admitted to the facility.

B. Telephone Access.

As explained below, the facility has implemented some of the sections of the *Standards* regarding telephone usage, but has failed to implement other, significant sections of these *Standards*.

1. General Requirements

The *Detention Standards* require that facilities provide detainees with reasonable and equitable use of telephones during waking hours.²⁷ The facility must post telephone access rules and detainees must be given these rules when they arrive.²⁸ Additionally, there should be

²³ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.d.

²⁴ OCJ Inmate Handbook, at 13 ("Any visitor under the age of 18 must be accompanied by their parent or legal guardian.").

²⁵ Notes of delegation member (b)(6) from conversation with Lieutenant (b)(6), (b)(7)c

²⁶ Notes of delegation member (b)(6) from conversation with Lieutenant (b)(6), (b)(7)c

²⁷ Detention Operations Manual, Detainee Services, Standard 16, Section I, III A.

²⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III B.

one telephone for every 25 detainees.²⁹ Telephones should have regular maintenance and broken phones should be repaired promptly.³⁰

The OCJ appears to have implemented this portion of the standards. The phones are available during waking hours and may be used at any time during non-lock down hours.³¹ The phones are located in each of the housing units for the immigration detainees at the OCJ.³² According to OCJ personnel, policies regarding phone usage are posted in both English and Spanish next to the phones.³³ The delegation was not permitted inside the housing unit close enough to read the posted materials, but the delegation could see sheets posted next to the phones. At least two phones are available in each housing unit, and the housing units for the detainees house no more than 24 people.³⁴ Finally, the phones are tested weekly by an ICE official.³⁵ The tester dials five numbers including pro bono numbers (see below) and reports any non working telephones.³⁶

2. Direct and Collect Calls

The *Standards* require that detainees are able to make direct calls to a number of organizations, including the local immigration court, the Board of Immigration Appeals, Federal and State courts, consular officials, legal service providers, and relevant government offices.³⁷ Detainees must also be able to make direct calls to family members when a “compelling need” arises.³⁸ The facility shall not require indigent detainees to pay for the types of calls listed above if they are local calls, nor for non-local calls if there is a compelling need.³⁹ Moreover, regardless of whether the detainee is indigent, the facility must provide a detainee with the ability to make calls to the ICE-approved list of legal service providers and consulates at no charge to the detainee or the receiving party.⁴⁰

The delegation is concerned about the OCJ’s implementation of this section of the *Standards*. The OCJ has installed a telephone line, which officials called the “pro bono phone,” that should allow detainees free access to the agencies described above. According to

²⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III C.

³⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III D.

³¹ OCJ Inmate Handbook, at 13.

³² Notes of delegation member [REDACTED] on observations from tour and conversation with Lieutenant

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

³³ Notes of delegation member [REDACTED] on conversation with Lieutenant

³⁴ Notes of delegation member [REDACTED] on conversation with Lieutenant

(b)(6)

³⁵ Notes of delegation member [REDACTED] on conversations with Lieutenant

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

³⁶ Notes of delegation member [REDACTED] on conversation with Lieutenant

³⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III E.

³⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III E.

³⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III E.

⁴⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III E.

OCJ officials, the telephone numbers that apply to this phone are listed next to the phone.⁴¹ However, the OCJ is currently experiencing a problem with this phone system. It is working as if it is a collect call system (although it is not attempting to charge any of the parties): the system will only connect the detainee if a *person* on the other end picks up.⁴² This prevents the detainee from connecting to numbers that have automated systems (as many do), and it prevents the detainee from leaving messages when machines pick up the call. The system should not work in this manner: the detainee should be able to connect the number whether a person or a machine picks up on the other end. This is a significant problem for the detainees. The free calling system can be the only way for detainees to speak to their attorneys and government agencies. With the current problems in the system, some detainees may be effectively prohibited from receiving legal assistance. The OCJ and ICE are aware of the problem, and the officials said they are working diligently to correct it.⁴³

The delegation is also concerned with the time limits OCJ places on all phone calls. The OCJ puts a time limit on all phone calls of 15 minutes; after this time, the calls are automatically terminated, regardless of the type of call.⁴⁴ This is shorter than the required 20 minute allowance in the *Standards*.⁴⁵ The facility does not limit the number of calls that can be placed. However, given the current problem the facility is experiencing with its phones, the time-out provision could present a significant difficulty for a detainee to make and maintain contact with certain offices and attorneys.⁴⁶

Finally, the delegation is concerned with OCJ's collect calling system, as well. If the detainee is not calling one of the pro bono numbers, then the detainee must make collect calls.⁴⁷ Collect calls are \$3.95 to connect and \$.45-\$.65 every additional minute depending on to where the call is placed.⁴⁸ The detainee does not have the ability to call internationally.⁴⁹ This is of concern to the delegation, because the phones do not accept incoming calls and so detainees are effectively prohibited from calling family internationally.

⁴¹ It is important to note again that the delegation was not able to enter the housing units and see the phones or test them and can not verify the existence of the pro bono list.

⁴² Notes of delegation member [REDACTED] on conversation with Officer [REDACTED]

⁴³ Notes of delegation member (b)(6) on conversation with Officer [REDACTED]

⁴⁴ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]

⁴⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III F.

⁴⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III F; Notes of delegation member Kathleen P. Poczik.

⁴⁷ OCJ Inmate Handbook, at 13.

⁴⁸ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]

⁴⁹ Notes of delegation member (b)(6) on conversation with Lieutenant [REDACTED]

At the time of the delegation's visit, the facility did not have calling cards or a way for the detainee to pay for the call rather than the recipient, but the delegation was informed that facility officials were examining the possibility of calling cards.⁵⁰

3. Privacy for Telephone Calls on Legal Matters

The *Standards* require that telephone calls on legal matters are given privacy from other detainees, officers, staff and from electronic monitoring, absent a court order.⁵¹

The OCJ has not implemented this portion of the *Standards*. All calls placed at the facility are monitored electronically.⁵² This is done indiscriminately. Officials informed the delegation on their tour that it would be possible to not monitor a legal phone call; the detainee would have to make a request that this phone call not be monitored.⁵³ It is unclear whether this option is adequately communicated to detainees. This option is not in the OCJ Inmate Handbook, and the delegation was not able to assess if this policy was communicated on the postings next to the phones. Additionally, this may require more preparation and foresight before making a call than would be possible for the detainees: it was not clear how quickly the monitoring system would be able to be shut off or if there would be a lag between the request and the time the call could be placed.⁵⁴

According to Lieutenant (b)(6), (b)(7)c the monitoring system would shut off automatically if one of the pro bono numbers is called. However, this was also unclear, as it seemed to contradict the Lieutenant's earlier remarks.⁵⁵

In addition, the phones were not placed in such a way as to ensure that conversations would not be overheard by other detainees or officers. There did not appear to be any partitions and the phones were placed on the wall, not far from the television, rather than in a more remote location of the room.⁵⁶

⁵⁰ Notes of delegation member (b)(6) conversation with Lieutenant (b)(6)

⁵¹ Detention Operations Manual, Detainee Services, Standard 16, Section III J.

