

LATHAM & WATKINS LLP

650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Tel: (714) 540-1235 Fax: (714) 755-8260
www.lw.com

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MEMORANDUM

August 26, 2004

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

From: American Bar Association Delegation to Santa Ana Detention Facility

File no: 502130.0019

Copies to: (b)(5) ABA Commission on Immigration

Subject: Report on Observational Tour of the Santa Ana Detention Facility

I. INTRODUCTION

The former INS¹ promulgated the "INS Detention Standards" (the "Standards") in November 2000 to ensure the "safe, secure and humane treatment of individuals detained by the INS." There are thirty-six Standards in the Detention Operations Manual covering a range of issues from access to legal services to access to medical care and telephones. The Standards apply to Service Processing Centers, Contract Detention Facilities, and to state or local government facilities through Intergovernmental Service Agreements (I.G.S.As.).² The Santa Ana Jail (the "Santa Ana Detention Facility" or the "Facility") should be in compliance with the Standards because it is an I.G.S.A. detention facility.³ However, the Facility is not in complete accord with the Standards. The areas in which the Facility is furthest from the mandates of the Standards include access to legal materials and access to telephones. The biggest complaint of detainees held at the Facility is that they are in lockdown for approximately twenty-one hours a day. The detainees seem to appreciate the cleanliness of the Facility though, and generally get

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

² The Standards do not apply to I.G.S.As. that hold detainees for under 72 hours.

³ The delegation concluded that the Facility is an I.G.S.A. facility based on the fact that Officer (b)(6), (b)(7)(C) an officer at the Facility, told the delegation that the Facility is a city jail and that the Facility has contracts with the federal government. The delegation from Fried, Frank, Harris, Shriver & Jacobson that visited the Facility in 2000 also concluded in its report that the Santa Ana Facility is an I.G.S.A. facility.

along well with the Facility staff.⁴ A significant obstacle to seeing that the Standards are fully implemented at the Facility is that Facility staff is largely unaware of the Standards. In fact, according to a Detention Supervisor, agencies that contract with the Facility, such as the U.S. Marshals Service and Immigration and Customs Enforcement ("ICE"), must accept the Facility's standards; the agencies cannot require that the Facility adhere to the agencies' own standards.⁵

II. THE DELEGATION

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

On July 20, 2004, a delegation of (b)(6), (b)(7)c lawyers and three summer clerks from Latham & Watkins LLP's Orange County office visited (b)(6), (b)(7)c.⁶ We met with Detention Supervisor Maria Rubalcaba ("Officer Rubalcaba") upon our arrival. Officer Rubalcaba was very knowledgeable about the Facility and was able to answer most of our questions.⁷ After the interview, Officer Rubalcaba gave us a tour of the Facility. During the tour, we were able to speak with Module Officer Joanne Swanson ("Officer Swanson"), the daytime head of the women's module at the Facility. At the conclusion of our tour, we interviewed four detainees.⁸ The purpose of our tour was observational in nature with a focus on looking at the implementation of the INS Detention Standards. Particularly, we focused on the the Standards concerning access to legal materials, access to visitors, and access to telephones. The staff at the Facility was very cordial and helpful. This memorandum contains our observations and concerns.

III. GENERAL INFORMATION ABOUT THE SANTA ANA DETENTION FACILITY

The Santa Ana Detention Facility houses 482 people. That number is comprised of sixty-two juveniles, sixty-four women, contract inmates (those in U.S. Marshals Service or ICE

⁴ Interview with (b)(6) conducted by (b)(6)

⁵ Interview with Office (b)(6), (b)(7)c conducted by (b)(6). Technically, ICE does not have its own contract with the Facility; it piggy-backs off of the contract that the U.S. Marshals Service has with the facility.

⁶ The delegation was comprised of (b)(6) b6 (b)(6) associate).

⁷ Office (b)(6), (b)(7)c informed us that she has worked at the Facility for many years and has occupied many different positions at the Facility. Officer (b)(6), (b)(7)c is currently the Detention Supervisor in charge of contract detainees.

(b)(6) Esq. of the Public Law Center was able to preidentify four detainees at the Facility who wanted to speak with us. We attempted to obtain names of more detainees to interview from Catholic Charities; however, Catholic Charities no longer has a legal department and no one at Catholic Charities was able to provide us with names of detainees.

Prior to our visit, we provided Office (b)(6), (b)(7)c a list of the detainees we planned to interview, but when we arrived at the facility on July 20, 2004, she informed us that two of the people that we had planned to interview were no longer at the Facility. Office (b)(6), (b)(7)c were very accommodating and said that they would see if there were any other detainees that wanted to speak with us. We ultimately ended up interviewing four detainees, one of whom we had preidentified, and three of whom Office (b)(6), (b)(7)c identified as wanting to speak with us the day we were at the Facility. Time did not permit us to interview the second preidentified detainee who was still at the Facility.

custody), and local arrestees.⁹ The Facility houses immigrant detainees through a contract it has with the U.S. Marshals Service. According to Officer (b)(6), (b)(7)(c) the U.S. Marshals Service has a contract with the Facility, and ICE “piggy-backs” off of the U.S. Marshals Service’s contract.¹⁰ Neither Officer (b)(6), (b)(7)(c) nor Officer (b)(6), (b)(7)(c) were able to tell the delegation how many immigrant detainees were housed at the Facility at the time of the delegation’s visit. However, both estimated that there were approximately 20 ICE detainees at the Facility at the time.¹¹ Officer (b)(6), (b)(7)(c) informed the delegation that a few months prior to the delegation’s visit the Facility housed 100 to 200 immigrant detainees at any one time, but a great majority of the detainees had since been transferred elsewhere to free up bed space for U.S. Marshals Service detainees. Since the U.S. Marshals Service has the primary contract with the Facility, ICE must relinquish bed space at the U.S. Marshals Service’s request.

Officer (b)(6), (b)(7)(c) informed the delegation that at the time of the delegation’s visit there were no male immigrant detainees at the facility, and that most female detainees being held at the Facility had been there no longer than one to two months. Officer (b)(6), (b)(7)(c) explained that most of the detainees arrive and leave the Facility within a day, but others have been at the Facility for over a year. She further explained that the Facility is currently used mainly to hold “unprocessed aliens” for twenty-four to forty-eight hours before they are sent to other facilities to be processed.¹² However, the delegation spoke with a detainee who had been at the Facility for five months, and another who had been there for a year.¹³

Officer (b)(6), (b)(7)(c) informed the delegation that the majority of the immigrant detainees at the Facility were noncriminal detainees. She described the makeup of the immigrant population at the Facility as mostly comprised of Central and South Americans, Asians, Armenians, Cubans (though less as of recently) and Vietnamese. According to Officer (b)(6), (b)(7)(c) approximately ten of the current immigrant detainees are Asian. The delegation interviewed detainees from Columbia, Guatemala, and Argentina.

