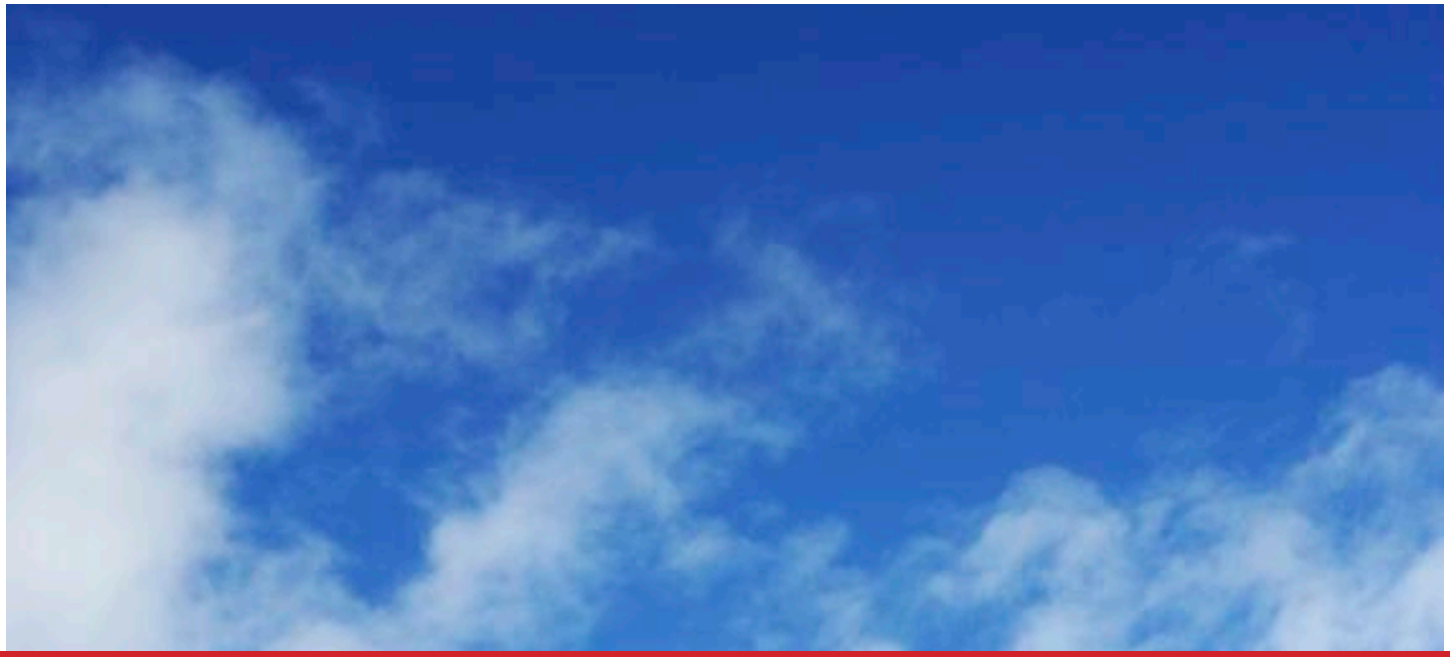

# A BROKEN SYSTEM

## Confidential Reports Reveal Failures in U.S. Immigrant Detention Centers

# A Broken System

## CONFIDENTIAL REPORTS REVEAL FAILURES IN U.S. IMMIGRANT DETENTION CENTERS


**NATIONAL IMMIGRATION LAW CENTER**

**ACLU OF SOUTHERN CALIFORNIA**

**HOLLAND & KNIGHT**

**PRINCIPAL AUTHORS**

**Karen Tumlin & Linton Joaquin**
NATIONAL IMMIGRATION LAW CENTER

**Ranjana Natarajan**
FORMERLY OF THE ACLU OF SOUTHERN CALIFORNIA

## NATIONAL IMMIGRATION LAW CENTER

3435 Wilshire Blvd., Suite 2850, Los Angeles, CA 90010 | 213.639.3900 | info@nilc.org | www.nilc.org


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1313 West Eighth St., Los Angeles, CA 90017 | 213.977.9500 | www.aclu-sc.org


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**THIS REPORT'S PRINCIPAL AUTHORS**

Karen Tumlin, Staff Attorney, National Immigration Law Center
Linton Joaquin, General Counsel, National Immigration Law Center
Ranjana Natarajan, an attorney formerly of the ACLU of Southern California



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# Acronyms Used in This Report

ABA - American Bar Association
ADA - Americans with Disabilities Act
CAT - Convention Against Torture
CDF - Contract Detention Facility
COM - Correspondence and Other Mail
DHS - U.S. Department of Homeland Security
DOM - Detention Operations Manual
DRO - Office of Detention and Removal
DSCU - Detention Standards Compliance Unit
DTNS - Detainee Transfer Notification Sheet
FPP - Funds and Personal Property
GP - Group Presentations on Legal Rights
ICE - U.S. Immigration and Customs Enforcement
IGSA - Intergovernmental Service Agreement (or a nonfederal jail or prison that holds immigrant detainees under such an agreement)
INS - Immigration and Naturalization Service
LEO – law enforcement officer
NGO - nongovernmental organization
ODRO - Office of Detention and Removal Operations
OIC – officer-in-charge
PBNDS - Performance Based National Detention Standards
RIC - reviewer-in-charge
SMU - Special Management Unit
SPC - Service Processing Center
UNHCR - United Nations High Commissioner for Refugees

# Executive Summary

This report presents the first-ever system-wide look at the federal government's compliance with its own standards regulating immigrant detention facilities, a view based on previously unreleased first-hand reports of monitoring inspections. The results reveal substantial and pervasive violations of the government's minimum standards for conditions at such facilities. As a result, over 320,000 immigrants locked up each year not only face tremendous obstacles to challenging wrongful detention or winning their immigration cases, but the conditions in which these civil detainees are held often are as bad as or worse than those faced by imprisoned criminals.

Each day, U.S. Immigration and Customs Enforcement (ICE) holds more than 31,000 immigrant detainees in facilities across the U.S.[1] — a number that has steadily increased, from 6,259 in 1992, to approximately 20,000 in early 2006, to the current figure of 31,000.[2] This growth in the immigrant detainee population is due to a confluence of policy changes, including increased immigration raids at homes and workplaces, and policies that make deporting even lawful permanent residents easier and which require that all immigrants, including asylum-seekers, be detained before they are deported.

By any measure, the U.S. runs a massive immigrant detention program: hundreds of thousands of immigrants are locked up each year in hundreds of facilities across the country. Despite the system's large size, not enough is known about the system itself, how the federal government attempts to monitor detention facilities' performance with its own minimum standards with regard to the conditions under which detainees may be held, or whether this monitoring is adequate. Detainees are housed primarily in three types of facilities: Service Processing Centers (SPCs), Contract Detention Facilities (CDFs), and Intergovernmental Service Agreement facilities (IGSAs). SPCs, of which there currently are seven that house approximately 13 percent of ICE detainees,[3] are owned and operated by ICE. CDFs are operated by private companies under contract with ICE (ICE currently uses seven CDFs, which house approximately 17 percent of ICE detainees[4]). And IGSAs, which house approximately 67 percent of all immigrant detainees, are facilities that ICE uses under contracts with state or local governments. Typically, IGSAs are state or county jails that provide bed space for immigration detainees. ICE also houses approximately 3 percent of immigration detainees in U.S. Bureau of Prisons facilities or in other facilities.[5]

Despite the rapid growth since 1992 of the immigrant detention system, it is woefully unregulated. Neither the first set of detention standards that were promulgated beginning in 2000 nor their replacement, the "Performance Based National Detention Standards" (PBNDS) released in September 2008, are legally binding, sending a clear message that noncompliance carries no real penalty. The standards also are undermined by a lack of uniformity across the detention system. Critical provisions within many of the standards, the new PBNDS included, expressly do not apply to IGSAs, where the majority of immigration detainees are held. While the standards state that CDFs and SPCs are required to follow all standards' provisions, IGSAs are permitted to adopt alternative procedures for implementing portions of the standards that are designated by italicized language in the standards. Moreover, the government has maintained a deliberate policy of opaqueness with respect to whether detention facilities conform to the standards, refusing to allow the public access either to its own facility audits or to the results of reviews conducted by the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR), both of which have been given access to facilities on the condition that their reports be shared only with ICE.

This report is based on analysis of previously unreleased portions of ABA, UNHCR, and ICE detention facility review reports from 2001 through 2005, which the government released only as a result of court-ordered discovery in *Orantes-Hernandez v. Holder*.[6] In producing this report, the authors reviewed over 18,000 pages of never-before-released documents. However, because the government withheld a substantial amount of the information that the court ordered it to produce, there is no doubt that the detention standards violations reported and analyzed here comprise only a fraction of the violations documented by ICE in 2004 and 2005.

In addition, this report's description of the system whereby ICE monitored compliance with the detention standards is based in part on the deposition testimony of two ICE officials, each of whom served as chief of the Detention Standards Compliance Unit (DSCU); the depositions of three ICE field officers who were selected by the agency to testify regarding their inspection practices; as well as ICE training and management materials, including its Detention Management Control Program (DMCP) manual, produced during *Orantes*-related discovery.[7] Deposition testimony reveals that the monitoring practices of individual ICE officers varied in many ways from the procedures spelled out in the DMCP manual.[8]

In this report, the chapter titled "The ICE Detention Standards Monitoring System" provides a description, based on information gleaned from these previously unavailable documents, of the government's oversight

system and identifies its shortcomings. Subsequent chapters summarize information on the government's compliance, or lack thereof, with 15 detention standards that relate, either directly or indirectly, to detainees' constitutional and statutory due process rights and their ability to effectively challenge their deportation cases while in detention;[9] this summarized information was obtained from the previously confidential monitoring reports. Finally, the "Recommendations" chapter provides suggestions for improving the government's oversight of conditions that obtain throughout the U.S.'s immigration detention system.