⁵² Notes of delegation member (b)(6) conversation with Lieutenant (b)(6)

⁵³ Notes of delegation member (b)(6) conversation with Lieutenant (b)(6), (b)(7)c

⁵⁴ Notes of delegation member (b)(6) conversation with Lieutenant (b)(6)

⁵⁵ Notes of delegation member (b)(6) conversation with Lieutenant (b)(6)

⁵⁶ Notes of delegation member (b)(6) It is again important to note that the delegation was not able to actually view the phones closely.

4. Telephone Usage in Administrative or Disciplinary Segregation

The *Standards* provide that detainees in administrative segregation should not be limited in telephone use. Detainees in disciplinary segregation should be allowed phone usage except under compelling security risks.⁵⁷

The OCJ has implemented this section of the *Standards*. Detainees in administrative segregation are not limited in their use of the telephone. Those in disciplinary segregation are able to make legal phone calls up to one hour each day.⁵⁸

5. Incoming Calls and Messages

The *Standards* require facilities to take and deliver messages from emergency and non-emergency incoming telephone calls to detainees, as promptly as possible. If the facility receives an emergency telephone call for a detainee, the facility is required to obtain the caller's name and telephone number and permit the detainee to "return the emergency call as soon as reasonably possible." Moreover, the facility must enable indigent detainees to return emergency calls for free.⁵⁹

The OCJ has not fully implemented this section. The official policy of the facility, as laid out in the Handbook, is to not take any messages.⁶⁰ However, the officials on the tour explained that messages from detainees' attorneys are taken because of the detainees' special circumstances.⁶¹ There did not seem to be a formal policy for delivering the messages or a time frame in which the messages are delivered. Family calls are screened to determine if there is an emergency. If so, guards will deliver the message to the detainee.⁶² No messages except family emergencies and attorney calls are taken and delivered to the detainees.⁶³

C. Access to Legal Materials.

The *Detention Standards* provide that all facilities shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents.⁶⁴

⁵⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III G.

⁵⁸ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6)

⁵⁹ Detention Operations Manual, Standard 16, Section III I.

⁶⁰ Ozaukee County Jail Handbook p. 13.

⁶¹ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

⁶² Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6)

⁶³ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6)

⁶⁴ Detention Operations Manual, Detainee Services, Standard 1, Section I.

The OCJ facility has implemented some sections of the *Standards* regarding access to legal materials. However, OCJ has not implemented other sections to the extent required and still others have not been implemented at all.

1. The Library, Generally

Before explaining OCJ's implementation of the Standards regarding the facility's law library, it is important to note the general condition of OCJ's Law Library. OCJ's Law Library is a very small room, perhaps no larger than about six to seven feet squared.⁶⁵ It is divided into two sections. One side is devoted to a large, but seldom-used, videoconferencing machine.⁶⁶ The other side contains all of OCJ's law library materials: one desktop computer and five volumes of Wisconsin statutes dated 1993 to 1994. An assessment of this modest facility's holdings follows below.

2. Access to the Library.

The *Detention Standards* require that a 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 5 hours per week.⁶⁷ These five hours should not cause a detainee to miss a meal, recreation time, or any other planned activity.⁶⁸

The OCJ appears to have implemented this section of the *Standards*. The OCJ permits detainees access to the library daily and does not limit the amount of time they may use the facility, unless there is the rare deluge of requests for access from other detainees.⁶⁹ In such a case, the detainee will still be allowed to use the library for a minimum of one hour each day.⁷⁰ In addition, detainees are not required to choose between library time and recreation time.⁷¹

3. Library Conditions.

The *Detention 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.⁷²

The OCJ facility has implemented this section of the *Standards*, though a concern remains. The OCJ library is well-lit and reasonably isolated from high-traffic or noisy areas that

⁶⁵ Notes of delegation member [REDACTED] on observations from tour.

⁶⁶ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]. state does not permit court appearances via videoconference, so the machine is not used as it was intended, if at all.

⁶⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁶⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁶⁹ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]

⁷⁰ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]

⁷¹ Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED]

⁷² Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

might interfere with research and writing.⁷³ However, as noted above, the library is only large enough to accommodate one detainee at a time. Though the one detainee has an acceptable space in which to work, the delegation is concerned about the facility's inability to support multiple detainees working concurrently.

4. Materials Identified in the *Detention Standards*.

The *Detention Standards* require all law libraries to contain the materials listed in Attachment A to the chapter on *Access to Legal Material*.⁷⁴ 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.⁷⁵ Damaged or stolen materials must be promptly replaced.⁷⁶ 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.⁷⁷

The OCJ library has not fully implemented this section of the *Standards*. None of the materials listed in Attachment A, including the United States Constitution, is readily accessible, in hard copy, to a detainee availing him/herself of the OCJ library – a small room containing only a collection of outdated books on state law (five volumes of Wisconsin statutes from 1993-1994) and one computer. No other texts are available to the detainees without specific request. If a detainee is able to determine which texts are needed, Lieutenant Ebert said that the detention center officers will make efforts to borrow them from a nearby library.⁷⁸

Detainees are able to do some legal research on the computer using either the internet-based *Lawcheck* or a LEXIS-NEXIS immigration law CD which, according to Lieutenant Ebert, is updated periodically by Officer (b)(6), (b)(7)c.⁷⁹ Lieutenant (b)(6), (b)(7)c said that, between the two programs, all federal, state and civil laws and cases are accessible.⁸⁰ However, the OCJ has just one computer and the instructions for its use are posted only in English. Moreover, when a member of our delegation tried to maneuver through the two programs himself, he found it difficult.⁸¹ The delegation is concerned that non-English speaking detainees may not be able to find the materials needed to prepare their cases. This problem is compounded by the fact that the only language other than English the programs may be used in is Spanish, and, even then, the options were limited and not easily accessible. Should detainees have difficulty navigating the

⁷³ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c.

⁷⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁷⁵ Detention Operations Manual, Detainee Services, Standard 1, Sections III.D.-F.

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

⁷⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁷⁸ Notes of delegation member (b)(6) on observations during tour.

⁷⁹ Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c.

⁸⁰ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c.