⁹ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁰ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹¹ From interviews with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹² Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6). In a phone interview with (b)(6) from the Department of Homeland Security, conducted by (b)(6) also explained that the Facility’s current primary use for immigration purposes was to temporarily house detainees for a day or two.

¹³ Detainee (b)(6), (b)(7)(c) had been at the Facility for one year as of the date of the delegation’s visit. Interview with (b)(6), (b)(7)(c) conducted by (b)(6). Detainee (b)(6), (b)(7)(c) has been at the Facility for five months as of the date of the delegation’s visit; prior to those five months she spent eleven months at the San Pedro Facility. Interview with (b)(6), (b)(7)(c) conducted by Ms. (b)(6)

IV. OBSERVATIONS OF IMPLEMENTATION OF LEGAL ACCESS STANDARDS

a. Legal Access/Visitation

According to the Standards, facilities shall establish written visitation procedures that include a schedule of hours of visitation.¹⁴ The visitation policy shall be detailed in the detainee handbook and shall also be posted where detainees can easily see it.¹⁵ Facilities shall allow visitors to deposit money in a detainee's account.¹⁶ Visits shall be permitted on weekends and holidays and the facility shall try to accommodate the scheduling needs of visitors "for whom weekends and holidays pose a hardship."¹⁷ Visits shall have a time limit of 30 minutes, minimum.¹⁸ No adult visitor shall be admitted without positive identification.¹⁹

Written procedures shall detail the limits and conditions of contact visits.²⁰ Usually, handshaking, embracing, and kissing are only to be permitted at the beginning and end of the visit.²¹ Facility staff may limit physical contact to minimize opportunities for introduction of contraband.²² Detainees in administrative or disciplinary segregation shall ordinarily retain visitation privileges.²³ Legal representatives should be able to visit seven days a week, including holidays.²⁴ Legal visits shall be permitted for a minimum of eight hours a day on regular business days.²⁵ Prior to each visit, legal representatives shall be required to provide identification; state bar cards are the preferred form of identification.²⁶

The Santa Ana Facility appears to follow the Standard on visitation. Visits are allowed at an even greater range of times and for a greater length of time than is required by the Standards.

¹⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.A.

¹⁵ *Id.* at III.B.

¹⁶ *Id.* at III.D.

¹⁷ *Id.* at III.H.1.

¹⁸ *Id.*

¹⁹ *Id.* at III.H.3.

²⁰ *Id.* at III.H.4.

²¹ *Id.*

²² *Id.*

²³ *Id.* at III.H.5.

²⁴ *Id.* at III.I.2.

²⁵ *Id.*

²⁶ *Id.* at III.I.4.

i. Visitation by Friends and Family²⁷

There are regular visiting hours at the Facility. They are seven days a week from 10:00 a.m. to 11:00 a.m.; from 1:00 p.m. to 4:00 p.m.; and from 7:00 p.m. to 9:00 p.m. Exceptions are not made to these hours, except for visits by attorneys, which may occur at any time.

Detainees are allowed three visits a week, each lasting an hour. Each visit may include up to two adults and three children. Anyone may visit, whether they are family, friends, or acquaintances. Minors may visit if accompanied by an adult. Visitors may leave money for a detainee's account, in which case they will be issued a receipt. Visitors may not give cash directly to a detainee. Money for a detainee's account may also be mailed to the Facility in the form of a money order.

The detainees with whom we talked were generally aware of the visitation hours available to their family and friends, and a posting of programs, including religious and academic classes, is posted in the Facility for the detainees' perusal. The visitation rooms were adequate, quiet and private, though they were fully windowed so that an officer could monitor the visit if she so desired. It is not routine, however, for an officer to monitor a visit.

There visitation policy at the Santa Ana Facility deviates from the Standards in one respect: contact visits for non-legal visitation are unavailable. Detainees are only allowed contact visits with their attorneys. As a result, detainees may not hug or touch in any way any member of their family who visits them at the Facility, including their own children. Even noncriminal detainees are subject to this policy. Officer (b)(6), (b)(7)(c) stated that the Facility is worried about the possible introduction of contraband if contact visits are allowed. This is apparently enough of a concern that contact visits are not allowed, despite the fact that after contact visits with attorneys, detainees are thoroughly strip-searched. Detainees across the board complained about the unavailability of contact visits with anyone who is not an attorney. Some have been detained for over a year and, of course, have been prohibited from hugging a loved one the entire time.²⁸ Though the Standards allow for limitation of contact visits to minimize opportunities for introduction of contraband,²⁹ the fact that the Standards also state that ordinarily "handshaking, embracing, and kissing" are permitted at the beginning and end of a visit³⁰ suggests that the Facility should generally allow some degree of contact between detainees and visitors.

²⁷ All general information was obtained by (b)(6) during an interview with Officer (b)(6), (b)(7)(c).

²⁸ In an interview with (b)(6) detainee (b)(6), (b)(7)(c) mentioned that she is unable to hug any of her five children when they come to visit her.

²⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.4.

³⁰ *Id.*

ii. Visitation by Attorneys³¹

Exceptions to the regular visiting hours are made for attorneys, who may visit at any time. Any attorney can come day or night and have either a contact or a noncontact visit. In the event of a contact visit, a detainee will afterwards be thoroughly strip-searched in a private room, one-on-one with an officer of the same sex to ensure that no outside contraband was concealed by the detainee during the contact visit.

While the Standard on searches after visitation does allow strip-searches after contact visits with a legal representative, it requires that each detainee receive a copy of the search procedure following visits.³² The Facility, however, does not have a section on strip-searches in its Handbook. The Facility is in accord with the Standard on visitation, however, to the extent that the Facility requires that searches be performed by an officer of the same sex as the detainee being searched, and to the extent that it allows an option for a noncontact visit should the detainee prefer not to be searched.³³

b. Telephone Access³⁴

Generally, the phones were sufficient in number, well maintained, and easy enough to use that all detainees with whom we spoke were able to make calls without much difficulty. However, phone system concerns remained as discussed below.

i. Provider and Payment Options

The telephone service provider for the Santa Ana Facility is SBC in conjunction with ICS. This system was installed less than a month ago in order to provide detainees with easier access to family and lawyers and greater flexibility in paying for calls. All calls made from the housing modules are collect with the exception of a direct line, to be discussed below, that provides access to immigration courts, consulates, pro bono providers, and other immigration service providers. The recipient of the calls has several payment options. These include setting up an account with ICS, or paying by check or money order directly to ICS. The facility plans on providing phone cards for sale to detainees in the commissary within a month but that service is not yet available. A detainee interviewed expressed that the phone card system would be the preferred payment method.³⁵

The telephone system does not allow for international calls but one detainee said that she was permitted to go to a different part of the Facility to make an international call.³⁶

³¹ All general information was obtained by (b)(6) during an interview with Officer (b)(6), (b)(7)C.