## THE ICE SYSTEM FOR MONITORING COMPLIANCE

The documents and depositions upon which this report is based also provide new information about how ICE has attempted to assess compliance with its detention standards at the hundreds of facilities scattered across the country where immigrants are held. As described below, this information reveals that the government's past efforts to monitor compliance with the standards have been woefully deficient and in need of a major overhaul. Deposition testimony by ICE staff revealed that the compliance unit (the DSCU), which the now defunct Immigration and Naturalization Service (INS) created in 2002 within the agency's Office of Detention and Removal Operations (DRO) to monitor compliance with the detention standards, has been understaffed throughout its history. Nevertheless, the DSCU has been charged with ensuring that each immigration detention facility is reviewed annually. According to deposition testimony, to become authorized reviewers, officers from headquarters and ICE field offices have been required to attend a 40-hour training. Following this training, officers could be assigned to conduct three-day "headquarters reviews" of CDFs and SPCs.[10] These reviews were conducted by teams composed of one inspector from the DSCU, who acted as the reviewer-in-charge (RIC); two field officers, who participated in the reviews as "collateral duties" to their other official tasks; and a staff member from the Division of Immigration Health Services.[11] By contrast, IGSAs, the state and local facilities that comprise the vast majority of immigration detention facilities, were inspected only by law enforcement officers (LEOs) from local ICE offices. These were typically ICE deportation or detention officers for whom inspections were merely an occasional, additional task.[12] LEOs worked in teams of two to conduct two-day "operational reviews" of IGSAs.[13] Under the government's monitoring system, facilities scheduled for monitoring have been given at least 30 days' advance notice, allowing facilities to clean up problems in advance of a review. And the compliance unit's practice has been to conduct no facility reviews without providing advance notice.[14]

To conduct a review, the reviewing officers physically inspected the facility and spoke with facility staff, and sometimes detainees, to obtain the information necessary to complete the relevant review worksheets. These forms contain one- or two-page checklists pertaining to each of the 38 original detention standards. In all, the form for facilities designated to house detainees for over 72 hours consists of approximately 85 pages, while the form for facilities that may hold a detainee only for up to 72 hours is much shorter. Reviewers completed the applicable form by marking boxes next to statements describing various elements of a standard to indicate whether a facility was in compliance with the given elements, and by adding any relevant comments. Based on the facility's level of compliance with the listed elements, the reviewer determined whether, in his or her discretion, a facility's compliance with each standard was "acceptable," "deficient," "at risk," or a "repeat finding." Based on a review of each of the standards, the RIC then recommended an overall rating of "superior," "good," "acceptable," or "at risk" to indicate the nature of the facility's overall compliance with the standards. The review team's report was then submitted to the compliance unit, after which it was subject to a completeness check and reviews by the unit's chief and the DRO director. Despite these multiple levels of review, our analysis of the final evaluations revealed a surprising number of basic errors, such as identifying the wrong facility and using the wrong form for the type of facility that was evaluated. Moreover, the headquarters reviewer rarely required that additional steps be taken to cure identified violations of the detention standards; instead, he or she often gave facilities higher overall assessments than the review team's original ones.

Our analysis also uncovered systemic problems with the annual review procedures and their inadequacy for identifying and correcting noncompliance with the detention standards. Because ICE currently is in the process of turning over detention standards monitoring responsibilities to a private contractor, it is critical that these problems be identified and addressed *now*, in order to avoid their recurrence under the new PBNDS monitoring system. Past mistakes and shortcomings have included:

- Almost exclusive reliance on incomplete checklists as the basic instruments for monitoring compliance.
- Reliance on ICE officers with other full-time duties to carry out the bulk of detention

standards monitoring, including *all* of the monitoring of IGSAs.

- Failure to staff the monitoring function with sufficient full-time, trained staff.
- Failure to establish adequate objective criteria for rating compliance with individual standards and for facilities' overall compliance.
- Failure to use unannounced reviews as a method of checking compliance.
- Failure to make detainee interviews an essential element of monitoring.
- Keeping the monitoring process and results secret, thus avoiding accountability to the public.

## ANALYSIS OF ICE'S COMPLIANCE WITH 15 DETENTION STANDARDS

This report analyzes previously unreleased documents that assess the government's compliance with 15 detention standards that relate to detainees' constitutional and statutory due process rights and their ability to effectively challenge their deportation cases while in detention. The documents reveal widespread and severe violations of the standards. In addition, reviews conducted by independent agencies — the ABA and the UNHCR — routinely documented violations that government reviews failed to capture, even when reviews of the same facilities conducted by the government and an independent agency occurred within a few weeks or months of each other. This excerpt from the chapter on the detention standard for recreation illustrates this problem:

> In May 2003, ICE reviewed Kenosha County Detention Center and rated the facility acceptable for the [recreation] standard, despite noting that the facility had no recreation staff or specialists, that the OIC did not review decisions to revoke the recreation privileges of detainees in disciplinary segregation before those decisions became effective, and that case officers were unaware that the standard required them to make written transfer recommendations about every six-month detainee lacking access to outdoor recreation. A report by UNHCR issued four months later further revealed that while male detainees had access to recreation facilities for about two hours a day, female detainees were not allowed access to the facility's outdoor recreation area because of its location and concerns that male detainees could see the outdoor area from their windows. UNHCR recommended that female detainees be allowed an hour of outdoor recreation daily, in accordance with the standard. However, in May 2004, ICE again rated the facility's recreation program acceptable, failing to address in any way the disparity in male and female access noted in the UNHCR report. Two months later the ABA reported that female detainees still had no access to outdoor recreation and were restricted to an indoor gym that lacked equipment. The ABA also reported that, when outdoors, male detainees were not allowed to run or play ball games. They were limited to walking and sitting, apparently to prevent injuries. In June 2005, ICE once again rated the facility acceptable for the standard, again without any consideration of the prior ABA or UNHCR reports. Subsequently the ABA conducted a second inspection and reported in September 2005 that female detainees were still barred from the outdoor recreation area. Thus, after three years of repeated notice, ICE failed to respond to the need to provide female detainees with an opportunity for outdoor recreation.

Moreover, for the following reasons, the violations documented in this report undercount the true number of detention standards violations system-wide:

1. The government failed to produce all of its inspection reports for immigration facilities, despite the clear court order to do so.
2. The forms used by ICE reviewers to record their observations are inadequate in multiple ways: the forms capture only a portion of each standard's actual requirements, and often they provide only one checklist item for monitoring two related-but-separate elements of a standard, thus making it impossible to assess the actual scope of the violation documented.
3. The forms contain unclearly worded instructions, sometimes causing different reviewers to interpret the forms in diametrically opposite ways.

Below we present a brief description of each of these detention standards, along with conclusions we reached as a result of our analysis.[15]

### Visitation

The standard on visitation sets forth procedures for both general visitation (by family and loved ones) and legal visitation (by attorneys, legal representatives, and their assistants). It contains guidelines for the manner and frequency of visits, allows detainees to receive money and select items of personal property from loved ones, and allows for private consultation between detainees and their legal representatives. The persistent failures of facilities to respect detainees' visitation rights severely hamper detainees' ability to exercise their constitutional and statutory rights of access to counsel. Our analysis found that facilities not only frequently failed to comply with the visitation standard's requirement that detainees be notified of available local pro bono legal services, they also burdened confidential

attorney-client visitation in numerous ways. Specifically, our review found that over 60 facilities failed to post the required list of pro bono legal services organizations serving the local area. (The purpose of this requirement is to ensure that detainees who are unrepresented have an opportunity to obtain counsel.) In addition, our review found that facilities violated rules on general visitation, a practice that inevitably results in severe and unnecessary deprivation of access to family and loved ones. Our analysis also revealed that 17 facilities failed to provide detainees the option of a non-contact visit with friends or family members in order to avoid a subsequent strip search. Given the isolation of immigration detention, ICE must do more to ensure that facilities comply with the visitation standard and allow detainees to meet with their lawyers and loved ones with the fewest restrictions possible given the circumstances.

## Recreation

The detention standard regarding recreation acknowledges the importance of recreational activities to the mental and physical wellbeing of detainees. To this end, the standard requires facilities to offer supervised and safe recreational opportunities to all detainees, including individuals with special needs and those in segregation. Both ICE reviews and reports by the ABA and UNHCR reveal that detainees were regularly deprived of recreational opportunities that are essential to their physical, mental, and emotional health. Especially pervasive was the failure of at least 41 facilities to provide the minimum number of hours and days of recreation required by the recreation standard. These violations render recreational programs inherently inadequate, as they may be offered only sporadically or at the discretion of facility staff. In addition, many facilities failed to provide any access to outdoor recreation, which offers detainees both physical benefits and an opportunity to interact with the natural environment. Several of these facilities also failed to implement the standard's procedures for transferring detainees to facilities that had such programs. Even where facilities had recreation programs in place, these were rendered inadequate or meaningless at a large number of facilities due to a lack of exercise equipment and materials, and to insufficient space in which to partake in recreational activities. Finally, several facilities unnecessarily restricted access to recreation by denying opportunities to individuals in segregation, by providing more limited offerings to females than males, and by concurrently scheduling law library and recreation time, so that detainees had to forfeit one or the other. Our analysis revealed that ICE found 19 facilities to have no outdoor recreation program of any kind, yet ICE rated only 4 of these 19 facilities as deficient for the recreation standard. In addition, when ICE subsequently reviewed 4 of these facilities that had lacked outdoor recreation, it again rated them as acceptable for the standard, even though they had failed to add any sort of outdoor recreation since the last inspection.

## Telephone Access

The telephone access standard is especially important because it helps facilitate detainees' access, via phone, to legal counsel as they challenge the government's attempts to remove them from the U.S. Access to telephones while in detention also allows detainees to maintain contact with family and friends, including their U.S. citizen children, while they are being detained. ABA and UNHCR reviews, as well as ICE's own reviews, offer compelling evidence that ICE has consistently failed to require detention facilities to comply with the telephone access standard. The most pervasive and troubling violations are lack of privacy afforded to detainees when making confidential legal calls, monitoring of legal calls by facility officials, failure to post instructions regarding free and other special access calls, arbitrary and unnecessary time limits placed on detainees' telephone calls, and refusal by facility staff to deliver phone messages to detainees. Our analysis revealed that 32 facilities failed to allow detainees to make special access calls to courts, consulates, or free legal service providers and that 30 facilities failed to provide a reasonable degree of privacy for legal phone calls. In addition, 38 facilities failed to post telephone-related rules in public spaces as required by the standard. All told, the reviews paint a picture of a system in which phones are present, but detainees have a difficult time using them due to a lack of information about phone procedures and cumbersome processes for placing what should be direct calls. As a result, detainees' ability to obtain legal assistance and develop their cases is greatly compromised.

## Access to Legal Material

Immigration law is notoriously complex, and non-citizens' chances of being allowed to remain in the U.S. increase dramatically when they are represented by qualified counsel. But since hiring counsel is a luxury that the majority of detained immigrants cannot afford, the detention standard on access to legal material is intended to ensure that detainees have the ability to research and pursue their legal cases while in detention. The standard requires facilities to set up a physical law library to provide detainees with an adequate environment in which to conduct legal research and to prepare their own legal documents. However, the facility reviews we analyzed show that the huge obstacles standing in the way of any immigrant detainee representing

him or herself effectively were made higher by the fact that at least 29 detention facilities had no law library, while other facilities' few legal holdings were so outdated that they likely presented misguided information to detainees preparing their cases. Our analysis revealed, for example, that 59 facilities did not make available some or all of the legal material that the standard requires they have on hand. At still other facilities, detainees could read legal material only if they made a request for a specific document, regardless of the fact that most detainees have no way of knowing the titles of the statutes or court cases that might help them win the right to remain in the U.S. ICE reviews reveal that at other facilities, even if the appropriate legal books were available, there were either no or not enough typewriters or computers available for detainees to use in filing their legal paperwork.