⁸¹ Notes of delegation member (b)(6) on observations during tour.

programs, their recourse is to ask a deputy for assistance.⁸² *With so many missing materials and access to the available materials, in essence, limited to those with a working knowledge of English, the delegation believes that an immigration detainee with a valid defense to removal or a valid claim to asylum would find it extremely difficult, if not impossible, to prepare his or her case without the aid of an attorney.*

5. Computer Access, Equipment, Holdings and Photocopies.

The *Detention Standards* require that the law 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.⁸³ In addition, the *Standards* require each facility to ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.⁸⁴ Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.⁸⁵ Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.⁸⁶

The delegation is concerned about the facility's implementation of this section of the *Standards*. The OCJ does not have a typewriter available to the detainees and provides only one computer which is shared among all those housed at the facility. Furthermore, detainees are not allowed to print from the computer.⁸⁷ This requires that copies of all materials accessed via the computer be requested from another source by the deputies if a detainee is to have a hard copy, and that all submissions to the court must be handwritten. *The delegation is concerned that this will pose a serious impediment to those detainees wishing to work on their own cases. This concern stems, primarily, from the detainees' inability to produce a typed version, the presumed preferred form, of their submissions to court. Further, since detainees are not able to print materials found on the computer, they will not have immediate access to them while away from the library, and will, accordingly, have to wait some time before having those materials at their disposal. It seems this would greatly inhibit their ability to work on their own cases.*

Detainees may request photocopying services which are paid for by a financial account they maintain with the OCJ.⁸⁸ If a detainee is indigent, he/she is allowed to run a negative balance, which, according to Lieutenant (b)(6), (b)(7)c essentially means the detainee gets these services free of charge after the debt is written-off by the state.⁸⁹ Officer (b)(6), (b)(7)c stated that this

⁸² Notes of delegation member (b)(6) on conversation with Lieutenant

⁸³ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

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

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

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

⁸⁷ Notes of delegation member (b)(6) on conversation with Lieutenant

⁸⁸ Notes of delegation member (b)(6) on conversation with Lieutenant

⁸⁹ Notes of delegation member (b)(6) on conversation with Lieutenant

negative balance is allowed only for reasonable expenses and that the privilege will be denied if the OCJ administration feels that the detainee is abusing it.⁹⁰

6. Correspondence and Other Mail.

The *Detention Standards* require that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the facility.⁹¹ General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and even read outside the presence of the detainee if security reasons exist for doing so.⁹² Special correspondence—which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media—is treated differently.⁹³ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.⁹⁴ Outgoing special correspondence cannot be opened, inspected, or read.⁹⁵ The *Standards* further provide that each detainee will be able to send five pieces of special correspondence and three pieces of general correspondence at the government's expense each week.⁹⁶

The has not fully implemented this section of the *Standards*. The OCJ provides detainees the ability to send and receive correspondence in a timely manner – the OCJ Inmate Handbook states that outgoing mail will be collected throughout the day and delivered to the U.S. Post Office the following day (except Sundays and holidays).⁹⁷ In addition, according to Lieutenant (b)(6), (b)(7) all incoming mail is inspected for contraband but, as the *Standards* direct, legal correspondence is not read during this inspection. However, in a non-emergency situation, it is unclear whether or not the detainee is present for the inspection. The OCJ provides each detainee with 3 stamps and 3 envelopes for personal use each week and provides additional stamps and envelopes above this quota for purchase.⁹⁸ As with photocopying, detainees may request correspondence materials above their allotment which are paid for by the account they maintain with the OCJ.⁹⁹ An indigent detainee is allowed to purchase additional materials

⁹⁰ Notes of delegation member Leonard Gray. The OCJ detainee handbook contradicts these statements by Lieutenant (b)(6), (b)(7). Under the section titled "INDIGENCE," the statement "free photocopies will not be made for any reason" is italicized and set apart from the remainder of the associated text.

⁹¹ Detention Operations Manual, Detainee Services, Standard 3, Section I.

⁹² Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & E.

⁹³ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B., E. & F.

⁹⁴ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & E.

⁹⁵ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B. & F.

⁹⁶ Detention Operations Manual, Detainee Services, Standard 3, Sections III.I.

⁹⁷ OCJ Inmate Handbook, at 12.

⁹⁸ Notes of delegation member (b)(6) on conversation with Lieutenant Ebert. Lieutenant (b)(6), (b)(7) statement contradicts the language in the OCJ Inmate Handbook which states that the facility's residents will receive the materials to write two letters per week.

⁹⁹ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

though it will create a negative balance in their account – which again, according to Lieutenant (b)(6), (b)(7)c essentially means the detainee gets these services free of charge after the debt is written-off by the state.¹⁰⁰ When used for legal correspondence, the detainee must gain approval from the shift supervisor before additional materials will be given beyond weekly allotment.¹⁰¹ Finally, there is no limit on how many pieces of mail a detainee may send or receive per week.¹⁰²

7. Assistance from other Detainees and Assistance to Illiterate and Non-English Speaking Detainees.

The *Standards* provide that the facility shall permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk. Such assistance should be voluntary; no detainee shall be allowed to charge a fee or accept anything of value for assistance.¹⁰³

The OCJ has not implemented this section of the *Standards*. When the question was first posed to Lieutenant (b)(6), (b)(7)c and Officer (b)(6), (b)(7)c both said that detainees were not allowed to assist one another with legal research or the preparation of legal documents.¹⁰⁴ One reason cited by Officer (b)(6), (b)(7)c was the fear of an awkward and potentially unruly situation created by the emergence of a “jailhouse lawyer” or the detainee giving the other bad advice.¹⁰⁵ When the question was later posed, they said that, at times and under unique circumstances, they would allow the detainees to “buddy up for the computer.”¹⁰⁶ In either case, the OCJ fails to satisfy the *Standard* if it denies the right of a detainee to seek the assistance of a fellow detainee without a valid security reason.

8. Personal Legal Material Retention

The *Standards* state that the facility shall permit detainees to retain all personal legal material upon admittance to the general population or segregation; unless such material creates a safety, security, and-or sanitation hazard.¹⁰⁷

The OCJ satisfies this section of the *Standards*. The delegation was informed that detainees are allowed to keep an unlimited amount of legal material in their cells.¹⁰⁸

¹⁰⁰ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹⁰¹ OCJ Inmate Handbook, at 12.

¹⁰² OCJ Inmate Handbook, at 12.

¹⁰³ Detention Operations Manual, Detainee Services, Standard 3, Section III.K.

¹⁰⁴ Notes of delegation member (b)(6)

¹⁰⁵ Notes of delegation member (b)(6)

¹⁰⁶ Notes of delegation member (b)(6)

¹⁰⁷ Detention Operations Manual, Detainee Services, Standard 3, Section III.K. (Note: This is listed as Section III.K in the *Standards*, but two Section III.K’s actually exist. This citation refers to the second).