³² Detention Operations Manual, Detainee Services, Standard 16, Section III.I.11.

³³ See *id.*

³⁴ All general information was provided during an interview with Officer (b)(6), (b)(7)C conducted by (b)(6).

³⁵ Interview with (b)(6), (b)(7)C conducted by (b)(6).

³⁶ Interview with (b)(6), (b)(7)C conducted by (b)(6).

Another detainee complained that she was unable to make international calls from the housing module.³⁷

ii. Number of Telephones and Access in General

The booking area at the Santa Ana Facility contained at least a dozen phones including separate phones in the private interview rooms. Posted at each phone, in English and Spanish, is a notice of the inmate/detainee's right to make up to three free local calls to either an attorney, a family member, or a friend. Long distance collect calls can also be made from these phones. Another notice is posted explaining in both English and Spanish that the calls are electronically monitored. Upon being booked the detainees are given a standard inmate handbook (the "Handbook") explaining the procedures of the facility.³⁸ In the Handbook, the detainee is informed of the policy of allowing up to three free calls in the booking area. The Handbook also explains that once the detainees are assigned to a housing module, all calls are collect. Each interviewed detainee confirmed that she received a copy of the Handbook, and each understood the telephone policy.³⁹

The housing modules contain 8 to 10 telephones and house up to 64 detainees, well within the Standard of 1 phone for every 25 detainees.⁴⁰ The detainees may access the phones at any time when they are not locked down. Generally, detainees have 2 ½ hours a day of time in the common areas that contain the phones. There is no time limit placed on calls other than the general time limit for access to the common areas. One detainee complained that the wait for the phones can exceed 20 minutes thus forcing her to wait until the following day to make a call.⁴¹ Despite this occasional problem, during our visit we observed a nonlockdown period in which only 2 of the 8 phones in the housing module were used at all.

Detainees can submit a request to use a free line if they are indigent and can present circumstances under which it would be appropriate to allow the call. One detainee stated that when she did so, she was allowed to make free calls.⁴² The supervising officer can grant or deny the request after a case-by-case evaluation.

iii. Telephone Access to the Legal System and Related Issues

The Santa Ana Facility has a policy of not delivering messages to detainees regardless of the source of the message.⁴³ Messages from attorneys are therefore not delivered

³⁷ Interview with (b)(6) conducted by (b)(6)

³⁸ See Exhibit 1, p. 3.

³⁹ All four detainee interviews conducted by (b)(6)

(b)(6) notes.

⁴¹ Interview with (b)(6), (b)(7)c conducted by (b)(6), (b)(6), (b)(7)c also stated that when many detainees are waiting, sometimes the amount of time each detainee can speak on the phone is limited. *Id.*

⁴² Interview with (b)(6), (b)(7)c conducted by (b)(6)

⁴³ Interview with Office (b)(6), (b)(7)c conducted by (b)(6)

and any person trying to reach a detainee cannot do so over the phone. Some attorneys do not accept collect calls, as one detainee reported, and this, coupled with the fact that detainees cannot get messages from their attorneys, makes it very difficult to keep up with her case, forcing her to use her mother as an intermediary between her and her attorney.⁴⁴

A new direct line was recently introduced that is available to the immigration detainees. The line connects the detainee with an operator who can route the detainee's call to the courts, pro bono service providers, various consulates, and other services as they become available. A memorandum was distributed to all of the housing modules informing the detainees of the number and its purpose. The memorandum was posted on the bulletin board in the housing module where the ICE detainees were being held but it was only in English and it was somewhat inconspicuous. None of the detainees that we spoke with knew of the direct line or how to access it.⁴⁵ The Facility also has a policy of posting a list of pro bono providers and their phone numbers. Unfortunately, this memo was not displayed on the bulletin board where the ICE detainees were being held although we did observe it on the wall in the administrative segregation housing module.⁴⁶

Although the officers do not physically monitor detainees on legal calls, there is no privacy available in the housing areas for making legal calls. Officer (b)(5), (b)(7)c indicated that if a detainee were to request a private room for making a legal call, that request would be accommodated but that no request had ever been received. The Facility has a policy of electronically monitoring all out going phone calls. Officer (b)(6), (b)(7)c also indicated that if a call is being monitored and an officer recognizes it as a legal call, the officer will stop monitoring the call. Detainees that wish not to have their conversations with attorneys electronically recorded can fill out a form that gives the attorney's name and telephone number and those calls will not be recorded. All other calls are monitored and a notice in both English and Spanish above one of the clusters of phones in the housing unit informs the detainees of the Facility's policy of monitoring nonlegal calls.⁴⁷

iv. Telephone Access in Administrative Segregation Module

The telephone policies in the administrative segregation module mirror those in the regular module with the exception that those in the "Ad Seg" module are given only one hour of nonlockdown time a day in which to access the phones. However, because the detainees in administrative segregation are let out of lockdown one at a time, there is ample opportunity for them to use the phones.

⁴⁴ Interview with (b)(6), (b)(7)c conducted by (b)(6)

⁴⁵ All four detainee interviews conducted by (b)(6)

(b)(6) notes.
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c. Legal Materials

i. Access to Legal Representatives

The Standards require that each detainee be permitted to meet privately with current or prospective legal representatives and legal assistants.⁴⁸ Legal visitation should be permitted every day for a minimum of eight hours per day on regular business days, and four hours per day on weekends and holidays.⁴⁹ Facilities should prominently display the visitation rules and hours in the recreation area and housing units.⁵⁰ On regular business days, legal visitations may proceed through a scheduled meal period, in which case the detainee should receive a meal after the visit.⁵¹ Prior to each visit, all legal representatives shall be required to provide identification.⁵² Each facility shall allow legal service providers to telephone the facility in advance of a visit to determine whether a particular individual is detained in that facility.⁵³

Visits between legal representatives and detainees are confidential and shall not be supervised.⁵⁴ Private consultation rooms should be provided for such meetings.⁵⁵ Documents that are provided to a detainee by a legal representative shall not be read, and detainees are entitled to retain legal materials.⁵⁶ If standard operating procedures require strip searches after contact visits, the facility must provide an option for noncontact visits.⁵⁷ Detainees in segregation shall be allowed legal visitation.⁵⁸ INS shall provide the facility with the official list of pro bono legal organizations.⁵⁹

Detainees at the Santa Ana Facility, in accordance with the Standards, may meet with their legal representatives at any time,⁶⁰ and such meetings are not required to be held during general visitation hours.⁶¹ Such visits are permitted to proceed through meal periods, in which cases the detainee is provided with a meal at the end of the meeting.⁶² Detainees may

⁴⁸ Detention Operations Manual, Detainee Services, Standard I6, Section III.A.1.2.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at III.A.1.4.