## Group Presentations on Legal Rights

The "Group Presentations on Legal Rights" detention standard requires facilities to allow authorized attorneys and representatives, upon written request, to conduct presentations about immigration law and the rights of immigrant detainees. ICE detention facility reviews reveal that a striking number of facilities housing ICE detainees (133 facilities) hosted no legal rights presentations in the twelve months preceding their annual reviews. The conclusion we draw from this fact is that the majority of ICE detainees have no access to free legal rights presentations while they are in detention. The extent to which this reality is the result of failure to follow the group presentations standard is impossible to ascertain in light of deficiencies in the monitoring instrument used to evaluate compliance with the standard — the form instructs reviewers to mark the facility as in compliance with the standard if no presentations were held in the past year. It is thus possible that both the scarcity of presenter resources and improper conduct by facilities contributed to the striking lack of availability of these important programs. Moreover, ICE reviews indicate that even when legal rights presentations are offered, their accessibility to detainees may be limited by the failure of facilities to provide adequate notice to detainees, to permit a sufficient number of presentations to accommodate all interested detainees, and to admit interpreters to assist in overcoming language barriers. Equally troubling is the failure of some facilities to permit individual counseling by presenters or to present showings of ICE-approved legal rights videos. These violations of the standard have grave consequences for detainees, many of whom rely exclusively on the information provided by legal rights organizations to navigate the immigration system and fight their legal cases.

## Correspondence and Other Mail

Access to correspondence is crucial for detainees, since mail is a primary means of communication with family and loved ones, attorneys and advocates who assist detainees with their immigration cases, and courts to which they must make timely legal filings. Facilities' failure to respect detainees' correspondence rights can cause them to lose their cases or their access to counsel. Facilities most commonly violated aspects of the standard involving inspection procedures for incoming mail, confiscation of items from detainee mail, and the procedures to notify detainees of mail policies. As a result, facility personnel may have read confidential special correspondence, destroyed identity documents, caused detainees to miss court deadlines, and intimidated detainees from freely sending and receiving mail. Our analysis showed that dozens of facilities violated the requirement that facility personnel not inspect or read incoming general correspondence outside of the detainee's presence without authorization from the officer-in-charge. By reading mail in violation of the standard, facility personnel may have accessed information that motivated them to retaliate against or mistreat detainees. In addition, our review revealed that over 20 facilities imposed unreasonable limits on the number of mail items detainees could send for free. Since ICE holds thousands of detainees at a great distance from family and available legal service providers, access to correspondence is vital. Violations of the correspondence standard impede confidential attorney-client communications, intimidate detainees from communicating openly with courts and advocates about their cases, and prevent indigent detainees from having adequate access to correspondence.

## Administrative and Disciplinary Segregation

Administrative segregation is supposed to be non-punitive isolation in which conditions of confinement are restricted for the limited purposes of ensuring the safety of the isolated detainee or other detainees, or for facility security and order. Disciplinary segregation, on the other hand, is used to temporarily isolate detainees for punitive purposes when their behavior does not comply with facility rules. Segregation, particularly when it is disciplinary, is a severe punishment that should be used with the utmost caution and with careful adherence to required procedures. The government and independent reports reveal, however, that at numerous facilities segregated detainees were subjected to excessive isolation or punishment, in violation of the detention standards. These reports found widespread violations with respect to unduly limited privileges, inappropriately long segregation periods, unsanitary conditions,

as well as inadequate health care protection for segregated detainees. For example, our review showed that over 30 facilities failed to provide segregated detainees with required health care visits. And 32 facilities failed to provide adequate visitation and recreation for segregated detainees.

## Disciplinary Policy

The "Disciplinary Policy" detention standard is meant to protect detainees against arbitrary disciplinary sanctions for acts that violate a facility's rules. It also lays out procedures giving detainees notice of their rights and responsibilities regarding compliance with facility rules and the opportunity to be heard if sanctions are imposed. In its reviews, ICE found numerous instances in which facilities failed to notify detainees of their rights or responsibilities with respect to a facility's disciplinary policy. Our analysis revealed that 64 facilities violated the requirement that disciplinary rules be conspicuously posted. In addition, 33 facilities failed to meet basic procedural requirements for disciplinary procedures. Perhaps because of limitations in the review forms used to perform the evaluations, ICE did not uncover serious violations that ABA and UNHCR reviewers found, such as the imposition of prohibited or retaliatory sanctions for disciplinary infractions. Since fair, even-handed, and transparent disciplinary policies are vital to ensuring the rights of individual detainees as well as facility security, stricter compliance with the disciplinary standard is crucial to achieving both these objectives.

## Detainee Handbook

The detainee handbooks standard requires that every facility housing immigration detainees develop a facility-specific detainee manual that provides an overview of the facility's policies, rules, and procedures, and requires that every detainee receive a copy of the handbook upon admission to the facility. Such handbooks serve an essential function when they communicate facility rules and regulations to detainees. The evidence from ICE and independent reviews shows, however, that facility handbooks too often presented an inaccurate or incomplete picture of facility policy, because key portions of the detainee handbook were missing or contained erroneous or inappropriate information. For example, our analysis revealed that 36 facilities failed to outline in their handbooks the methods for classifying detainees by security level, and 30 facilities failed to include the required sections on law library procedures and schedules. In many instances, handbooks presented information on facility programs or rules that did not match actual facility practice. Being provided no or inadequate handbooks places detainees in the difficult position of either not knowing facility rules and policies or not being able to point to written rules and policies, yet still having to bear the consequences if they violate them.

## Hold Rooms in Detention Facilities

The hold rooms standard sets forth physical space requirements and design specifications for hold rooms, as well as requirements for holding detainees and for monitoring and inspecting hold rooms. It is impossible to assess thoroughly the extent of ICE compliance with the hold room standard based on the completed ICE monitoring forms we analyzed, due to fundamental deficiencies in the forms and procedures used by ICE to monitor compliance with the standard. The forms fail to provide checklist items to measure some important elements of the standard, the wrong forms were sometimes used, and the ratings marked on the forms often were inconsistent with the comments noted by monitors in the forms' margins. Most notably, in 47 reviews the monitors failed to assess whether detainees in hold rooms had adequate access to toilet facilities, due apparently to the monitors having misunderstood the checklist questions. Of the violations noted on the completed checklists, the most widespread one was keeping detainees in hold rooms for too long a time. Our review revealed that 34 facilities violated the requirement that detainees not be kept in hold rooms for over 12 hours.

## Detainee Grievance Procedures

A key protection against detention staff misconduct is the ability of detainees to file grievances and have them resolved by uninvolved officers without fear of retaliation. The "Detainee Grievance Procedures" detention standard is designed to ensure such a process exists and that those detainee grievances are resolved in a satisfactory, impartial, and timely manner. It is impossible to get a firm handle on how many and what kinds of grievances detainees made or whether facilities handled these grievances inadequately because the forms used by ICE to monitor compliance with the grievance standard were deficient in several key ways that resulted in an incomplete assessment of the problems that actually existed. Nevertheless, ICE reviews revealed widespread levels of noncompliance with the grievance standard. Most fundamentally, detention facilities did a dismal job informing detainees that they have a right to file a grievance. Our review found that 40 facilities either failed to include any mention of the grievance policy in their facility handbooks or omitted key portions of this policy. Undoubtedly, printing the grievance procedures in a detainee handbook is one of the easiest of the grievance standard's elements to sat-

isfy, but still it was routinely violated. As we found with the other standards discussed in this report, the ABA reports reveal significant violations of the grievance standard that are not captured by ICE reviews. Specifically, these reports routinely noted that detainee grievances were not responded to in a timely fashion or at all, an element of the grievance standard that the ICE form does not even track.

### Detainee Transfer

The detainee transfer standard, which was adopted in 2004, is intended to ensure that detainees are treated respectfully, afforded their legal rights, and protected from security threats when they are transferred from one facility to another. The process of being transferred can be traumatic for detainees, especially if they are moved to remote facilities a great distance away from their families and loved ones. A transfer can also interfere with attorney-client relationships and obstruct the effective presentation of a detainee's legal case. Moreover, for detainees with special medical needs, a transfer made without proper attention being paid to those needs can be dangerous or even fatal. Given the importance of this standard, facilities' failures to comply with (1) its requirements and procedures regarding notifying counsel and family members and (2) its medical care procedures are cause for serious concern.

### Funds and Personal Property

The "Funds and Personal Property" standard is designed to safeguard detainees' money and personal property by requiring all facilities to have written procedures for receiving, processing and storing, and returning such items. Noncompliance with this standard renders the storage of property at many detention facilities a risky proposition for detainees. ICE reviews reveal, in addition to instances of theft and outright forfeiture of detainee funds and property, that several facilities failed to audit the contents of their property storage areas to even enable an assessment of whether property had gone missing. A surprising number of facilities also failed to account for lost or damaged property, and our analysis of ICE reviews revealed that 20 facilities failed to reach out to detainees about property they had left behind, probably resulting in other unwarranted deprivations of property. Equally troubling, two facilities deprived detainees of their right to retain small possessions, including photos, wedding rings, addresses, and legal documents, to the potential detriment of detainees' mental and emotional health as well as their legal cases. Still further, two facilities endangered the health of detainees by failing to separately process medications to ensure their timely transfer to medical staff. The incompleteness of IGSA monitoring forms strongly suggests that these violations are only a small percentage of those that actually occur at facilities housing ICE detainees.

### Admission and Release

The detention standard regarding admission and release is designed to protect the health, safety, and welfare of detainees by requiring detention facilities to implement admission procedures that help orient detainees who are new to a facility and release procedures that are supposed to ensure that the property of departing detainees is returned to them. Our analysis of facility reviews revealed that several facilities failed to properly orient newly arrived detainees and inform them of facility procedures and other crucial information. In addition, our analysis found that several facilities applied the standard's requirements regarding searches (including strip-searches) inconsistently and that other facilities failed to provide adequate medical screening of newly arriving detainees, thus placing their health, or even lives, at risk, while other facilities violated the standard by either failing to provide detainees with necessary personal hygiene items or charging them for the items.

## RECOMMENDATIONS AND CONCLUSION

There is no question that the nation's immigrant detention system is broken to its core. The findings in this report, as well as those recently documented by various government and independent agencies, reveal pervasive and extreme violations of the government's own detention standards as well as fundamental violations of basic human rights and notions of dignity. Simply by making detention standards enforceable and putting resources into enforcing them, both Congress and the administration could take concrete steps to ensure that no immigrant in the custody of the federal government is held in a facility that cannot or refuses to comply with these minimum requirements. More fundamentally, given the documented abuses in the nation's immigrant detention system, the federal government should halt the system's further expansion and make increased use of humane alternatives to detention.

Our recommendations for improving the government's oversight of conditions within the U.S.'s immigration detention system are the following:

**Increase accountability for failures within the system by**

- Promulgating regulations that give ICE's detention standards the force of law.
- Strengthening the current ICE detention standards to ensure that they provide an appropriate level of protection for civil detainees.
- Codifying key portions of the ICE detention standards into statute.
- Creating and enforcing a graduated system of penalties for noncompliant facilities.
- Providing training on detention standards for all detention-related personnel in all immigration detention facilities.
- Increasing ICE presence at state and local jails (IGSAs) and Contract Detention Facilities (CDFs) holding immigration detainees.
- Ensuring that advocates can report detention standards violations without facing retaliation from the agency.

**Promote uniformity across detention facilities by**

- Ensuring that state and county jails holding ICE detainees under Intergovernmental Service Agreements (IGSAs) are held to the same standards as facilities owned and operated by ICE (Service Processing Centers, or SPCs) and privately owned facilities holding ICE detainees (Contract Detention Facilities, or CDFs).