¹⁰⁸ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

D. Group Rights Presentations.

The *Standards* require that detainee facilities permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures.¹⁰⁹ Presentations will be scheduled during normal legal visiting hours, and may be conducted daily, but the facility is not required to arrange for presentations.¹¹⁰ Presentations must be open to all detainees, unless a detainee’s attendance poses a security risk.¹¹¹ Where segregation prevents the detainee from attending, alternative arrangements shall be made if both the detainee and the presenter so request.¹¹² The OIC may limit the number of detainees at a single session, but must allow the presenter to conduct multiple presentations so that every detainee is given an opportunity to attend.¹¹³ All persons entering the facility must present an official form of picture identification.¹¹⁴ The facility shall permit presenters to meet with small groups of detainees to discuss their cases following a group presentation, and ICE and facility staff shall not be present during these meetings.¹¹⁵ The facility shall also play ICE-approved videotaped presentations on legal rights, at the request of outside organizations.¹¹⁶

The OCJ facility appears to have implemented this section of the Standards but some questions remain. According to Lieutenant (b)(6), (b)(7) visitation times are flexible.¹¹⁷ The OCJ Inmate Handbook provides for daily “professional visits” and attorney visits from 8:30 a.m. to 9:00 p.m. with two hours set aside during lunch (11 – 1pm) and dinner (4 – 6pm).¹¹⁸ According to Lieutenant (b)(6), (b)(7) the presenters may use as much time as they like within the parameters of the visitation hours, and the OCJ facility is flexible in granting extensions of time.¹¹⁹ In this regard, the facility is more permissive than the *Standards* require.

The facility will allow presenters to meet with small groups of detainees to discuss their cases after the group presentation.¹²⁰ In addition, the OCJ facility plays ICE-approved videotaped presentations on legal rights twice a week.¹²¹ The facility will permit interpreters, legal assistants, law students, or attorneys with no proof of bar membership into the facility with

¹⁰⁹ Detention Operations Manual, Detainee Services, Standard 9, Section I.

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

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

¹¹² Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹³ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹⁴ Detention Operations Manual, Detainee Services, Standard 9, Section III.D.

¹¹⁵ Detention Operations Manual, Detainee Services, Standard 9, Section III.F.

¹¹⁶ Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

¹¹⁷ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)

¹¹⁸ OCJ Inmate Handbook, at 10, 14.

¹¹⁹ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)

¹²⁰ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)

¹²¹ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)

official picture identification if they have coordinated through a legal office.¹²² Attorneys or representatives must contact the ICE to arrange for a group presentation.¹²³ The number of detainees permitted per visit is limited by virtue of the presentations being conducted for only one tier (*i.e.*, one housing unit) of the facility at a time, but presenters at the facility have come prepared to make multiple presentations, covering each tier.¹²⁴ Incidentally, to Lieutenant (b)(6), (b)(7)(c) knowledge, the only group presentations ever given are those given twice a year by the Midwest Immigrant and Human Rights Center (MIHRC).¹²⁵

It was not clear from speaking with OCJ and ICE personnel that presenters will be able to discuss each detainee's case in private or meet with groups of detainee's in private without pre-arranging for such a visit by providing the detainee's name and A number days in advance.¹²⁶ If detainees are in disciplinary segregation at the time of the presentation they may not attend with other detainees.¹²⁷ Lieutenant (b)(6), (b)(7)(c) could not confirm that OCJ would facilitate alternative arrangements for detainees in disciplinary segregation, because "they haven't crossed that bridge yet."¹²⁸

IV. Other General Observations Unrelated to the Legal Access Standards

A. Site-Specific Detainee Handbook.

The *Detention Standards* require that all detention facilities have a site-specific handbook for its immigration detainees. The purpose of the handbook is to provide an overview of, and guide to, "the detention policies, rules, and procedures in effect at the facility," as well as "the services, programs, and opportunities available through various sources, including the facility, [ICE], private organizations, etc."¹²⁹ The handbook must be translated into Spanish, and, if appropriate, into the next most-prevalent language(s) among the facility's detainees.¹³⁰ This handbook should be given to all detainees as well as all staff that will have contact with detainees.¹³¹

¹²² Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²³ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²⁴ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²⁵ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²⁶ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²⁷ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)
¹²⁸ Notes of delegation member (b)(6), (b)(7)(c) on conversation with Lieutenant (b)(6), (b)(7)(c)

¹²⁹ Detention Operations Manual. Detainee Services, Standard 6, Section I.

¹³⁰ Detention Operations Manual. Detainee Services, Standard 6, Section III.E.

¹³¹ Detention Operations Manual, Detainee Services, Standard 6, Section III G.

The OCJ has not fully implemented this portion of the *Standards*. At intake, detainees are given a copy of the *Ozaukee County Jail Rules & Regulations and Resident Information Booklet* (the “OCJ Inmate Handbook”).¹³² This handbook is specific to the OCJ facility and does cover many of the general rules, policies, guidelines and services that are applicable to the facility (see below for further detail).¹³³ It is important to note, however, that the same handbook is given to everyone at the Ozaukee facility: both inmates and detainees. There is no OCJ handbook specifically for the detainees as suggested in the *Standards*.¹³⁴

While the Handbook is available in both English and Spanish, it is not available in Chinese, which Ozaukee officials informed the delegation is a common language in the facility.¹³⁵ Additionally, there is no translation help available at the facility; facility administrators seem to rely on other detainees to help each other translate. While the facility makes an effort to keep ethnic groups together, there is not an official pairing system or an assurance that anyone would be able to translate from English.¹³⁶

Since this Handbook is for all inmates and not specific to detainees, members of the staff do have copies of the handbook.¹³⁷

In addition to the Handbook, there is an orientation video shown when all detainees and inmates first arrive. It is also shown several times a day on televisions in the housing units. While the delegation was not able to view this video, officials informed the delegation that the video is designed to supplement the handbook. However, the video is only available in English.¹³⁸

While the Handbook does address many of the issues stated in the Standards, there are several areas which the Handbook does not address at all or are addressed incompletely. Since the Handbook is not specific to detainees, there are a number of detainee issues that are not addressed or are addressed incompletely.

- The location of the law library, as well as its contents and the ability of detainees to use the law library are not discussed in the Handbook.

¹³² Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹³³ The Ozaukee Inmate Handbook is not modeled on the ICE Detainee Handbook.

¹³⁴ Notes of delegation member (b)(6) conversation with Lieutenant (b)(6), (b)(7) See OCJ Inmate Handbook; Detention Operations Manual, Detainee Services, Standard 6, Section I.