⁵³ *Id.* at III.A.1.6.

⁵⁴ *Id.* at III.A.1.9.

⁵⁵ *Id.*

⁵⁶ *Id.* at III.A.1.10.

⁵⁷ *Id.* at III.A.1.11.

⁵⁸ *Id.* at III.A.1.12.

⁵⁹ *Id.* at III.A.1.14.

⁶⁰ [REDACTED] s notes.

⁶¹ [REDACTED] (b)(6) otes.

⁶² *Id.*

have either contact or noncontact visits with their legal representatives.⁶³ All attorneys are required to present bar I.D. cards in order to prove that they are licensed to practice law.⁶⁴ Attorneys may call ahead to determine if a detainee is at the Facility. Such calls are taken by the triage; however, the triage has a strict policy against taking messages for detainees.⁶⁵

The Facility provides one noncontact room for each "mod," and Officer (b)(6), (b)(7)(c) indicated that there are generally no problems scheduling visits in those rooms.⁶⁶ There is some issue regarding the level of privacy provided for telephone calls to attorneys. The telephones are located in the day rooms of the "mods," and although such calls are not monitored electronically, there are no physical barriers provided to ensure that other persons in the vicinity do not overhear privileged conversations. Documents that are provided to detainees by their attorneys are searched in the presence of the detainee for contraband only, and are not read.⁶⁷ All contact visits with attorneys are followed by strip searches; however, noncontact visits are an option.⁶⁸ All visitation procedures are the same for segregated detainees.⁶⁹ The delegation visited two "mods," and only one of the "mods" had a list of pro bono organizations posted.

ii. Access to Legal Materials

Facilities should permit detainees access to a law library, and provide legal materials.⁷⁰ The library should contain a sufficient number of tables and chairs and be reasonably isolated from noisy areas.⁷¹ The library should provide an adequate number of typewriters and/or computers and other supplies and the facility shall designate an employee with responsibility to inspect the equipment.⁷²

The Facility was notably deficient with respect to its provision of legal materials. According to Officer (b)(6), (b)(7)(c) the law library consisted of a single computer; the Facility maintains absolutely no law books. No employee that was present at the mod knew how to turn on the computer, and none had any recollection of the computer ever being used or inquired about by detainees. However, at least one interviewee indicated that she had asked to use the computer for legal research and her request was denied.⁷³ The library was located in a room separate from the day mods and was relatively quiet.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.* (b)(6) notes.

(b)(6) notes.

(b)(6) notes.

(b)(6) notes.

⁶⁹ *Id.*

⁷⁰ Detention Operations Manual, Detainee Services, Standard I, Section I.

⁷¹ *Id.* at III.A.

⁷² *Id.* at III.B.

(b)(6) notes.

d. Group Rights Presentations⁷⁴

There are currently no group rights presentations being conducted at the Santa Ana Facility. Officer (b)(6), (b)(7)C indicated that, in the past, a pro bono attorney would give such presentations but that the attorney had not been to the Facility in several months. She could not recall the name of the attorney or the organization for which she worked. All of the officers involved in the tour said that they would welcome such presentations should any organization or attorney offer them again.⁷⁵

V. OTHER GENERAL OBSERVATIONS UNRELATED TO THE LEGAL ACCESS STANDARDS

a. The Santa Ana Detention Facility's Detainee Handbook

The Standards instruct that each facility shall have a detainee handbook that "briefly describe[s] individual programs and services and associated rules."⁷⁶ The topics shall include "recreation, visitation, education, voluntary work, telephone use, correspondence, library use, and the canteen/commissary."⁷⁷ In addition, the handbook shall cover the facility's medical policy, facility-issued items such as clothing and bedding, access to personal property, and meal service.⁷⁸ The handbook must also specify the rules and regulations with which detainees must generally comply, and it must detail detainees rights and responsibilities.⁷⁹ The handbook must be available in English and Spanish and, where appropriate, to "the next most-prevalent language(s) among the facility's detainees."⁸⁰

The Santa Ana Facility's Inmate Orientation Handbook (the "Handbook") appears to meet the expectations set forth in the Standards.⁸¹ The Handbook explains the behavior expected from detainees, and details the Facility rules and regulations.⁸² It includes a discussion of recreation,⁸³ visitation,⁸⁴ education,⁸⁵ correspondence,⁸⁶ library use,⁸⁷ telephone use,⁸⁸ and

⁷⁴ All general information on group rights presentations was provided during an interview with Officer (b)(6), (b)(7)C conducted by (b)(6), (b)(7)C.

⁷⁵ (b)(6), (b)(7)C notes.

⁷⁶ Detention Operations Manual, Detainee Services, Standard 5, Section III.B.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at III.C.

⁸⁰ *Id.* at III.E.

⁸¹ See Exhibit 1.

⁸² Santa Ana Jail Inmate Orientation Handbook 1 (March 11, 2003).

⁸³ *Id.* at 4-5.

⁸⁴ *Id.* at 2.

commissary.⁸⁹ The Handbook, in accordance with the Standards, also contains information on the Facility's medical policy,⁹⁰ facility-issued items,⁹¹ and meal service.⁹² Missing from the Handbook's coverage is a discussion of the voluntary work program and access to personal property. However, the Handbook does contain discussion of subject areas other than those suggested by the Standards. For instance, it provides inmates with information on voting⁹³ and religious services.⁹⁴ The Handbook is translated into Spanish.⁹⁵

b. Recreation Issues

Detainees should have access to outdoor and indoor recreation for at least one hour per day, five days per week.⁹⁶ Detainees should not be forced to choose between law library privileges and recreation privileges.⁹⁷ They should be provided with "board games, television, and other recreation materials."⁹⁸ Those detainees in administrative or disciplinary segregation should be provided with recreation that is separate from the general prison population.⁹⁹ However, they may be denied recreation for "safety or security purposes."¹⁰⁰

i. Outdoor Recreation

The detainees are allowed to go outside whenever they are not in lockdown.¹⁰¹ There is some discrepancy as to the amount of time that the detainees are locked down each day. Officer (b)(6), (b)(7)(c) who does not work in the female mod, informed the delegation that the women are only locked down from 12:00 pm to 1:00 pm and from 5:00 pm to 7:00 pm.¹⁰² However, the

⁸⁵ *Id.* at 10.

⁸⁶ *Id.* at 8-9.

⁸⁷ *Id.* at 9.

⁸⁸ *Id.* at 3.

⁸⁹ *Id.* at 7.

⁹⁰ *Id.* at 10.

⁹¹ *Id.* at 6-7.

⁹² *Id.* at 4.

⁹³ *Id.* at 9.

⁹⁴ *Id.* at 10.

⁹⁵ *See id.* at 15-30.

⁹⁶ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

⁹⁷ Summary of Select Detention Standards, Section 10(B).