**Increase the transparency of the system by**

- Making publicly available and regularly updating a map of facilities in use, with their precise locations and a system to locate detainees.
- Making public the reports of the ABA and the UNHCR, as well as the internal facility reviews and ratings done by ICE, to ensure that ICE is held publicly accountable for the conditions at its detention facilities.
- Compiling data about the most frequently violated standards and elements of standards to allow for additional training in problematic areas and a systematic and meaningful agency response to deficiencies; and making this information public, and inviting advocates to respond.
- Requiring ICE to inform the public about its new monitoring plans under the Performance Based National Detention Standards (PBNDS) and to seek feedback from nongovernmental organization stakeholders about these plans.

**Promote uniformity in the review system by**

- Clarifying the standards and facility ratings criteria to reduce individual discretion by reviewing officers.
- Conducting annual audits of facility reviews to increase uniformity, identify training needs, and decrease reviewer variation.

**Improve the ICE internal review process by**

- Revising ICE policy to require unannounced inspections of all facilities.
- Clarifying and enforcing the requirement that facility reviewers must conduct confidential interviews with detainees as part of the review process, and requiring that interpreters be made available to facilitate these interviews.
- Strengthening detention standards review training and requiring all compliance review staff to take an annual "refresher" training.
- Ensuring that all facilities housing immigration detainees are inspected by reviewers whose full-time job is to monitor detention standards compliance.
- Revising facility review forms to require the reviewer to write a detailed narrative that in subsequent years will provide a context for facility evaluations and recommendations regarding deficiencies.
- Requiring that detainee grievances for each facility be reviewed before ICE annual inspections or independent evaluations.
- Requiring that inspection officers be truly independent from facilities (to preclude cronyism and the potential for superficial reviews).

**Increase independent review of the detention system by**

- Appointing an independent auditor to monitor detention conditions, report to Congress, and suggest changes to the detention monitoring system.

**Stop the expansion of immigration detention and promote detainee rights and alternatives to detention. To do this, Congress must:**

- Halt the expansion of the immigration detention system and provide for more alternatives to detention.
- Expand programs designed to ensure that detainees are informed about their legal rights and that those rights are protected.
- Establish and fund a pilot program to provide court-appointed legal counsel to detained immigrants.

The average number of immigrants detained daily tripled between 1996 - 2007.

# Introduction

This report presents the first-ever system-wide look at the federal government's compliance with its own standards regulating immigration detention facilities. The results reveal substantial and pervasive violations of the government's minimum standards for conditions at the hundreds of facilities it uses to detain immigrants across 43 states and 2 territories. As a result, over 320,000 immigrants locked up each year face barriers to accessing telephones, legal counsel, and basic legal materials, barriers that individually and jointly comprise tremendous obstacles to challenging their wrongful detention or winning their cases and thus the right to remain in the United States. In addition, although they are nominally held in civil administrative detention, these immigrants face unduly harsh and restrictive detention conditions.

The majority of facilities used to lock up immigrants are state and local jails that rent bed space to the federal government or private detention facilities run by corporations. A substantial number of these facilities are located in remote areas of the country far away from the detainees' family and loved ones and in areas with few, if any, immigration attorneys or immigrants' rights organizations. These conditions, and the violations of the government's own standards, undermine immigrants' constitutional rights to due process and fail to respect their human dignity.

Over the past decade the number of detained immigrants has skyrocketed due to a confluence of policy changes, including increased immigration raids at homes and workplaces, and policies that make deporting even lawful permanent residents easier and which require that all immigrants, including asylum-seekers, be detained before they are deported. The average number of immigrants detained each day tripled between 1996 and 2007. Over the course of fiscal year 2007, over 320,000 immigrants were held in the custody of U.S. Immigration and Customs Enforcement (ICE).[1] Never has it been more critical to ensure that the facilities in which immigrants are imprisoned meet basic standards for human dignity and due process.

Despite this rapid growth, the immigration detention system is woefully unregulated. Although the federal government has standards setting out basic requirements for detention, the current standards are not legally binding, sending a clear message that noncompliance carries no penalty. In addition, there are no real penalties for facilities' noncompliance with even the most fundamental portions of the detention standards or for repeated, serious violations of the standards. The lack of compliance with the standards may be due in large part to ignorance of the standards' requirements. ICE has not provided training to state and local jail staff regarding the detention standards, despite the fact that these facilities house the majority of immigration detainees.

The standards also are undermined by a lack of uniformity across the detention system. Critical portions of many of the detention standards are not strictly applicable to the state and local jails holding ICE detainees. Perhaps most troubling are the efforts the government has taken to ensure that the public does not know how poorly its detention facilities are run. Since the national detention standards were created in 2000, two independent agencies, the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR), have been evaluating whether detention centers are complying with the standards. These agencies have been given access on the condition, however, that their reports be shared only with ICE. In addition, ICE has conducted its own annual audits of its detention facilities since 2002 but has refused to make the results public. The agency has doggedly refused to promulgate binding regulations. And, despite repeated calls for greater transparency, accountability, and internal controls in its detention system, the government has not taken effective measures to ensure that even its nonbinding standards are met.

**Table 1: Numbers of Reports Analyzed, by Year and Report Type**

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| ABA Reports | 1 | 8 | 16 | 18 | 4 |
| UNHCR Reports | 14 | 3 | 8 | 11 | 7 |
| ICE Reviews[2] | 0 | 11 | 13 | 96 | 95 |

This report is based on analysis of previously unreleased portions of ABA, UNHCR, and ICE detention facility review reports from 2001 through 2005. This information was released only as a result of court-ordered discovery in *Orantes-Hernandez v. Holder*, a lawsuit originally brought in 1982 to challenge coercive practices by immigration agents, including practices at immigration detention facilities, that pressured nationals of El Salvador fleeing their country's civil war to forfeit meritorious claims to asylum. In 2005, through discovery, the government was ordered to produce all ABA and UNHCR reports from 2001 through 2005 and all facility reviews conducted by ICE between 2004 and 2005, plus ICE review reports on ten facilities for 2002 and 2003. In producing this report, the authors reviewed over 18,000 pages of never-before-released documents, which provide the most comprehensive look into the government's monitoring of its own detention standards that has ever been available.

However, the government withheld a substantial amount of information. It withheld information on detention facilities' compliance with 20 of the 38 national detention standards, including those for medical care, use of force, food service, and religious practices, among others. The government also failed to produce *all* facility reviews conducted by ICE during 2004 and 2005, despite the court order to do so. Instead, for both 2004 and 2005 the government produced complete facility reviews for only 53 facilities. When the court later ordered the government to produce information on the "Hold Rooms in Detention Facilities" standard, it became clear that ICE had withheld facility reviews for *at least* 133 facilities that it reviewed in 2004 and 2005. There is no doubt, therefore, that the detention standards violations reported and analyzed here comprise just a fraction of the violations documented by ICE in 2004 and 2005.

The 15 detention standards analyzed in this report relate, either directly or indirectly, to detainees' constitutional and statutory due process rights and their ability to effectively challenge their deportation cases while in detention. These standards concern detainees' ability to pursue legal claims, and they provide procedural safeguards to ensure that detainees are not denied certain privileges without recourse. The detention standards analyzed in this report are summarized in table 2.

On September 12, 2008, the government released a set of 41 new "Performance Based National Detention Standards" (PBNDS) intended to replace the current standards. The PBNDS are to apply in stages, and by January 2010 they are to apply to all facilities used to house detainees for periods longer than 72 hours. The PBNDS are extremely similar to the detention standards that they replace (i.e., those instituted in 2000).

**Table 2: Summary of Detention Standards**

| DETENTION STANDARD | STANDARD'S PRIMARY PURPOSE |
|---|---|
| Visitation | ♦ Establishes minimum number of hours for legal and family visitation; provides for privacy protections; requires that segregated detainees have appropriate visitation; lays out policies for nongovernmental organization (NGO), media, and community visitation. |
| Recreation | ♦ Provides for daily indoor and outdoor recreation for detainees; provides that recreation facilities must be maintained and that detainees in segregation must have recreation opportunities. |
| Telephone Access | ♦ Phones must be kept in working order; detainees must have the ability to place certain free calls; reasonable privacy protections and adequate numbers of phones must be provided. |
| Access to Legal Material | ♦ Ensures detainees have access to physical law libraries with adequate legal materials to assist detainees in preparing their cases. |
| Group Presentations on Legal Rights | ♦ Facilities must allow outside groups to make legal rights presentations if prescribed procedures are followed; detainees must have notice of and access to presentations. |
| Correspondence and Other Mail (Legal Mail) | ♦ Provides that detainees must be able to send and receive mail; provides that mail is to be inspected only under certain circumstances; establishes that implements for mailing must be provided. |

**Table 2 (Cont'd): Summary of Detention Standards**

| DETENTION STANDARD | STANDARD'S PRIMARY PURPOSE |
|---|---|
| Administrative Segregation (Special Management Unit) | ♦ Area set aside for administrative segregation must be nonpunitive; detainees must be made aware of reason for segregation; segregation decisions must be reviewed regularly; segregated detainees must receive the same or equal services and privileges as other detainees. |
| Disciplinary Segregation (Special Management Unit) | ♦ Detainees may be placed in disciplinary segregation only after panel decision; maximum placement is 60 days; must receive appropriate services and privileges. |
| Disciplinary Policy | ♦ Facilities must have a disciplinary policy and make detainees aware of the policy; hearings must be fair and sanctions appropriate; complaints must be handled in a timely fashion. |
| Detainee Handbook | ♦ Requires facilities to distribute handbooks covering facility procedures and detainee rights, and to translate handbooks and update them as necessary. |
| Hold Rooms in Detention Facilities | ♦ Establishes standards for the appropriate use of hold rooms, which are cells or rooms used to temporarily hold detainees during transfer, before court hearings, etc. |
| Detainee Grievance Procedures | ♦ Establishes policy for detainee grievances; provides notice of this policy to detainees; requires that grievances must be responded to in a timely manner and in writing; also establishes process for emergency grievances. |
| Detainee Transfer | ♦ Family and counsel must be notified of detainees' transfers; personal funds and property must accompany detainee; establishes policy for medical transfers. |
| Funds and Personal Property | ♦ Establishes procedures for inventory of detainee property and funds, including procedures to prevent theft and to deal with lost property. |
| Admission and Release | ♦ Detainees must be made aware of facility policies upon admission; establishes policy for cataloging detainee property, classifying detainees, and medical screening upon admission, and return of property on release. |

However, they do include some improvements over the prior standards, e.g., setting out goals that are more subject to measurement than was previously the case. Another improvement is that ICE is contracting out the task of monitoring compliance rather than relying on its own self-monitoring. However, as with the prior standards, the PBNDS have not been issued as enforceable regulations. Moreover, as with the prior standards, many provisions of the PBNDS are specifically applicable only to facilities directly operated by ICE or by private companies under contract with ICE; county jails and other facilities operated under intergovernmental agreements with ICE — which hold the majority of immigration detainees — may adopt alternative procedures.