¹³⁵ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹³⁶ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

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

¹³⁸ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

- The section concerning the facility's mail policy does not address the issue of legal mail. In the Handbook all mail will be inspected, but according to facility officials, legal mail is not inspected.¹³⁹
- The section discussing the limits on personal property in the cell¹⁴⁰ does not discuss religious material in the cell and it does not discuss what would happen to personal belongings with which the detainee may arrive.

Additionally, there were policies in the handbook that were directly contradictory to either the *Standards* or the statements of the officials on the tour. This seemed to be the because the handbook is not specific to the detainees.

- The *Standards* require that detainees be allowed to visit with their minor children, but the Handbook expressly states that those under 18 will not be allowed to visit.¹⁴¹ This was also confirmed by the officials on the delegation's tour.¹⁴²
- The *Standards* require that detainees be given messages, but the Handbook states that messages will not be taken at any time.¹⁴³ However, officials informed the delegation that there is an informal policy for taking messages for detainees regarding legal matters. Officials will also screen personal calls and assess if there is a family emergency and will pass these messages on to detainees as well.¹⁴⁴
- There is no mention in the Handbook of ways to access pro bono attorneys and diplomatic agencies. However, officials informed the delegation that there are phones that will access pro bono attorneys and agencies at no cost to the detainees. The lists of such agencies and the instructions for using the phone are available in every housing unit.¹⁴⁵
- The *Standards* require free medical services and care to detainees, but the Handbook expresses that there are costs for such services.¹⁴⁶

B. Recreation.

¹³⁹ O CJ Inmate Handbook, at 12; Notes of delegation member (b)(6) on conversation with Lieutenant

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

¹⁴⁰ O CJ Inmate Handbook, at 12-13.

¹⁴¹ O CJ Inmate Handbook, at 13; Detention Operations Manual, Detainee Services, Standard 17, Section III(H)(2)(d).

¹⁴² Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹⁴³ O CJ Inmate Handbook, at 13; Detention Operations Manual, Detainee Services, Standard 16, Section III(I).

¹⁴⁴ Notes of delegation member (b)(6) on conversation with Lieutenant

¹⁴⁵ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹⁴⁶ O CJ Inmate Handbook, at 16-17; Detention Operations Manual, Medical Services, Standard 2, Section I.

The *Detention Standards* require that all facilities provide immigration detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.¹⁴⁷ Every effort is to be made to provide outdoor recreation facilities, but lacking such, the recreation room must be large, with exercise equipment and having “access to sunlight.”¹⁴⁸ All facilities shall also have an individual responsible for the development and oversight of the recreation program.¹⁴⁹ According to the *Standards*, “[e]xercise areas will offer a variety of fixed and movable equipment”; cardiovascular exercise “shall be available to detainees for whom recreation is unavailable” and “recreational activities may include limited-contact sports”; dayrooms in general-population housing units “will offer board games, television, and other sedentary activities”; and detainees participating in outdoor recreation shall have access to drinking water and toilet facilities.”

The OCJ generally conforms to the *Standards* regarding recreational programs and activities. The biggest concern is the amount of time allowed for recreation. According to the OCJ Inmate Handbook, detainees may have access to the indoor multi-purpose recreation room only three times a week.¹⁵⁰ Although the Handbook does not address the access procedures for the outdoor recreation area, Lieutenant (b)(6), (b)(7) stated that upon request all inmates may access the outdoor recreation area for one hour a day.¹⁵¹ While this policy may appear to conform with the *Standards*, Lieutenant (b)(6), (b)(7) confessed that in the winter snow makes it impossible to open the door into the outdoor recreation area.¹⁵² Thus, potentially for several months out of the year, the outdoor recreation area is not available for use and detainees are then limited to the indoor recreation room three times a week.

C. Access to Medical Treatment.

The *Detention Standards* require that all detainees have access to medical services that promote detainee health and general well-being.¹⁵³ Each facility is required to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.¹⁵⁴ For a facility with 50 to 200 detainees, a minimum of three days per week is required.¹⁵⁵ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.¹⁵⁶

¹⁴⁷ Detention Operations Manual, Detainee Services, Standard 13, Section I.

¹⁴⁸ Detention Operations Manual, Detainee Services, Standard 13, Section I.

¹⁴⁹ Detention Operations Manual, Detainee Services, Standard 13, Section III.F.

¹⁵⁰ OCJ Inmate Handbook, at 11.

¹⁵¹ Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

¹⁵² Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

¹⁵³ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁵⁴ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁵⁵ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁵⁶ Detention Operations Manual, Health Services, Standard 2, Sections III.A., D., & G.

The OCJ facility has not fully implemented this section of the *Standards*. On the one hand, the medical service provisions in the OCJ Inmate Handbook appear to meet some of the requirements set forth under the *Standards*. The OCJ Handbook provides for "medical treatment" for all incarcerated inmates.¹⁵⁷ In order to be seen by the medical staff, detainees and inmates must fill out a request form to be given to a deputy, briefly describing their medical problems. However, contrary to the *Standards*, sick calls are done only as needed.¹⁵⁸ The nursing staff will review all slips during business hours, Monday through Friday, and the Handbook instructs inmates to notify a deputy immediately if an emergency arises.¹⁵⁹ While OCJ normally charges inmates for medical services, the delegation was told that immigration detainees are not actually charged for such services.¹⁶⁰ The Handbook provides a reasonable fee schedule for medical and dental services and prescriptions. Whether or not detainees are charged for such services, the Handbook states that "[i]f you are indigent, you may still obtain these products through a negative billing system."¹⁶¹

The OCJ does not maintain accreditation by the National Commission on Correctional Health Care, however OCJ personnel explained that most of their policies and procedures reflect those standards, but it is too expensive to obtain the accreditation.¹⁶² It is unclear whether the OCJ maintains a formal arrangement with a nearby facility for services not available at OCJ, but Lieutenant (b)(6), (b)(7) indicated that a hospital, approximately 10 minutes away, is available for such services and for emergency treatment.¹⁶³ The OCJ maintains two nurses on call for 16 hours per day, and one doctor comes in once a week or sooner as needed.¹⁶⁴ For non-emergency procedures, the OCJ contacts immigration public health services, but in cases of emergency, the OCJ will act as necessary and notify the necessary authorities afterward. The OCJ does not treat pre-existing conditions unless the condition is deemed to be in need of urgent treatment by OCJ medical staff.¹⁶⁵ For mental health issues, a counselor comes in once a week from community programs and professionals are available on call for emergencies. All detainees are screened at processing for medical and other health-related issues.¹⁶⁶ TB testing is done at the initial processing.¹⁶⁷

¹⁵⁷ OCJ Inmate Handbook, at 16.

¹⁵⁸ OCJ Inmate Handbook, at 16.