⁹⁸ Detention Operations Standard, Detainee Services, Standard 13, Section III.G.3.

⁹⁹ *Id.* at III.H.

¹⁰⁰ *Id.*

¹⁰¹ (b)(6) notes.

¹⁰² *Id.*

detainees we interviewed and the guard on duty in the female mod indicated that the detainees are only allowed out of their cells for approximately three to four hours per day, seven days a week.¹⁰³ Those detainees who are in administrative segregation were allowed one hour of recreation per day, seven days per week.¹⁰⁴ Their recreation time is separate from the other detainees'.¹⁰⁵

When detainees are allowed to go outside they may play ping pong or handball, walk around, or use the one piece of weight equipment (which only had a pull up bar and a sit-up bench).¹⁰⁶ They are limited to a small concrete area that is approximately twenty feet by thirty feet with high walls.¹⁰⁷ Much of the outdoor space does not receive direct sunlight due to these walls.¹⁰⁸

ii. Indoor Recreation

The indoor recreation area is comprised of a large open room with couches and a TV at both ends.¹⁰⁹ An additional TV and sitting area is located upstairs.¹¹⁰ A cart with books is located on the first floor next to the guard's station.¹¹¹ In addition, there is a bank of telephones in the center of the room.¹¹² For lunch, tables are scattered throughout the room.¹¹³ After the meal is over, then the women clean the recreation area before returning to their cells.¹¹⁴

During their recreation time, the women are allowed to watch TV, talk on the telephone, sew and use the law library computer.¹¹⁵ The Handbook indicates that board games are available to the detainees, although the delegation did not see nor hear about board games during the visit.¹¹⁶ The women also have small radios.¹¹⁷ In addition to normal recreation time, the women are allowed to leave their cells for scheduled programs, such as classes and religious

¹⁰³ Interview of detainee (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁰⁴ (b)(6) notes.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*; Santa Ana Jail Inmate Orientation Handbook, 4 (March 11, 2003)

¹¹⁷ Interview with detainee (b)(6), (b)(7)(c) conducted by (b)(6)

gatherings.¹¹⁸ In addition, the women are allowed to volunteer for various chores, such as folding laundry and serving meals.¹¹⁹

Overall, the Santa Ana Facility meets the Standards regarding recreation. The amount of recreation time exceeds the Standards. Rather than providing the requisite seven hours per week, the Facility provides between 21 and 28 hours per week.

c. Classes

The Santa Ana Facility provides the women with regular classes, including ESL, GED, art, music and computer (with limited internet access) classes.¹²⁰ The computer courses have been the most popular.¹²¹ In addition, there have been many GED graduates and much interest in the art and music courses.¹²² Criminal inmates are not allowed to mix with noncriminal detainees, so they are required to take separate classes.¹²³ Different classes are offered on a daily basis.¹²⁴ Office (b)(6), (b)(7)c told the delegation that classes are offered in both English and Spanish, however, the detainees were only aware of classes in English.¹²⁵ The detainees did say that they can take the tests for the GED courses in Spanish.¹²⁶ One Spanish-speaking detainee said that some of the teachers understand Spanish and enough detainees are bilingual that the Spanish-speaking detainees are able to take the classes.¹²⁷

d. Access to Medical Care

Detention centers must provide an initial medical screening upon a detainee's arrival.¹²⁸ The prescreening shall include an evaluation of the detainee's suicide risk and mental disorders.¹²⁹ The detention center must have sufficient facilities so that the detainees can receive

¹¹⁸ (b)(6) notes.

¹¹⁹ Interview with detainee (b)(6), (b)(7)c conducted by (b)(6)

¹²⁰ (b)(6) notes.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.* (b)(6)

¹²⁵ *Id.*; Interviews with detainees (b)(6), (b)(7)c conducted by Johnson and

(b)(6)

¹²⁶ Interview with detainee (b)(6), (b)(7)c conducted by (b)(6)

¹²⁷ Interview with detainee (b)(6), (b)(7)c conducted by (b)(6)

¹²⁸ Detention Operations Manual, Health Services, Standard 2, Section III.A.

¹²⁹ *Id.* at III.D.

an examination or treatment in private.¹³⁰ Finally, there must be procedures in place by which detainees can request medical attention when they feel that it is needed.¹³¹

There is no infirmary available at the Santa Ana Facility.¹³² However, RNs and LBNs are always on site and dentists and psychologists visit the Facility when necessary.¹³³ When a detainee is first brought to the Facility, she is medically screened to determine if she needs any treatment and if the detention center can accept her.¹³⁴ This pre-screening does involve an evaluation of the detainee's suicide risk and mental disorders.¹³⁵ If a detainee feels that she needs medical attention, she is to fill out a "sick slip" and give it to the officer on duty.¹³⁶ Most detainees are seen within 24 hours, unless it is an emergency, in which case they are seen sooner.¹³⁷ Most detainees that the delegation interviewed said that they have never been denied medical attention that they requested.¹³⁸

Overall the Santa Ana Facility appears to provide adequate access to medical care.

e. Religious Issues

Detention centers shall provide detainees with "reasonable and equitable opportunities" to actively practice their different faiths.¹³⁹ Detainees may not be harassed for their religious choices.¹⁴⁰ A Chaplain shall be available to lead group religious programs or individual counseling.¹⁴¹ If a detainee's faith differs from that of the Chaplain, then the detainee shall be provided with access to outside "religious service providers."¹⁴² Detainees shall be allowed access to personal religious items, such as prayer beads, during religious ceremonies, unless the items present a safety concern.¹⁴³ However, the detainees need not be allowed to take the items

¹³⁰ *Id.* at III.B.

¹³¹ *Id.* at III.F.

¹³² (b)(6) notes.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ See Medical/Mental Pre-Screening (March 2004), Exhibit 2.

¹³⁶ (b)(6) notes. See Exhibit 4 (medical request form).

¹³⁷ *Id.*

¹³⁸ E.g., Interview with detainee (b)(6); (b)(7)c conducted by (b)(6).

¹³⁹ Detention Operations Manual, Detainee Services, Standard 14, Section I.

¹⁴⁰ *Id.* at III.A.

¹⁴¹ *Id.* at III.D.