In this report, the chapter titled "The ICE Detention Standards Monitoring System" describes the government's oversight system and identifies its shortcomings. Subsequent chapters present information, gleaned from the previously unreleased documents that were obtained as a result of discovery in the *Orantes* case, on the government's compliance, or lack thereof, with the 15 detention standards summarized in table 2. And the "Recommendations" chapter presents suggestions for improving the government's oversight of conditions that obtain throughout the U.S.'s immigration detention system.

# The ICE Detention Standards Monitoring System

## ICE DETENTION FRAMEWORK

Each day, U.S. Immigration and Customs Enforcement (ICE) holds more than 31,000 immigration detainees in facilities across the United States[1] — a number that has steadily increased, from 6,259 in 1992, to approximately 20,000 in early 2006, to the current figure of 31,000.[2] These detainees are housed primarily in three types of facilities: Service Processing Centers (SPCs), Contract Detention Facilities (CDFs), and Intergovernmental Service Agreement facilities (IGSAs).

SPCs, which house approximately 13 percent of ICE detainees,[3] are facilities owned and operated by ICE, though frequently staffed by guards or other personnel who are employees of private companies with which ICE contracts. There are currently seven SPCs in the U.S.[4] CDFs, by contrast, are operated by private companies under contract with ICE. ICE currently uses seven CDFs, which house approximately 17 percent of ICE detainees.[5] IGSAs are facilities that ICE uses under contracts with state or local governments. Many of them are also operated by private prison companies, under contract with the government entity with which ICE, in turn, contracts. IGSAs play a key role in ICE's detention structure, housing the majority (approximately 67 percent) of all immigrant detainees.[6] ICE distinguishes between two categories of IGSAs, based on the length of time that immigration detainees are held in them. "Under-72-hour IGSAs" hold detainees for up to 72 hours, after which time the detainees should be transferred to other facilities, while "over-72-hour IGSAs" may house detainees for months or even years as their cases progress. The number of IGSAs used to house ICE detainees constantly fluctuates,[7] but ICE currently uses more than 350 IGSAs,[8] approximately 160 of which house detainees for more than 72 hours.[9] ICE also houses approximately 3 percent of immigration detainees in Bureau of Prisons facilities operated by the federal government, or in other facilities.[10]

## THE NATIONAL DETENTION STANDARDS

In March 1998, in the midst of widespread criticism about conditions at facilities housing immigration detainees and in response to advocacy by the American Bar Association (ABA), the former Immigration and Naturalization Service (INS)[11] implemented 12 detention standards to guide the treatment of individuals detained in SPCs and CDFs.[12] Importantly, INS did not establish the standards as enforceable regulations, and they did not apply at all to IGSAs, the state and local facilities where the majority of INS detainees are kept.[13] In the years that followed, reports of deplorable conditions at many detention facilities, particularly state and local jails, resulted in continuing pressure on the agency to expand the scope of the standards.[14] Negotiations to establish a set of standards that would be applicable to all immigration detention facilities continued between, on the one hand, the ABA and other advocacy organizations and, on the other, the INS and the U.S. Department of Justice until September 2000,[15] and in November 2000 the Justice Department announced the promulgation of standards applicable to all immigration detention facilities.[16] The original 36 standards address three principal subject areas: detainee legal rights, detainee services, and facility security.[17] INS first adopted the 36 standards in September 2000[18] and released them publicly two months later through the agency's Detention Management Control Program (DMCP).[19] Despite the continued urging of the ABA, the INS refused to promulgate the standards as binding regulations.[20]

The standards were to go into effect in stages. They went into effect for all INS SPCs and CDFs in January 2001, for the nine largest jails and the Turner Guilford Knight Correctional Center in July 2001, and for all other IGSAs by the end of 2002.[21] However, many provisions of the standards expressly do not apply to IGSAs. While the standards state that CDFs and SPCs are required to follow all standards' provisions, IGSAs are permitted to adopt alternative procedures for implementing many portions of the standards (generally designated by italicized language in the standards), provided that the resulting conditions "meet or exceed the objective represented by each standard."[22]

After INS's functions were taken over by the U.S. Department of Homeland Security in 2003, the new Bureau of Immigration and Customs Enforcement issued two additional standards, addressing staff-detainee communication (issued in July 2003) and the transfer of immigration detainees between facilities (issued in September 2004).[23]

Finally, in 2007 ICE began a process of revising the detention standards. At the conclusion of this process, on September 12, 2008, the government released a new set of 41 "Performance Based National Detention Standards" (PBNDS) intended to replace the current standards.[24] The PBNDS are to apply in stages, and by January 2010 they are to apply to all facilities used to detain immigrants for periods longer than 72 hours. The PBNDS include some improvements over the stan-

dards included in the *Detention Operations Manual*,[25] because they set out goals that are more subject to measurement by monitoring than are the prior standards. Another improvement is that ICE is contracting out the task of monitoring compliance with the standards rather than relying on its own self-monitoring. However, as with the prior standards, the PBNDS have not been issued as enforceable regulations. Moreover, as with the prior standards, many provisions of the PBNDS are specifically applicable only to facilities directly operated by ICE or by private companies under contract with ICE. Each of the performance-based standards includes requirements printed in italics and expressly provides that "IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures."[26]

## KEY FINDINGS

- The Immigration and Naturalization Service **refused to promulgate the national detention standards as binding regulations** when it issued them in 2000, despite the American Bar Association's recommendation that they be issued as regulations.
- Many detention standard provisions **expressly do not apply to Intergovernmental Service Agreement facilities (IGSAs)**, where about 67% of detained immigrants are kept.
  - IGSAs are permitted to adopt alternative procedures for implementing many portions of the standards.
- **ICE's new "Performance Based National Detention Standards" (PBNDS) also are not enforceable regulations**.
- **Many PBNDS provisions are specifically applicable only to facilities directly operated by ICE** or by private companies under contract with ICE, but not to IGSAs.
- **Individual ICE officers' monitoring practices varied in many ways from the procedures spelled out by ICE's Detention Management Control Program** (DMCP), deposition testimony reveals.
- The DMCP manual's procedures for conducting facility reviews **lack specific criteria for assigning ratings to ensure that ICE's monitoring efforts are uniform and consistent**.
- A detention facility **could be rated "acceptable" despite its having received a "deficient" rating for several standards**.
- A detention facility **could be rated "acceptable" for an individual standard, even where it was found to be "deficient" in several (or conceivably all) of the core elements composing that standard**.
- An ICE officer who had supervised several detention facility reviews testified that **she would mark a facility "acceptable" as to a standard when it either complied with the intent of the standard or indicated that it would agree to make changes to comply with the standard in the future**.
- Although ICE maintains a database to track overall detention standard ratings for detention facilities, **ICE does not, for example, track which specific standards are consistently not being met by facilities nationwide**.

## THE ICE SYSTEM FOR MONITORING COMPLIANCE WITH DETENTION STANDARDS

Until recently, public information about ICE's process for monitoring compliance with the detention standards was limited to the information made public by the ABA, including, most notably, in its manual titled *The INS Detention Standards Implementation Initiative: A Training Manual for Advocates.*[27] In late 2005 and 2006, additional information about the ICE monitoring process was provided to plaintiffs' counsel in the class action litigation *Orantes-Hernandez v. Gonzales* through depositions that were taken and documents produced during discovery.[28] The following description of the system whereby ICE monitored compliance with its *Detention Operations Manual* is based in part on the deposition testimony of two ICE officials, each of whom served as chief of the Detention Standards Compliance Unit (DSCU), the depositions of three ICE field officers who were selected by the agency to testify regarding their inspection practices, as well as ICE training and management materials produced during *Orantes*-related discovery.[29] Deposition testimony reveals that the monitoring practices of individual ICE officers varied in many ways from the procedures spelled out in the DMCP manual.[30] Thus, the DMCP manual was, in many respects, an aspirational document rather than a definitive representation of ICE's monitoring structure.

From the beginning, the detention standards framework contemplated facility monitoring as a means of ensuring compliance with the standards. However, due to budgetary limitations in the year following the standards' release, INS could not hire sufficient staff to

enable effective monitoring of facility compliance.[31] In 2002, INS created the DSCU (also known as the Compliance Unit), which is specifically dedicated to monitoring compliance with the standards, within the agency's Office of Detention and Removal Operations (DRO). In 2002, the DSCU consisted of three officers,[32] and it had four officers during the period from 2003 through 2005.[33] Although as of April 2006 the unit was authorized to include one chief, eleven inspection officers, and six support staff, the only staff actually on duty in the unit at that time were Chief Walter LeRoy, five inspection officers, and three support staff.[34] Thus, throughout its history the unit has had vacant positions.[35] The DSCU conducted annual reviews of more than 350 approved facilities[36] housing ICE detainees pursuant to the procedures outlined in ICE's DMCP manual.[37] The DSCU began reviewing ICE facilities in early 2002[38] and by the year's end had completed more than 400 facility reviews.[39]

Under the DMCP, the DSCU was charged with ensuring that each SPC, CDF, and IGSA was reviewed approximately one year after its last inspection. The unit relied on inspectors from both headquarters and field offices to perform facility reviews. In order to become an authorized reviewer, both headquarters officers and local law enforcement officers (LEOs) in ICE field offices were required to attend a weeklong, in-person training of approximately 40 hours on the standards and the facility review process.[40] Five or six of these trainings were conducted in 2002, and two more in 2003; then a long gap ensued, and the training was not offered again until January 2006.[41]

Following this training, officers could be assigned to conduct three-day "headquarters reviews" of CDFs and SPCs.[42] These reviews were conducted by teams composed of one inspector from the DSCU, who acted as the reviewer-in-charge (RIC); two field office LEOs, who participated in the reviews as "collateral duties" to their other official tasks; and a staff member from the Division of Immigration Health Services.[43] By contrast, IGSAs, the state and local facilities that comprise the vast majority of immigration detention facilities, were inspected only by LEOs. These were typically ICE deportation or detention officers for whom inspections were merely an occasional, additional task.[44] LEOs worked in teams of two to conduct two-day "operational reviews" of IGSAs.[45] As of April 2006, to conduct IGSA reviews the chief of the DSCU could call upon approximately 309 LEOs who had attended the one-week training.[46]

Once the review team had been assigned, and at least 30 days *before* the review date, the RIC notified the facility about the upcoming review to enable facility staff to arrange space for visiting reviewers and to alert them about any documents they needed to compile for review by the inspecting team.[47] The DSCU did not conduct reviews without such advance notice.[48] Prior to the on-site review, the team was supposed to prepare by examining past facility reviews and data about incidents and events that had occurred at the facility.[49] However, one officer who had conducted reviews of numerous facilities and served as an RIC testified in a deposition that he never reviewed such materials.[50]