¹⁵⁹ OCJ Inmate Handbook, at 16.

¹⁶⁰ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7). However, it is unclear whether detainees themselves are informed that medical services are free of charge for them. If not, they may be effectively dissuaded from seeking such services.

¹⁶¹ OCJ Inmate Handbook, at 16.

¹⁶² Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7).

¹⁶³ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7).

¹⁶⁴ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7).

¹⁶⁵ OCJ Inmate Handbook, at 17.

¹⁶⁶ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7).

¹⁶⁷ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7).

D. Dental Treatment.

The *Detention Standards* require an initial dental screening exam within 14 days of the detainee's arrival and that the facility provide a number of services, including emergency dental treatment and repair of prosthetic appliances.¹⁶⁸ For detainees who are held in detention for over six months, routine dental treatment may be provided, including "amalgam and composite restorations, prophylaxis, root canals, extractions, x-rays, the repair and adjustment of prosthetic appliances and other procedures required to maintain the detainee's health."¹⁶⁹

The OCJ has not fully implemented this section of the *Standards*. The OCJ personnel informed the delegation that the facility is currently seeking a contract with a new dentist, as their previous dentist quit.¹⁷⁰ The facility therefore had no dental services available, as of the date of our visit.¹⁷¹ OCJ personnel informed the delegation that it was not the facility's policy to perform routine dental checkups for long-term detainees; dental appointments are made only when needed, and currently none were available.¹⁷²

E. Detainee Classification.

The *Detention Standards* require that detention facilities use a classification system and physically separate detainees in different categories.¹⁷³ IGSA facilities, such as OCJ, "may continue using the systems established locally, if the classification criteria are objective and all procedures meet [ICE] requirements."¹⁷⁴ A detainee's classification is to be made on "objective" information, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.¹⁷⁵ Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.¹⁷⁶ Classification is required in order to separate detainees with no or small criminal records from inmates with serious criminal records.¹⁷⁷

Additionally, all facility classification systems shall allow classification levels to be predetermined and include procedures by which new arrivals can appeal their classification levels.¹⁷⁸ Finally, the detainee handbook's section on classification must include (1) an

¹⁶⁸ Detention Operation Manual, Health Services, Standard 2, Section III.E.

¹⁶⁹ Detention Operation Manual, Health Services, Standard 2, Section III.E.

¹⁷⁰ Notes of delegation member [REDACTED], on conversation with Lieutenant [REDACTED]

¹⁷¹ Notes of delegation member [REDACTED] (b)(6), on conversation with Lieutenant [REDACTED] (b)(6), (b)(7)

¹⁷² Notes of delegation member [REDACTED], on conversation with Lieutenant [REDACTED]

¹⁷³ Detention Operations Manual, Detainee Services, Standard 3, Section I.

¹⁷⁴ Detention Operations Manual, Detainee Services, Standard 3, Sections I & III.A.

¹⁷⁵ Detention Operations Manual, Detainee Services, Standard 3, Section III.D.

¹⁷⁶ Detention Operations Manual, Detainee Services, Standard 3, Section III.D.

¹⁷⁷ Detention Operations Manual, Detainee Services, Standard 3, Sections III.A & III.E.

¹⁷⁸ Detention Operations Manual, Detainee Services, Standard 3, Sections III.G. & H.

explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.¹⁷⁹

The OCJ facility has implemented much of this section of the *Standards*, but there are still sections which the facility has not yet implemented. The OCJ's detainees are classified at the initial processing at Broadview (the ICE location used for all Chicagoland detention facilities).¹⁸⁰ There, the detainees are segregated into low risk (level 1) and high risk (level 3) inmates from each other; medium risk inmates may be housed with either low risk or high risk inmates.¹⁸¹

F. Voluntary Work Programs.

The *Detention Standards* require all facilities with work programs to "provide detainees the opportunity to work and earn money."¹⁸² Detainees who are physically and mentally able to work must be provided the opportunity to participate in any voluntary work program.¹⁸³ As for those detainees who are physically or mentally challenged, the *Standards* require facilities to allow those with less severe disabilities to have the opportunity to undertake "appropriate work projects."¹⁸⁴ Facilities cannot deny "work opportunities based on non-merit factors, such as social group, race, religion, sex, physical or mental handicaps, or national origin."¹⁸⁵ The *Standards* also state that detainees must receive monetary compensation for work completed in accordance with the facility's standard policy.¹⁸⁶

The OCJ facility has not implemented this section of the *Standards*. OCJ officials do not allow immigration detainees to work or serve as porters or "hubers" at OCJ. Lieutenant (b)(6), (b)(7) told delegation members that detainees cannot work because of jail policy.¹⁸⁷ According to Lieutenant (b)(6), (b)(7) there would be an issue with paying immigration detainees, which is forbidden by the government.¹⁸⁸

G. Detainee Grievance Procedures.

The *Standards* require facilities to implement procedures for addressing detainee grievances in a timely fashion.¹⁸⁹ Each facility should make provisions for translation assistance when requested by a detainee, and illiterate, disabled or non-English speaking detainees should

¹⁷⁹ Detention Operations Manual, Detainee Services, Standard 3, Section III.I.

¹⁸⁰ Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c

¹⁸¹ Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c

¹⁸² Detention Operations Manual, Detainee Services, Standard 18, Section I.

¹⁸³ Detention Operations Manual, Detainee Services, Standard 18, Section III.A.

¹⁸⁴ Detention Operations Manual, Detainee Services, Standard 18, Section III.G.

¹⁸⁵ Detention Operations Manual, Detainee Services, Standard 18, Section III.F.

¹⁸⁶ Detention Operations Manual, Detainee Services, Standard 18, Section III.K.

¹⁸⁷ Notes of delegation members (b)(6) conversation with Lieutenant (b)(6), (b)(7)c

¹⁸⁸ Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

¹⁸⁹ Detention Operations Manual, Detainee Services, Standard 5, Section I.

be given assistance in filing grievances.¹⁹⁰ Further, the detainee handbook must provide: 1) notice of opportunity to file a grievance, both informal and formal, 2) procedures for filing a grievance and appeal, 3) notice of the availability of assistance in preparing a grievance, 4) procedures for resolving a grievance or appeal, and 5) procedures for contacting INS to appeal the decision of the OIC of an IGSA facility.¹⁹¹

The OCJ facility has not fully implemented this section of the Detention Standards. The only translation assistance presently available is Spanish.¹⁹² Other translation assistance is not presently available unless a fellow detainee has the requisite skill. Translation assistance would be available through AT&T translation services, but the phones presently are non-operational.¹⁹³ This poses a significant problem for any detainees who speak only other languages, particularly if their language is rare in the facility.