¹⁴² *Id.*

¹⁴³ *Id.* at III.K.

into their individual cells.¹⁴⁴ Additionally, the detention center shall address special dietary concerns, including food restrictions and unusual eating hours.¹⁴⁵

The Santa Ana Facility provides religious services on site.¹⁴⁶ Different religious figures visit the Facility on different days, but generally someone visits two to three times per week.¹⁴⁷ Generally, there are only Catholic and Protestant services, but special requests have been granted in the past.¹⁴⁸ For example, a Rabbi has visited the Facility before.¹⁴⁹ In addition, if a detainee requests additional religious counseling, the staff at the Facility will do their best to locate someone to meet the needs of the detainee.¹⁵⁰ The detainees are also allowed to talk to the religious figures who lead the services individually after the services are over.¹⁵¹

If a detainee has a special religious dietary requirement, the Facility will meet this need if it can be verified.¹⁵² The detainee need only submit a "request form" if applicable.¹⁵³ The detainees are allowed to keep soft-cover religious books in their cells.¹⁵⁴ However, they are not allowed to keep a rosary or any other type of beaded religious object.¹⁵⁵ None of the detainees the delegation interviewed had suffered any harassment for their religious beliefs while in the Facility.¹⁵⁶

Overall, the Santa Ana Facility meets the Standard regarding religion. None of the detainees had any complaints whatsoever when it came to treatment based upon religion.

f. Detainee Classification¹⁵⁷

According to the Standards, all detainees shall be classified upon arrival.¹⁵⁸ ICE is to provide I.S.G.A. facilities with the data needed to classify detainees received from ICE upon

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at III.M.

¹⁴⁶ Interview with detainees (b)(6), (b)(7)c conducted by (b)(6) and (b)(6)

¹⁴⁷ *Id.*

¹⁴⁸ (b)(6) notes.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.* The Facility also honors non-religious based requests for vegetarian meals. *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Interviews with detainees (b)(6), (b)(7)c conducted by (b)(6) and (b)(6)

¹⁵⁷ All information in this Part obtained from an interview with Office (b)(6), (b)(7)c conducted by (b)(6)

¹⁵⁸ Detention Operations Manual, Detainee Services, Standard 3, Section III.A.1.

arrival.¹⁵⁹ Detainees are to be classified according to risk, and to be given color-coded uniforms and wristbands that correspond to their level of risk.¹⁶⁰ A supervisor shall review the intake officer's classification files for accuracy,¹⁶¹ and facilities shall house detainees according to their classification level.¹⁶²

The Delegation learned that ICE sometimes informs the Facility when it brings the Facility a detainee who is dangerous to himself or to others.¹⁶³ In this case, the Facility places the detainee in disciplinary segregation.¹⁶⁴ ICE does not always provide the Facility with detailed information on detainees it brings to the facility, however, and sometimes the staff must learn for themselves that a particular detainee is a danger to herself or to others.¹⁶⁵

At the Facility, noncriminal immigrants are kept separate from the general population.¹⁶⁶ Though both criminal and noncriminal women are housed in the women's module, they never come into contact. The groups are out of lockdown at the same times, but one group is allowed to go outside, while the other must stay in the inside common areas, or vice versa. Criminals and noncriminals get equal access to the indoor and outdoor common areas, just at different times.

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i. Administrative Segregation

Officer (b)(6), (b)(7)(c) knew of one instance of administrative segregation (other than disciplinary segregation, which she also referred to as administrative segregation). At one time there were eleven transsexuals housed at the Facility. They were all housed in one housing module and they came out as a group, but separately from the others in the module who were not transsexual. Officer (b)(6), (b)(7)(c) explained that the transsexuals were segregated for their own safety. If there is just one transsexual housed at the Facility at a given time, that person is mixed in with the other detainees.

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ii. Medical Quarantine

Detainees are quarantined at the Facility when they have diseases such as lice, scabies, parasites, or chicken pox.¹⁶⁷

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at III.A.4.

¹⁶¹ *Id.* at III.C.

¹⁶² *Id.* at III.D.

¹⁶³ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁶⁴ See Part V.f.ii., *infra.* (b)(6), (b)(7)(c)

¹⁶⁵ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁶⁶ Criminal immigrant detainee (b)(6), (b)(7)(c) explained that the criminal detainees have no contact with the noncriminal detainees. Interview with (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁶⁷ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

g. Voluntary Work Program

The Standards require that every facility provide detainees who are physically and mentally able to work with an opportunity to work and earn money.¹⁶⁸ The detainee's classification will help determine the type of assignment for which he or she is eligible.¹⁶⁹ Officer (b)(6), (b)(7)(c) informed the delegation that detainees could volunteer to do work; however, they are not paid.¹⁷⁰ The women are allowed to fold laundry; the cleaning and laundry crews are male.¹⁷¹ One female immigrant detainee interviewed explained that detainees were allowed to work by serving food if they wanted to, but they were not paid; instead of money, detainees receive benefits such as more food at mealtimes or commissary.¹⁷² While the Facility does not allow detainees to earn money for their work, the Facility does allow detainees to volunteer to work and it does give them some compensation for their efforts, though the compensation is not in the form of cash. However, commissary seems to be a form of money even though it is only usable at the Facility store. The division of work between males and females, so that there are certain "female" jobs and certain "male" jobs seems to violate a provision in the Standard that requires that detainees "will not be denied work opportunities based on non-merit factors, such as . . . sex."¹⁷³ However, the Facility's decision to divide work assignments by sex may simply have to do with practical considerations having to do with the fact that males and females are housed separately and there is a significantly greater number of males than females at the Facility.

h. Grievance and Disciplinary Procedures

i. Grievance Procedures

The Standards instruct that every facility shall develop and implement standard operating procedures to address detainee grievances.¹⁷⁴ According to the Standards, each facility shall institute procedures for informal resolution of oral grievances.¹⁷⁵ Detainees should be able to informally express their concern(s) to a staff member within five days of the event precipitating the grievance.¹⁷⁶ Detainees must also be permitted to file formal grievances with the facility's grievance committee, either because they are unsatisfied with the result of the informal process, or because they do not wish to use the informal process.¹⁷⁷ Detainees shall be provided with a

¹⁶⁸ Detention Operations Manual, Detainee Services, Standard 17, Section III.A.

¹⁶⁹ *Id.*

¹⁷⁰ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁷¹ *Id.*

¹⁷² Interview with (b)(6), (b)(7)(c) conducted by (b)(6)

¹⁷³ Detention Operations Manual, Detainee Services, Standard 17, Section III.F.

¹⁷⁴ Detention Operations Manual, Detainee Services, Standard 8, Section I.