On the first day of a typical review, the team met with the facility's supervising staff to discuss the review process and what they could expect would occur. The team then began the review by visiting parts of the facility and speaking with facility staff, and sometimes with detainees, to obtain the information necessary to complete the relevant review worksheet: a form G-324A[51] for all SPCs, CDFs, and over-72-hour IGSAs, or a form G-324B[52] for all under-72-hour IGSAs.[53] These forms contain one- or two-page checklists pertaining to each of the 38 detention standards. In all, the G-324A consists of approximately 85 pages; the G-324B is much shorter, covering only issues considered relevant to short-term detention. Reviewers completed the applicable form by marking boxes next to statements describing various elements of a standard to indicate whether a facility was in compliance with the given elements, and by adding any relevant comments. Based on the facility's level of compliance with the listed elements, the reviewer determined whether, in his or her discretion, a facility's compliance with each standard was "acceptable," "deficient," "at risk," or a "repeat finding."[54] Based on a review of each of the standards, the RIC then recommended an overall rating of "superior," "good," "acceptable," or "at risk" to indicate the nature of the facility's overall compliance with the standards.[55]

Once completed, the form and a written summary of the team's findings were submitted to the DSCU to be reviewed for completeness.[56] Following this examination, the form was submitted to the chief of the DSCU, who gave the form another review and recommended an overall rating for the facility. The completed G-324 was submitted in full, accompanied by the chief's recommendations, to the final review authority for ICE, the director of the DRO. The director assigned the facility a final rating, which could differ from the recommendations of the DSCU chief and the RIC. The DRO director also acted as the final decision-maker regarding the termination of IGSA or CDF contracts due to noncompliance with the standards. Despite these multiple levels of review, the final evaluations reveal a surprising number of basic errors, such as identifying the wrong facility and using the wrong form for the type of facility that was evaluated.[57]

The DMCP manual provides that, upon approval by the DRO director or his designee, the completed review was to be sent to the appropriate ICE field office, which was responsible for promptly serving the

reviewed facility with the review findings.[58] The officer-in-charge (OIC) of the facility was required to file with the deputy assistant director of the Detention Management Division, within 45 days, a written response to the review's findings, including a discussion of any findings with which he or she disagreed and an explanation of how any deficiencies had been or would be corrected.[59] The OIC also was required to create a strategic action plan for any areas of concern for which corrective action would take longer than this 45-day period.[60] Within 21 days, the director of DRO was to respond with a written approval or rejection of the officer's response, as well as an explanation of any required follow-up procedures.[61] The director of DRO was not to close a review until he or she received "reasonable assurance" that a facility had corrected any deficiencies identified in its review.[62] Such assurance could be provided through an OIC's follow-up review, which had to be performed within six months of the formal review in order to support a request for closure of the formal review.[63]

According to the DMCP manual, facilities that received "deficient" or "at-risk" ratings had to be reviewed again within six months.[64] According to DSCU Chief Walter LeRoy, where a facility had been rated "acceptable" but deficiencies had been identified that required the development of a plan of action, the facility should have been reinspected 90 days later; this was not a full inspection, but rather a review limited to the previously identified deficiencies.[65]

## PROBLEMS WITH ICE'S MONITORING PROCEDURES AND PRACTICES

In addition to identifying a plethora of violations of the standards at individual facilities, ICE's own reports and those of independent agencies reveal systemic problems with the procedures used for ICE annual reviews and the inadequacy of ICE's procedures for identifying and correcting noncompliance with the standards. Because the agency currently is in the process of turning monitoring responsibilities over to a private contractor, now is a particularly important time to identify and address these problems, in order to avoid their recurrence in the future under the new monitoring system and ensure that a meaningful monitoring system is created.

### Deficiencies in the Monitoring Forms Limit the Completeness and Usefulness of Facility Reviews

The monitoring forms for both over- and under-72-hour facilities (the G-324A and G-324B, respectively) consist of a collection of checklists; generally, there is a two-page checklist for each detention standard. Each checklist sets out a number of items for which the reviewer can mark a box to indicate either "Y" (for "yes"), "N" (for "no"), or "N/A" (for "not applicable"). There is also a final column for "Remarks," where the reviewer can write, in a small box, additional information regarding the element. At the end of the checklist for each standard, there is also a space where the reviewer can enter additional remarks.

Both these forms have serious defects that limit their effectiveness as monitoring instruments. These defects are discussed at more length in the following chapters regarding individual detention standards; here they are only briefly summarized. First, the checklist format resulted in monitoring reports that provide very little specific description. Comments entered in the "remarks" boxes were relatively rare and almost always brief. As a result, the entire report presents a limited, vague picture of how the facility applies the standard. Many of the elements of each detention standard are very general, and not readily subject to a "yes" or "no" measure. In addition, quite often when the remark box is used, the remark qualifies or even contradicts the box that is checked next to an element; and it is apparent that different reviewers interpreted these elements differently. Finally, as discussed in subsequent chapters, many of the checklists fail to measure compliance with some important elements of the standard, and other checklists cover multiple standard requirements in one question, making it difficult to determine the extent of any indicated violation.

### Lack of Written Criteria Guiding Reviewers, and Reviewer Confusion Regarding the Application of Compliance Ratings

The procedures governing ICE monitoring of all facilities housing immigration detainees are set out in the ICE DMCP manual.[66] This manual served to inform ICE officers about the agency's policies and procedures for ensuring compliance with the detention standards. Problematically, the procedures for conducting facility reviews described in the DMCP manual lack specific criteria for assigning ratings to ensure that monitoring efforts are uniform and consistent. Although reviewing officers were provided with forms by which to rate individual facilities regarding their compliance with particular standards, as well as training on the content of the individual standards, ICE failed to provide any detailed written guidance with respect to how reviewing officers should arrive at the ratings of "acceptable," "deficient," "at risk," or "repeat finding" for a given standard.[67] In the absence of such guidance, reviewers relied upon their individual discretion to determine whether they had checked a sufficient number

or type of boxes to warrant the assignment of a given rating.[68]

The assignment of overall facility ratings similarly rested, in large part, on reviewer discretion. The DMCP manual articulates five "criteria" to guide reviewers in determining the overall ratings of facilities.[69] These "criteria" are, in fact, simply general definitions of the overall ratings that could be assigned to a particular facility: "superior," "good," "acceptable," "deficient," or "at risk."[70] Although the "criteria" instruct reviewers that an overall rating of "superior" could not be assigned to a facility found to have been "deficient" or "at-risk" for any individual standard, and that a rating of "good" could not be assigned where a facility was rated "at-risk" or as having a "repeat deficiency" for any standard, they provide no similar guidance with respect to the number or type of violations that could lead to an overall rating of "acceptable," deficient" or "at risk."[71] Thus, a facility could be rated "acceptable" despite its having received a "deficient" rating for several standards.[72] More troubling, nothing in the DMCP manual would prevent a reviewer from assigning an overall rating of "acceptable" even to a facility that was rated "deficient" for *every* standard. Similarly, a facility could be rated "acceptable" for an individual standard, even where it was found to be "deficient" in several (or conceivably all) of the core elements composing that standard.[73]

Excessive reliance on reviewer discretion and "good judgment"[74] rendered ICE's self-reviews inherently unreliable, as review findings could neither be replicated by other reviewers nor meaningfully evaluated for accuracy. Indeed, depositions of reviewers selected by ICE to testify regarding their monitoring practices revealed that reviewers had vastly different interpretations about the ratings and that these differing interpretations resulted in variable, and sometimes questionable, practices. For example, one reviewer who had acted as an RIC for several reviews testified that she would mark a facility "acceptable" as to a standard when it either complied with the intent of the standard *or* indicated that it would agree to make changes to comply with the standard in the future.[75] She further explained her belief that a "deficient" rating was more severe than an "at-risk" rating, since in her view "at-risk" indicated that a facility was in danger of becoming "deficient" as to a particular standard.[76] In contrast, another reviewer stated that "at-risk" meant that a facility was "a little more than failing."[77] Neither of these views were in conformity with the DMCP manual instructions that an overall rating of "at risk" means that a facility's "detention operations are impaired to the point that it is not presently accomplishing its overall mission. Internal controls are not sufficient to reasonably assure acceptable performance can be expected in the future."[78]

## Particular Deficiencies in the Monitoring of IGSAs

Most of the national detention standards include provisions that expressly are not requirements for IGSAs and that apply literally only to SPCs and CDFs. In the written standards (collected in the *Detention Operations Manual*), these provisions are printed in italics. According to the standards, IGSAs may "adopt, adapt or establish alternatives" to these provisions, provided that the alternatives "meet or exceed" the intent of these provisions. The DMCP manual provides no more specific guidance as to how reviewers should determine whether an IGSA's procedures "meet or exceed" such provisions of the standards, and this critical judgment was left to the discretion of the individual reviewer. Thus, the problems posed by the lack of specific criteria for reviewers to use in assigning ratings regarding compliance with individual standards and overall compliance, discussed above, are even greater in the case of IGSAs, which comprise the vast majority of immigration detention centers.

Although these circumstances would warrant assigning the most experienced reviewers to lead the evaluation teams monitoring IGSA facilities, the ICE monitoring policy and practice was to do exactly the opposite. Whereas a full-time inspector from the DSCU served as RIC for the reviews of SPCs and CDFs, all reviews of IGSAs were led by LEOs. LEOs, unlike their headquarters counterparts, were not dedicated exclusively to conducting and processing facility reviews and special assessments, and did not deal with the detention standards on a daily basis.[79] Rather, they conducted reviews only as a duty collateral to their regular assignments. Typically, LEOs who monitored IGSAs were either deportation officers,[80] whose regular duties concern removal procedures, or detention officers whose regular duties include the transportation of detainees between facilities and the courts.[81] Indeed, some LEOs may not have participated in *any* reviews of over-72-hour facilities in a given year, or may have done so as infrequently as twice annually.[82] Because it was possible that individual LEOs thus got very little opportunity to put their initial week-long training into practice, they were likely, over time, to forget portions of it; and some field officers appeared to have been uncertain about the policies guiding their reviews or even the meaning of the very ratings they were assigning.[83]

In addition, LEOs' regular duties may have directly impeded their ability to perform monitoring tasks. One LEO noted that, due to time constraints related to her regular job assignment, she could not submit final facility reviews to headquarters until days or, indeed, weeks after she inspected a facility.[84] As a result of such a delay, potentially serious violations of the stan-

dards may have gone unremedied for an extended period of time. Of even greater concern: In some cases there may have been a conflict of interest between an LEO's regular duties and the inspection responsibility, as when a detention officer whose regular duties required a good working relationship with an IGSA facility's management was assigned to inspect and rate that particular IGSA.[85]

In light of these limitations, each review team should have included an inspector who was dedicated full time to the performance of facility compliance reviews. Yet throughout the history of the DSCU, full-time inspectors have not participated in the regular reviews of IGSAs. Former DSCU Chief Yvonne Evans acknowledged the limited size of the headquarters staff and noted that it would have been impossible to have headquarters officers conduct reviews of all IGSAs, given the sheer number of such facilities.[86] She acknowledged that she had submitted several requests to increase the number of headquarters officers but, when those requests were not granted, had determined that, rather than try to increase the size of the headquarters staff to enable its review of the hundreds of IGSAs in operation, she could use some of the nearly 300 field office LEOs to help conduct reviews.[87] This staffing structure posed serious consequences for the reliability of ICE's facility monitoring: The facilities housing a majority of all immigration detainees were not inspected by headquarters staff, ICE's "subject matter experts" on the standards.