The OCJ facility does provide for informal grievance reporting and provides minimal instructions for formal reporting as well in the OCJ Inmate Handbook. The Handbook provides a flow chart for filing the grievance and it must be filed with the Duty Deputy on a "Grievance Form."¹⁹⁴ (The grievance form is not contained in the OCJ Rule Booklet.) It will then be forwarded to the shift supervisor for review and comment and then a report will be made to the Jail Administrator. According to Lieutenant (b)(6) (b)(7)c detainees may also file grievances with ICE using an ICE form¹⁹⁵—*however, this information is not contained in the Rule Booklet as the booklet is designed solely for incarcerated inmates.* The Handbook does suggest in a flow chart that grievances may be directly voiced to Support Services / Counseling Center or to the courts,¹⁹⁶ but it provides no instructions or information about how to take advantage of those avenues for complaint. Moreover, the OCJ Inmate Handbook fails to notify detainees of the availability of assistance in filing or appealing a grievance.

H. Disciplinary Policy.

The *Standards* require each facility holding ICE detainees in custody to have a detainee disciplinary system.¹⁹⁷ This disciplinary system shall have progressive levels of reviews, appeals, procedures, and documentation procedures.¹⁹⁸ The detainee handbook, or equivalent, shall notify detainees of the disciplinary process, the prohibited acts and disciplinary

¹⁹⁰ Detention Operations Manual, Detainee Services, Standard 5, Section III.A.

¹⁹¹ Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

¹⁹² Unless another detainee has translations skills, in which case they will be allowed to assist the detainee. Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

¹⁹³ Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6)

¹⁹⁴ OCJ Inmate Handbook, at 8.

¹⁹⁵ Notes of delegation member (b)(6) in conversation with Lieutenant (b)(6), (b)(7)c

¹⁹⁶ OCJ Inmate Handbook, at 8.

¹⁹⁷ Detention Operations Manual, Security and Control, Standard 3, Section III.A.

¹⁹⁸ Detention Operations Manual, Security and Control, Standard 3, Section III.A.

severity scale, and the procedure for appealing disciplinary findings.¹⁹⁹ The disciplinary policy and procedures shall clearly define detainee rights and responsibilities.²⁰⁰

The OCJ Facility has not fully implemented this section of the Detention Standards. The Disciplinary Rules are written in the OCJ Inmate Handbook²⁰¹ and posted in the dining area.²⁰² Staff representatives are available, if requested by a detainee facing a disciplinary hearing. Because OCJ holds detainees under an Inter-governmental Service Agreement (IGSA) they are not required to comply with the bulk of specific requirements found in the Detention Standards. However, their disciplinary system appears to lack the level of structure contemplated by the Detention Standards for IGSA's, at least in so far as it is made apparent in the OCJ Inmate Handbook.

The OCJ Inmate Handbook lists the punishable offenses and differentiates between the levels of punishment afforded minor versus major violations.²⁰³ Possible action for minor offenses includes "a verbal warning, a written warning on a citation or disciplinary action of up to 24 hours with loss of some or all privileges."²⁰⁴ Possible action for "more serious violations, multiple or repeat offenses" may result in "but [are] not limited to: (1) Isolation, (2) Loss of good time, (3) Loss of privileges, (4) verbal warning, (5) written reprimand, (6) for Hubers: loss of up to five days work per violation."²⁰⁵ It does not, however, indicate which offenses are major and which are minor, nor does the OCJ Rule Booklet set forth any time limits disciplinary action resulting from major offenses. It therefore fails to give detainees adequate notice as to disciplinary severity scale. Furthermore, the OCJ Inmate Handbook fails to inform the detainees of their rights to protection for physical abuse, etc. or their right of freedom from discrimination.²⁰⁶

The OCJ Inmate Handbook gives detainees notice of their right to appeal any decision for disciplinary action to the Jail Administrator and subsequently to the Sheriff.²⁰⁷ However, as stated before, the Handbook is only available in English and Spanish.²⁰⁸ No other translations or translators are provided except through other detainees who may have such skills

¹⁹⁹ Detention Operations Manual, Security and Control, Standard 3, Section III.L.

²⁰⁰ Detention Operations Manual, Security and Control, Standard 3, Section III.A.

²⁰¹ OCJ Inmate Handbook, at 4-7.

²⁰² Notes of delegation member [REDACTED] (b)(6) in conversation with Lieutenant [REDACTED] (b)(6), (b)(7)c.

²⁰³ OCJ Inmate Handbook, at 7.

²⁰⁴ OCJ Inmate Handbook, at 7.

²⁰⁵ OCJ Inmate Handbook, at 7.

²⁰⁶ Detention Operations Manual, Security and Control, Standard 3, Section III.A.5. While such rights normally might be inferred from their exclusion from the list of possible disciplinary action, the OCJ Inmate Handbook specifically states that "[d]iscipline . . . is not limited to" the particular forms of discipline outlined in the booklet.

²⁰⁷ OCJ Inmate Handbook, at 7.

²⁰⁸ Notes of delegation member [REDACTED] (b)(6) in conversation with Lieutenant [REDACTED] (b)(6), (b)(7)c.

or potentially through the AT&T service, though the phones are not currently operational.²⁰⁹ This means the detainees who do not speak English or Spanish, and do not have access to a fellow detainee with the requisite translation skills, will not effectively be notified as to any of the information set forth in the OCJ Inmate Handbook.

I. Religious Practices.

The *Standards* provide that detainees shall have the opportunity to engage in practices of their religious faith (including group-activities) that are deemed essential by the faith's judicatory, consistent with the safety, security, and the orderly operation of the facility.²¹⁰ If requested by a detainee, the chaplain or designee shall facilitate arrangements for pastoral visits by a clergyperson or representative of the detainee's faith.²¹¹ Furthermore, detainees shall have access to personal religious property, consistent with facility security.²¹² Finally, the food service department will implement procedures for accommodating, within reason, detainees' religious dietary requirements.²¹³

The OCJ appears to have substantially implemented this portion of the *Standards*.²¹⁴ Regular religious services are led by a chaplain at the OCJ every Saturday night and are non-denominational.²¹⁵ Every inmate is allowed to attend, but if space is limited, the inmate may not be able to attend every week.²¹⁶ The facility also provides the opportunity to participate in bible study once a week for four consecutive weeks.²¹⁷ If a detainee wishes a personal visit from the clergy, the OCJ will attempt to honor that request with either a religious leader or lay person from the community.²¹⁸ There is not immediate access for Muslims to receive specialized pastoral care; however, the OCJ will contact religious leaders from neighboring areas to come to the facility if requested by a detainee.²¹⁹

²⁰⁹ Notes of delegation member [REDACTED] (b)(6) on conversation with Lieutenant [REDACTED] (b)(6), (b)(7)c

²¹⁰ Detention Operations Manual, Detainee Services, Standard 14, Section III.A. & H.