¹⁷⁵ *Id.* at III.A.1.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at III.A.2.

grievance form upon request, and the form shall be delivered by authorized personnel to the person designated to receive the grievances without reading, altering, or delay.¹⁷⁸

The Standards also require that each facility implement a procedure for handling and implementing emergency grievances, which are defined as those that constitute an immediate threat to a detainee's safety or welfare.¹⁷⁹ If a detainee is unsatisfied with the decision regarding his or her grievance, he or she must be able to appeal the decision.¹⁸⁰ No detainee may be retaliated against for filing a complaint.¹⁸¹

The Santa Ana Detention Facility appears to meet the Standard on detainee grievance procedures. The Handbook explains that inmates will have access to a grievance procedure and that a timely response to a documented grievance will be provided, except in extenuating circumstances.¹⁸² It also informs inmates that they may appeal their grievance.¹⁸³ If a detainee has a complaint, she can speak with a module officer to try to have the grievance resolved.¹⁸⁴ There is a module officer in each module, and a module officer is available in each module 24 hours a day, 7 days a week.¹⁸⁵ Detainees can also fill out a grievance form if they have a concern.¹⁸⁶ The Grievance Hearing Officer looks at the form and if he or she does not agree that the detainee's grievance needs to be remedied, the Hearing Officer sends the form back. The Hearing Officer's decision may be appealed to a manager, and then to the Facility Administrator, (b)(6), (b)(7)C if the detainee is unsatisfied with the initial decision.¹⁸⁷ According to one detainee, the module officers are responsive to grievances, and there is never retaliation for complaints.¹⁸⁸ Detainees simply fill out a grievance form and the module officer comes and talks to them.¹⁸⁹

ii. Disciplinary Procedures

The Standards require each facility to have a detainee disciplinary system "with progressive levels of review, appeals, procedures, and documentation of procedures."¹⁹⁰ The disciplinary policy shall clearly define detainees' rights and responsibilities, and shall not be

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at III.B.

¹⁸⁰ *Id.* at III.C.

¹⁸¹ *Id.* at III.D.

¹⁸² Santa Ana Jail Inmate Orientation Handbook 7 (March 11, 2003).

¹⁸³ *Id.*

¹⁸⁴ Interview with Officer (b)(6), (b)(7)C conducted by (b)(6)

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*; see Exhibit 3 (grievance form); Exhibit 5 (inmate's request form).

¹⁸⁷ Interview with Officer (b)(6), (b)(7)C conducted by (b)(6)

¹⁸⁸ Interview with (b)(6), (b)(7)C conducted by (b)(6)

¹⁸⁹ *Id.*

¹⁹⁰ Detention Operations Manual, Security and Control, Standard 3, Section III.A.I.

capricious or retaliatory.¹⁹¹ Corporal punishment, and deprivation of food, clothing, personal hygiene, or correspondence privileges is not permitted, nor is deprivation of physical activity unless physical activity creates an unsafe condition.¹⁹² The Detainee Handbook shall advise detainees of their rights and the facility's rules of conduct and the sanctions imposed for violation of the rules.¹⁹³ Incidents should be reported by officers who witness the incident, and reports shall be investigated within twenty-four hours of the incident.¹⁹⁴

The Santa Ana Detention Facility's Inmate Handbook addresses this area of the Standards. The Handbook lists the consequences for violations and details the actions that constitute a violation. In the Handbook, the violations are grouped as "minor violations" or "major violations."¹⁹⁵ The Handbook warns that inmates will be disciplined for rule violations, and that a formal discipline is triggered when an inmate has been informally disciplined five times within a three-month period.¹⁹⁶ The Handbook also informs detainees that they may appeal disciplinary action.¹⁹⁷ None of the enumerated consequences for violations violate the Standard's prohibition on corporal punishment or deprivation of food or clothing.¹⁹⁸

Office (b)(6), (b)(7)(c) explained that module officers can impose consequences for minor rule violations.¹⁹⁹ For instance, a module officer can place a detainee who has violated a rule in lockdown for up to, but not more than, 23 hours, or can require the detainee to scrub the floors.²⁰⁰ However, one detainee complained that detainees are put in lockdown for 24 hours for something as minor as having milk in their rooms.²⁰¹ If a detainee is involved in a fight or found with major contraband the detainee can be put in predisciplinary lockdown. After a major incident, the module officer reads the reports, speaks with the detainee, interviews witnesses, and decides if the detainee is guilty.²⁰² A detainee who is guilty of a major violation can be put in lockdown for five days or more.²⁰³ After 30 days the detainee is given a medical check, and he or she receives a medical check for every 15 days thereafter.²⁰⁴ Detainees in disciplinary

¹⁹¹ *Id.* at III.A.2.

¹⁹² *Id.* at III.A.3.

¹⁹³ *Id.* at III.A.5.

¹⁹⁴ *Id.* at III.A.

¹⁹⁵ Santa Ana Detention Facility Inmate Handbook 11-13 (March 11, 2003).

¹⁹⁶ *Id.* at 10.

¹⁹⁷ *Id.*

¹⁹⁸ *See id.* at 11.

¹⁹⁹ Interview with Office (b)(6), (b)(7)(c) conducted by (b)(6). Sometimes video conferencing is used to see if a detainee needs a hold placed on him. *Id.*

²⁰⁰ *Id.*

²⁰¹ Interview with (b)(6), (b)(7)(c) conducted by (b)(6)

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

lockdown have no access to commissary, but they do have access to reading and writing materials, legal materials, showers, and phone calls.²⁰⁵

i. ICE Presence and Communication

The interaction between the Facility and ICE seems sporadic. Detainees are picked up by ICE the day before they have a court date.²⁰⁶ Detainees are handcuffed when transported to court.²⁰⁷ The detainees' hearings take place at the San Pedro Facility.²⁰⁸ From time to time ICE forgets to pick detainees up.²⁰⁹ If a detainee wants to see a deportation officer there is a form she can fill out that is then faxed to San Pedro the following day.²¹⁰ It is up to ICE whether or not to respond to the faxed requests and travel to the Facility, and the amount of time that passes before a response is received varies.²¹¹ The Facility does not have a log of requests that have been faxed; the Facility just informs the detainee if and when it receives an answer from ICE.²¹² According to Office (b)(6), (b)(7)c the days ICE does come to the facility, an announcement is made to inform the detainees that ICE officers are at the Facility. Officer (b)(6), (b)(7)c explained that the number of times ICE comes down to the Facility changes; ICE used to come bi-weekly, then monthly, now sometimes three months pass between ICE visits.

A lot of the information on the detainees does not follow them from their previous facility to Santa Ana.²¹³ Immigrant detainees frequently come and go from the Santa Ana Facility, especially now that it is being used principally to hold detainees from 24 to 48 hours. If a family member calls the Facility looking for a particular detainee, the Santa Ana Facility will inform the family about the detainee's current location (though the Facility will never tell a family member if the detainee is in-route to another Facility).²¹⁴

ICE has told the Facility that it would like to provide the facility with a "floating" law library.²¹⁵ This would consist of law books that would be moved from module to module within the Facility periodically. Office (b)(6), (b)(7)c informed the delegation that the Facility welcomes this addition; however, ICE has yet to provide the Facility with the "floating" library.

²⁰⁵ *Id.*

²⁰⁶ Interview with Office (b)(6), (b)(7)c conducted by (b)(6). Interview with detainee (b)(6), (b)(7)c conducted by (b)(6).

²⁰⁷ Interview with Office (b)(6), (b)(7)c conducted by (b)(6).

²⁰⁸ (b)(6) notes.