### Training and Staffing Deficiencies

Disparities in the manner in which reviewers evaluated facility compliance are unsurprising when considered in the context of ICE's training and staffing structures. The DMCP manual instructs that field staff reviewers "must complete the DRO Detention Reviewer training course" and that "[r]eviewers *may* be required to attend refresher training at a minimum of three-year intervals or as required by the Review Authority [director of DRO] to ensure consistent and uniform application of the program."[88] The DMCP manual does not elaborate on the content of these trainings but, rather, states generally that "[t]raining and certification of reviewers is the responsibility of the Compliance Branch within [the Detention Management Division]."[89] It similarly does not specify whether identical or different training is required for headquarters staff; rather, the manual states only that "[f]or reviews conducted by headquarters DRO, review team members shall be screened and selected by the [deputy assistant director for the Detention Management Division]."[90]

Depositions of ICE officials and field office reviewers conducted for the *Orantes* litigation provide some insight into how ICE reviewers were actually trained to conduct their reviews of detention facilities. Two former DSCU chiefs explained that facility reviewers were required to complete a 40-hour,[91] week-long training[92] on the standards and the review process, at which training they received copies of the standards, the DMCP manual, and sample worksheets used for completing the reviews.[93] Importantly, while the materials for this training provided an overview of the standards and the procedures for conducting a facility review,[94] including a hands-on inspection of a facility,[95] they did not address how individual standards should be rated,[96] nor how overall ratings for detention facilities should be determined.[97]

Little further training was provided. The DMCP manual provides: "Reviewers may be required to attend refresher training at a minimum of three-year intervals or as required by the Review Authority [the director of DRO] to ensure consistent and uniform application of this program."[98] Deposition testimony of LEOs revealed that intervals between trainings could exceed three years, and that "refresher" training sometimes was limited to a 35- to 40-minute online exercise through ICE's "virtual university."[99]

Staffing deficiencies at DSCU headquarters also contributed to the lack of adequate support for the detention standards monitoring program. DSCU's chief acknowledged a constant turnover in headquarters staff that leaves several reviewer vacancies at any given time.[100] The resulting inexperience of headquarters reviewers threatened the reliability of the monitoring system, as headquarters officers were consulted by field office LEOs as "subject matter experts" on the standards.[101]

### Notice and the Review Process

The DMCP manual provides that facilities in which ICE detainees are kept should be given at least 30 days' advance notice of annual reviews.[102] According to the DSCU's former chief, notice to inspected facilities is necessary to ensure that reviews are not foreclosed by scheduling conflicts, that sufficient space is reserved for the inspecting teams' work, and that facilities have the time to compile any requested paperwork.[103] Problematically, however, the lengthy notice period allows for the possibility that facilities will temporarily "improve" the conditions to be observed by inspectors.[104] One LEO testified that his practice had been to provide an even longer notice period — of two to three months.[105] Because of the advance notice they gave to facilities, reviewers were unable to ascertain whether facility staff had modified conditions in the short term for purposes of the review, only to avoid having to take corrective action after the inspection and allow conditions to lapse again into deficiency.

In apparent recognition of this possibility, the DMCP manual authorizes the director of DRO to conduct unannounced reviews of facilities, but does not make such reviews mandatory.[106] Deposition testimony from the *Orantes* litigation revealed that unannounced facility reviews are conducted infrequently, if ever. Notably, DSCU Chief Walter LeRoy stated that while he thought that some reviews had been conducted without any prior notice or the required 30 days' notice, this had been unintentional and was due solely to the failure of a staff officer to send a letter alerting the facility of the inspection.[107] Former DSCU Chief Yvonne Evans stated that she was sure that some "visits" took place with only a short "courtesy" notice, but she could not say if any took place in any particular year, and could not identify any such visits.[108] Two LEOs testified that they had never conducted an unannounced inspection.[109]

Vigorous facility monitoring requires that inspections normally be conducted without prior notice to ensure that the conditions observed are those regularly experienced by detainees. Although a brief notice period of a few days may, in some instances, be warranted to allow for security clearances and to cure scheduling conflicts, a period of 30 days' notice is unnecessarily lengthy and undermines the reliability of review findings. Moreover, by requiring facilities to submit annual reports detailing their facility capacity, any significant incidents at the facility, and other relevant information on an annual basis that may be accessed by reviewers, ICE could eliminate the need for advance notice to enable facilities to compile necessary paperwork.

### Lack of Reviewer-Detainee Communication

Marginalization of detainees from the review process further compounds the potential problems wrought by advance notice of pending inspections. The DMCP manual instructs that, when on site, review teams "normally" must conduct "discovery/confirmation interviews," during which they "interview a sufficient sample of staff and detainees depending upon the evidence discovered during the course of the review."[110] Two of the deposed LEOs indicated that they were not aware that there was a requirement to interview detainees, and they apparently considered it optional.[111] Absent interviews with detainees, reviewers cannot verify or contradict the representations of facility staff. This failing is particularly troubling in light of the lengthy notice period for facility reviews. Under the monitoring structure established by the DMCP manual, a facility could hurry to modify its conditions for the inspection, and detainees would have no means by which to alert the review team of this conduct or to reveal the actual day-to-day conditions. Another limitation of the ICE inspection process has been that reviewers often have not been fluent in any languages other than English and have not brought interpreters to facilities being reviewed.[112] Detainee interviews also may be sidelined by reviewers in their rush to complete the multitude of tasks with which they are charged in the two- or three-day time period allotted for facility reviews.

Further, guidance in the DMCP manual may suggest to reviewers that detainee interviews are unreliable and encourage reviewers to give disproportionate weight to the reports of facility staff. For example, although the DMCP manual states that interviews are "extremely valuable," it cautions that testimonial evidence "is considered the least dependable type of evidence, and information requires corroboration before it can be used in support of a finding."[113] Elsewhere, however, the DMCP manual advises that reviewers must "inform [key facility management] and staff that all comments which might alter findings and recommendations or provide information concerning the cause of a deficiency will be fully investigated and given due consideration."[114] The DMCP manual further advises that "[t]he reviewer shall place deficiencies or noteworthy accomplishments into perspective and avoid exaggeration. Only information adequately supported by sufficient evidence in the working papers can be included in the report."[115] Finally, the DMCP manual advises reviewers to "give credit when management has already noted a problem and is taking steps to correct it or is actively searching for solutions."[116] The combination of these instructions, though each seems benign by itself, have the effect of limiting detainee participation in the review process, as many detainees would be unable to corroborate their experiences with documentary or other evidence, or could be pitted against facility staff, whose comments regarding the causes of any deficiency are to be given "due consideration." Notably, the DMCP manual includes no similar provision regarding the assignment of "due consideration" to the comments of detainees regarding the conditions in which they are detained.

### Failure to Track Trends in Deficiencies and Proactively Address Them

The prevention of future problems or deficiencies should be among the principal goals of any effective monitoring system. ICE, however, has woefully failed to implement procedures to enable policy reforms aimed at increasing compliance with the detention standards. Although ICE maintains a database, known as the Automated Information System, that tracks overall ratings for immigration detention facilities, the agency does not synthesize information across facilities; for example, ICE does not track which standards are out of compliance at facilities nationwide. DSCU Chief Walter LeRoy testified that the unit has used a database to

record the overall ratings of facilities, but that it has not been used to record the ratings as to individual standards.[117] Moreover, the DSCU has made no effort to determine whether particular standards are out of compliance across all facilities that are inspected in a given year.[118] When he was asked if he had any sense of which detention standards had the highest rates of noncompliance in the previous year, LeRoy testified that he did not, "because that's not tracked."[119]

The failure to identify trends in detention standard violations has been a weakness of the monitoring system, because it has deprived ICE of the ability to take affirmative action to prevent other facilities from experiencing similar problems.

## Secrecy and Lack of Accountability

Since the national detention standards were adopted in 2000, first the INS and then its successor, ICE, have refused to make public the facility reviews conducted by the immigration enforcement agency itself and by independent agencies. This policy of secrecy has undermined the explicit mission of the DMCP, which is "to ensure detention facilities are operated in a safe, secure and humane condition for both detainees and staff."[120]

### *ICE Self-Reviews*

ICE has classified its facility self-reviews as confidential and for the sole use of ICE and the federal government. Advocates, recognizing the importance of the agency's self-reviews in holding the government accountable for the conditions of ICE detention facilities, long have pushed for public access to this information. The government for years denied requests for this material, which first was made available to plaintiffs' counsel in *Orantes* in 2006, following a discovery battle. Most of the facility reviews produced in the *Orantes* case are not covered by a court protective order and, thus, now are available for inspection by advocates, albeit in the incomplete and redacted form in which they were produced. However, ICE continues to maintain that its internal facility reviews are confidential and not available to the public. By limiting access to facility reviews, ICE effectively forecloses meaningful critique of its adherence to the detention standards and its own internal procedures for monitoring facility compliance. The result is a monitoring system subject to inherent bias, as the system is not open to public oversight and input.

### *Inspections by Independent Agencies*

Delegations from both the ABA and the United Nations High Commissioner for Refugees (UNHCR) make annual visits to detention facilities and detail their findings in written reports.[121] The ABA devotes particular attention during its visits to ICE's compliance with the detention standards regarding attorney visitation, access to telephones, access to legal materials, and group legal rights presentations.[122] For its part, UNHCR primarily documents those conditions that threaten the rights of asylum-seekers or signal violations of international standards.[123] Although UNHCR does not purport to monitor ICE's compliance with the detention standards, it notes that several of the detention standards are coextensive with international standards and, thus, may be discussed in UNHCR reports.[124] Importantly, the ABA and UNHCR reports are not made available to the public; rather, the two organizations' findings are distributed only to ICE, pursuant to confidentiality agreements required as a condition of access to the facilities. By refusing to allow these independent organizations to disclose their findings to the public, ICE circumvents public oversight and devalues compliance with the detention standards.