²¹¹ Detention Operations Manual, Detainee Services, Standard 14, Section III.J.

²¹² Detention Operations Manual, Detainee Services, Standard 14, Section III.K.

²¹³ Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

²¹⁴ However, ambiguity in the *Standards* makes the OCJ's level of compliance difficult to determine. The *Standards* provide many religious liberties to detainees, but allow the limitation of the right to observe various religious customs for considerations of safety and security or, at least, to those with a demonstrable faith. Without a clear definition of what "the normal considerations of safety and security" are, it is impossible to know the extent to which the facility complies with the *Standards*.

²¹⁵ Notes of delegation member [REDACTED] (b)(6) on conversation with Lieutenant [REDACTED]

²¹⁶ OCJ Inmate Handbook, at 18.

²¹⁷ OCJ Inmate Handbook, at 19.

²¹⁸ OCJ Inmate Handbook, at 19.

²¹⁹ Notes of delegation member [REDACTED] (b)(6) on conversation with Lieutenant [REDACTED] (b)(6), (b)(7)c

Detainees may keep religious books (e.g., a bible) in their possession.²²⁰ Lieutenant (b)(6), (b)(7) said that other religious items “within reason” may be kept; however, he went on to say that rosary beads, yarmulkes, turbans, prayer shawls, and the like are all forbidden.²²¹ To this end, no head-coverings in any form are allowed in the facility.²²² The cited reason for this policy was security.²²³ Lieutenant (b)(6), (b)(7) did say, however, that Muslims are provided towels to use as prayer rugs if requested.²²⁴ The *Standards* provide that “detainees shall have access to personal religious property, consistent with facility security.” The last clause makes it difficult to accurately assess the OCJ’s implementation of this section of the *Standards*. Detainees are denied access to nearly every religious artifact other than books; the justification for which is building security.²²⁵ The OCJ’s policy seems to fall within the letter of the *Standard*, but outside of its spirit.

The OCJ does accommodate special diets required by some religions.²²⁶ In order to avail themselves of meals prepared in accordance with their religious beliefs, detainees must request such a meal and prove that they are, in fact, a follower of the religion and not requesting the meal for other nefarious purposes.²²⁷ The OCJ Inmate Handbook provides that: “religious diets will be provided as long as verification can be obtained by the health services staff.”²²⁸

J. ICE Presence at the Facility.

The *Detention Standards* require procedures to be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”²²⁹ The *Standards* require that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.²³⁰ The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration removal process.²³¹ The *Standards* also require that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff.”²³² All

²²⁰ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²¹ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²² Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²³ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²⁴ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²⁵ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²⁶ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)
²²⁷ Notes of delegation member (b)(6), (b)(7) on conversation with Lieutenant (b)(6), (b)(7)

²²⁸ OCJ Inmate Handbook, at 18.

²²⁹ Detention Operations Manual, Detainee Services, Standard 15, Section I.

²³⁰ Detention Operations Manual, Standard 15, Section III.A.

²³¹ Detention Operations Manual, Standard 15, Section III.A.

²³² Detention Operations Manual, Standard 15, Section III.B.

facilities that house ICE detainees must have “written procedures to route detainee requests to the appropriate ICE official” and must assist detainees “who are disabled, illiterate, or know little or no English.”²³³ Moreover, the *Standards* require that detainee requests be forwarded to the appropriate ICE office within 72 hours and “answered as soon as possible or practicable, but not later than 72 hours from receiving the request.”²³⁴

ICE appears to have substantially implemented this section of the *Standards* at OCJ. An ICE officer, (b)(6), (b)(7)C makes weekly, unannounced visits to the OCJ.²³⁵ Each week, he comes at a different time. Officer (b)(6), (b)(7)C will also come whenever he is requested.²³⁶ The OCJ provides specific immigration forms for the detainees to fill out if they want to speak to someone from ICE.²³⁷ It was unclear to the delegation exactly how or when this option is communicated to the detainees, and whether they have written procedures to this effect, but the officers suggested that the detainees were aware of this option.²³⁸

V. RECOMMENDATIONS.

The Ozaukee County Jail facility fails to implement a number of sections of the *ICE Detention Standards*. The delegation recommends the following proposals so that the facility may fulfill its obligations under the *Standards*:

Visitation

- OCJ should allow legal visits to proceed through meal times and provide detainees with missed meals afterwards;

Telephone Access

- OCJ should not record or monitor, in any matter whatsoever, legal phone calls (absent a court order); if regular phone calls are monitored, OCJ should provide detainees with the procedure for obtaining an unmonitored call for legal purposes;
- postings near the detainee telephones should provide a list of free pre-programmed numbers to all consulates, as well as relevant courts, immigration offices, and all free legal service providers on the ICE-approved list;
- instructions regarding usage of the phone system need to be in different languages, reflecting the needs of the multinational immigrant jail population.

Access to Legal Materials

²³³ Detention Operations Manual, Standard 15, Section III.B.

²³⁴ Detention Operations Manual, Standard 15, Section III.B.1.

²³⁵ Notes of delegation member (b)(6), (b)(7)C on conversation with Lieutenant (b)(6), (b)(7)C

²³⁶ Notes of delegation member (b)(6), (b)(7)C on conversation with Lieutenant (b)(6), (b)(7)C

²³⁷ Notes of delegation member (b)(6), (b)(7)C on conversation with Lieutenant (b)(6), (b)(7)C

²³⁸ Notes of delegation member (b)(6), (b)(7)C on conversation with Lieutenant (b)(6), (b)(7)C

- OCJ's law library should provide access to all of the legal materials listed in the *Detention Standards*;
- OCJ should provide detainees with sufficient paper, envelopes, and stamps to meet their legal needs;
- OCJ should allow other detainees to assist illiterate and non-English speaking detainees;

Voluntary Work Programs

- Detainees who are physically and mentally able to work should be provided the opportunity to participate in any voluntary work;
- OCJ should provide detainees monetary compensation for work completed in accordance with the facility's standard policy.

Detainee Grievance Procedures

- OCJ should provide translating assistance for both formal and informal grievances;
- OCJ should provide written responses to detainees who file formal grievances, including the basis for the decision;
- all grievances should receive supervisory review and allow for appeals;

ICE Presence at the Facility

- OCJ should make sure detainees are aware of the opportunity to submit written questions, requests, or concerns to ICE staff;
- OCJ should create written procedures to route detainee requests to appropriate ICE officials, and OCJ should assist detainees who are disabled, illiterate, or know little or no English with this process;