²⁰⁹ *Id.*

²¹⁰ *Id.* See Exhibit 6 (detainee request form).

²¹¹ *Id.*

²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Interview with Office (b)(6), (b)(7)c conducted by (b)(6).

j. Facility Management

The Facility staff tries to take an accommodating stance towards detainees and detainee requests.²¹⁶ The detainees generally speak positively about the staff. One detainee explained that if she is folding clean clothes and wants to exchange her clothes for clean ones she just has to ask an officer.²¹⁷ Officer (b)(6), (b)(7)(c) explained that she tries to schedule as many classes and activities as she can for the detainees so that they have the opportunity to leave their cells more often.²¹⁸ If detainees are well-behaved they have movie nights on Saturday nights at which they are able to watch new releases and eat pizza and popcorn and drink soda.²¹⁹

However, it does not appear that the Facility staff is even aware of the Standards. Officer (b)(6), (b)(7)(c) explains that the Santa Ana Facility has its own standards that those who contract with the Facility, such as the U.S. Marshals Service (and ICE, indirectly, through the U.S. Marshals Service), must accept; the contract between the Facility and the contracting party is written so that the Facility's standards ultimately govern.²²⁰ The Facility tries to accommodate the requests of other agencies to the extent that doing so is feasible. For example, ICE wanted a pro bono phone line put in at the Facility and the Facility put in the phone line.²²¹ However, the Facility does not always accommodate the requests. For instance, ICE requested that the Facility open all mail in front of detainees. Officer (b)(6), (b)(7)(c) explained that to do so was not feasible because it would take all day, so the Facility only opens legal mail in front of detainees.²²²

The absence of awareness on the part of the Facility management of the Standards is problematic. The Standards will not be effective if the Facility staff is not aware of them, or if the Facility has the authority to pick and choose which Standards it will follow. An effort should be made to ensure that every facility that houses ICE detainees comply with the Standards as a prerequisite to immigrant detainees being housed there.

VI. CONCLUSION

Overall, the detainees seemed very pleased with the Facility staff, the cleanliness of the Facility, and the classes offered. The detainees we spoke with said that they generally received prompt responses to their complaints and that they frequently received clean clothing and bedding. Officer (b)(6), (b)(7)(c) explained that she tries to schedule as many classes as possible so that the detainees have an opportunity to leave their cells more often during the day. The detainees seemed satisfied with the number of classes offered, and the number, and kind, of religious services offered.

²¹⁶ *Id.*

²¹⁷ Interview with (b)(6), (b)(7)(c) conducted by (b)(6) notes.

²¹⁹ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6) Interview with detainee (b)(6), (b)(7)(c) conducted by (b)(6) notes.

²²¹ Interview with Officer (b)(6), (b)(7)(c) conducted by (b)(6)

²²² *Id.*

The detainees' complaints, however, go to serious issues. The biggest complaints from detainees are that they are in lockdown for about 21 hours a day, they do not have access to legal materials, and phone calls are expensive to make. Detainees were told that with the new phone system in place they would be able to purchase calling cards. However, they still do not have access to calling cards even though the new phone system has been in place for a month. It is unclear why the detainees are in lockdown for so long. Unless there is a strong argument for keeping them in lockdown for a majority of the day, it appears that the detainees' situation could be easily improved by allowing them to use the common areas more often. The detainees clearly should have access to legal materials, and phone calls should not be prohibitively expensive. The Facility has much room for improvement in these areas.

ICE does not have much of a presence at the Facility. Deportation Officers' visits to the facility are sporadic. Requests to speak with ICE are often not responded to promptly, accentuating the problem of lack of access to legal materials. Unless they have an attorney already, detainees have little hope of knowing the status of their case without access to legal materials or the ability to meet with someone from ICE. The Facility appears to be doing its part to fax detainee requests to ICE. However, the Facility appears to have little control over if and how often ICE staff comes to the Facility. ICE has offered to provide the Facility with a legal library, and the Facility is willing to allow the library. But, as of this point, ICE has not provided the Facility with the library. The Facility's condition could be improved if ICE were more responsive. At this point, it appears that the Facility operates according to its own rules and accommodates ICE's requests when doing so is convenient for the Facility. To have an effective Standards implementation effort, facilities housing ICE detainees must be committed to honoring the standards. ICE should do everything in its power to make sure that it only contracts with facilities that will honor the Standards.

Detention Standards Implementation Initiative

ABA Commission on Immigration

Facility Name: Santa Ana Detention Center

Date of Tour: July 20, 2004

Tour participants: [REDACTED] Latham & Watkins)

ICE Standard	Tour Observation	Source	ICE Response
<p>Telephone Access</p> <ul style="list-style-type: none"> III.E.4 "[the facility shall permit the detainee to make direct calls] to legal service providers..." III.B. "[The facility] shall post these rules where detainees may easily see them" 	<ul style="list-style-type: none"> The delegation noted that detainees are unaware of the new PCS phone and how to access it (p.8, line 11) The delegation noted that the list of pro bono service providers was not posted in the housing units (p.8, line 13) 	<ul style="list-style-type: none"> According to detainee interviews According to delegation observations 	<p>Not noted in 2003 review.</p>
<p>Access to Legal Materials</p> <ul style="list-style-type: none"> III.C "The library shall contain the materials listed in Attachment A" III.G "The facility shall... permit all detainees, regardless of housing or classification, to use the law library on a regular basis" 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 observed that the library contained no hard copy materials (p. 8, line 25) The library contained a computer, however staff present did not know how to operate it (p.8, line 25) One detainee submitted a request to use the library for legal research and was denied access (p10, line 28) The facility staff stated that ICE stated it would provide a "floating" law library, but has yet to do so (p.21, line 22) 	<ul style="list-style-type: none"> According to delegation observations and conversations with Officer [REDACTED] According to Officer [REDACTED] According to an interview with a detainee According to Officer [REDACTED] 	<p>2003 review indicates that there is only one computer designated for legal work in each 64 bed unit. It is also noted that ICE has begun the process to install the necessary materials to sustain a legal library.</p>
<p>Admin Segregation</p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> The facility segregated transsexuals when multiple detainees were present, however if only one transsexual detainee was at the facility they were held in general population (p. 17, line 17) 	<ul style="list-style-type: none"> According to Officer [REDACTED] 	<p>Not noted in 2003 review.</p>
<p>ICE Presence</p> <ul style="list-style-type: none"> III.D "Staff will not harass, discipline, punish or otherwise retaliate against a detainee lodging a complaint" 	<ul style="list-style-type: none"> According to the facility, while ICE used to visit the facility bi-weekly, that has changed and visits are more sporadic with as much as 3 months in between (21, line 14) 	<ul style="list-style-type: none"> According to Officer [REDACTED] 	<p>Not noted in 2003 review.</p>