Furthermore, in depositions taken in the *Orantes* litigation, key ICE officials responsible for ensuring ICE's compliance with the detention standards discounted efforts by the ABA and UNHCR to monitor ICE's compliance. Although these comments may reflect the personal opinions of ICE officials rather than ICE's formal positions,[125] they are telling in their similarity and in their distrust of oversight by independent agencies. Former DSCU Chief Yvonne Evans commented that the ABA and UNHCR reviews were not helpful to DRO's mission "[b]ecause they were written by people who had no clue about a detention facility or a correctional facility and how operations should be conducted."[126] Evans added, however, that she would generally give "a little more credence" to the UNHCR reports because "[i]t's always the same officers who are doing the visits."[127] Her successor as DSCU chief, Walter LeRoy, expressed similar skepticism, asserting in his deposition that UNHCR "reports are their observations and conversations with detainees based on tours of facilities. There is no meaningful inspection process involved with their tours, as opposed to when we go out there with trained jail inspectors and conduct tours that last two to three days as opposed to their . . . one-afternoon walk-through."[128] LeRoy added, however, that he has a "great relationship with the UNHCR," and one senior protection officer in particular, such that he and his staff personally facilitate UNHCR visits.[129] LeRoy similarly criticized the monitoring efforts of the ABA, explaining, "Similar to UNHCR tours, the ABA uses, I believe, student interns and co-ops to visit jails. They take a tour of a facility, and again there is no meaningful inspection or no measure of compliance with the standards going on. Those are merely tours."[130]

While DSCU may order a follow-up inspection of a facility that has been reviewed by an independent agency, reviews of this nature are neither mandatory nor have they been frequent. Indeed, DSCU's former chief, Yvonne Evans, noted that ICE did not require follow-up inspections based on the ABA or UNHCR reports but, rather, conducted such inspections only when ICE itself had previously identified adverse conditions at a facility that warranted further inquiry. For example, the DSCU ordered a follow-up inspection at the Tangipahoa Parish Jail, a facility that was the subject of a critical report by UNHCR, because ICE staff had earlier expressed concerns to ICE management about the conditions at the facility.[131] LeRoy, testifying as DSCU chief, suggested that while an ABA report citing serious issues might give rise to a response by the agency, it was not likely that it would result in another full-blown inspection of the facility.[132] LeRoy could not, in fact, recall an instance in which such an inspection had been ordered. He stated that a full reinspection was a similarly unlikely response to a UNHCR report, but added that ICE officers often accompany UNHCR staff on their visits, such that ICE itself would have observed any substandard conditions and already determined whether to fashion its own response.[133]

The actual evidence contained in the ICE, ABA, and UNHCR reviews produced in the *Orantes* case reveals a very different reality. The following chapters discuss numerous examples of ABA or UNHCR facility reviews identifying serious deficiencies that one or more subsequent ICE reviews completely overlooked. Through its failure to take seriously the reports of independent agencies monitoring compliance with the detention standards, ICE demonstrates its willingness to turn a blind eye to grave violations of its own policies as well as the rights of ICE detainees.

### *Advocacy by Advocates, Detainees, and the Media*

ICE's lack of transparency with regard to monitoring compliance with its own detention standards is similarly evident in the agency's failure to make public the most basic information about its detention structure. At present, advocates and family members of detainees are unable to easily access information about the locations of ICE's detention facilities or the process by which they may report complaints and concerns to ICE and local facility staff. Consequently, it is extremely difficult for families to ascertain where their relatives and friends are detained or to convey concerns about the treatment of their loved ones. The inaccessibility of this information proves similarly crippling to legal advocates, who, if they are to assist multiple clients and comply with fixed court schedules, must be able to navigate ICE's detention system in a timely manner. Local advocates also must grapple with the unspoken reality that if they lodge complaints about the conditions at detention centers, they will damage their working relationships with facility officers on whom they depend for future access to detainee clients.

## LACK OF CONSEQUENCES FOR NONCOMPLIANCE

The DMCP manual provides no written guidance regarding what level or type of noncompliance with the standards would cause ICE to close one of its own facilities or terminate an agreement with a contract facility, or with a state or local jail.[134] Indeed, while former DSCU chief Evans stated that an agreement between ICE and a state or local facility might be terminated for the facility's noncompliance with the standards,[135] she confirmed that there were no ICE policies requiring that the agency terminate its agreements with facilities receiving overall ratings of "deficient" or "at-risk," or ratings of "deficient" in one or more individual standards.[136] Evans explained that the termination of an IGSA instead results from a recommendation by the DSCU chief to the Acquisitions Unit, which makes the final decision.[137] Evans recalled that, during her tenure as DSCU chief, ICE acted on the DSCU's recommendations and terminated its agreements with facilities in Brazoria, Texas, and Miami, Florida, on account of noncompliance, although she could not recall which standards had been violated.[138] She added that at some point, possibly outside of her tenure as chief, ICE discontinued its use of another facility, in Eureka, Oklahoma, due to a civil rights violation.[139] In the case of the facility in Eureka, ICE transferred detainees out of the facility within days of the DSCU's recommendation.[140] ICE discontinued use of the Brazoria facility within weeks, and of the Miami facility within weeks or months, of DSCU's recommendations.[141]

As with the ratings themselves, the lack of meaningful criteria guiding the termination of ICE agreements and contracts raises serious concerns about the agency's monitoring system. In the absence of criteria detailing when ICE must discontinue use of a facility on the basis of noncompliance, the agency can maintain contracts and agreements with facilities that violate the detention standards. This may be so even in the case of grave violations, given that the DMCP manual makes no distinction between the standards in terms of their importance to the well-being of detainees.[142] As a result, detainees must rely on the DSCU chief to interpret a situation as sufficiently egregious to recommend transferring detainees out of the facility before they have a hope of obtaining relief from violative conditions. Evans's deposition testimony suggests, however, that termination of a facility's contract is an infrequent

occurrence; indeed, Evans could recall only three facilities whose contracts had been terminated by ICE in accordance with DSCU's recommendations.[143]

The infrequency with which facility contracts are terminated and the unpredictability of termination decisions work to create a system that is ineffective in deterring noncompliance with the standards. Detention facility staff may become disinterested in remedying violations of the standards, as noncompliance yields no practical consequences, either for them or their facilities. In order to ensure that facilities devote due attention to compliance with the standards, ICE should develop standardized criteria for terminating agreements and contracts with detention facilities, as well as a system of financial penalties to underscore the costs of noncompliance.

## CONCLUSION

What we have managed to learn about ICE's woefully inadequate system for monitoring the 2000 national detention standards provides important lessons about what ICE and the federal government should avoid as the agency implements its new Performance Based National Detention Standards. Past mistakes and shortcomings include:

- Almost exclusive reliance on incomplete checklists as the basic instruments for monitoring compliance.
- Reliance on ICE officers with other full-time duties to carry out the bulk of detention standards monitoring, including *all* of the monitoring of IGSAs, and failure to staff the monitoring function with sufficient full-time, trained staff.
- Failure to establish adequate objective criteria for rating compliance with individual standards and for facilities' overall compliance.
- Failure to use unannounced reviews as a method of checking compliance.
- Failure to make detainee interviews an essential element of monitoring.
- Keeping the monitoring process and results secret and avoiding public accountability.

The recommendations section of this report provides specific suggestions for avoiding these problems.

# Visitation

## INTRODUCTION

The detention standard on visitation is intended to guarantee detainees visitation from family and loved ones as well as from legal representatives and their assistants. The standard sets forth procedures for both general visitation (by family and loved ones) and legal visitation (by attorneys, legal representatives, and their assistants). It contains guidelines for the manner and frequency of visits, allows detainees to receive money and select items of personal property from loved ones, and allows for private consultation between detainees and their legal representatives.[1]

General visitation enables detainees to maintain family relationships during an extremely difficult experience. Legal visitation allows detainees to obtain legal representation to prepare and defend their immigration cases. Legal visitation is guaranteed to all detainees, including those in segregation, seven days per week, and facilities must allow private attorney-client communications.

The standard also requires facilities to provide visitation access to members of the media and nongovernmental organizations.[2] This allows nongovernmental organizations to provide know-your-rights presentations to detainees and members of the media to highlight cases of interest to the public. Finally, the standard requires facilities to post their visitation policies, to ensure that detainees and visitors know their visitation rights.

## VIOLATIONS OF THE VISITATION STANDARD

### Legal Visitation

#### *Prominent Posting of List of Pro Bono Legal Service Organizations*

The visitation standard requires the facility to prominently post a list of pro bono legal services organizations serving the local area.[3] The purpose of this requirement is to ensure that detainees who are unrepresented have an opportunity to obtain counsel for their removal cases, regardless of their ability to pay. Since immigrants, even detained ones, have no general right to appointed counsel in removal proceedings, information about pro bono and low-cost legal services is crucial for the vast majority of detainees who are unrepresented.

Over 60 facilities failed to post a list of pro bono legal services organizations, according to U.S. Immigration and Customs Enforcement (ICE) reviews.[4] Facilities' failure to post these lists deprived detainees of critical information that might have helped them obtain counsel and win their removal cases.

#### *Confidentiality of Legal Visitation*

The standard requires that detainees must be afforded a place in which to meet with legal representatives and their assistants that will afford the parties in the meeting complete confidentiality.[5] Facility officials may watch, but may not hear, discussions between detainees and their legal representatives.[6] Confidentiality is paramount to ensuring that detainees can freely discuss their removal cases and report any facility staff misconduct to counsel. Several facilities violated this requirement.[7] In addition, in some facilities, in order to avoid a strip search, detainees were forced to meet with their attorneys in a nonprivate setting where their conversations could be monitored.[8]

#### *Minimum Hours and Days of Legal Visitation*

The standard requires that legal visitation must be available seven days per week, eight hours per day during normal business hours, and four hours per day on weekends.[9] Over a dozen facilities violated at least one of these elements of the standard.[10] Some facilities provided an hour less of legal visitation per day than the minimum, while others severely limited weekend legal visitation. One facility did not allow legal visitation on weekends except in "high profile" cases.[11] These shortcomings may have resulted in severe deprivations of detainees' right to counsel.

In many facilities, it can take an hour or longer to transport a detainee from the housing area to the visitation area. In others, only one or two confidential legal visitation rooms exist for several hundred detainees. In such cases, reducing legal visitation by even two to four hours a week results in fewer detainees being able to meet with counsel.

#### *Strip-Searches Not Mandatory*

The standard provides that if a facility requires strip-searches after contact visits, it must allow the detainee to choose a noncontact visit to avoid a strip search.[12] The purpose of this requirement is to allow detainees to maintain their dignity and avoid invasive

searches. Seventeen facilities violated this requirement.[13]

### *Ability to Exchange Legal Documents*

The standard provides that detainees must be able to exchange legal documents with their legal representatives during legal visitation.[14] This element is critical to enabling detainees to prepare and review court documents with the assistance of counsel. Unfortunately, the ICE facility review form does not require reviewers to verify whether a facility has satisfied this element. The form has one "yes" or "no" checkbox for both this and the confidentiality element.[15] As a result, ICE reviewers typically do not indicate whether facilities comply with this requirement. ICE reviews found, however, that several facilities prohibited contact visits between detainees and their legal representatives, and these same facilities may have violated this element as well if they failed to provide a means for the confidential exchange of documents. Finally, at one facility, detainees could exchange documents with counsel only by giving them to facility staff.[16]

### *Legal Visits for Detainees in Disciplinary Segregation*

The standard requires that facilities allow detainees in disciplinary segregation to have access to legal visitation.[17] Denying legal visitation to a detainee who is entitled to it unlawfully interferes with his or her access to counsel. Over a dozen facilities violated this element of the standard.[18]

### *Legal Visitation Uninterrupted by Meals*

The standard requires that detainees be allowed to continue a legal visit through a meal without having to skip the meal.[19] Forcing a detainee to choose between sustenance and the opportunity to prepare his or her case with counsel is obviously coercive. A few facilities violated this element.[20]

## KEY FINDINGS

- **Over 60 facilities failed to post a list of pro bono legal services organizations**, according to ICE reviews.
- **17 facilities failed to provide detainees the option of avoiding a strip search** by choosing that a visit be "noncontact."
- **More than a dozen facilities failed to allow detainees in disciplinary segregation access to legal visits**.
- ICE monitoring forms and practices **preclude it from adequately reviewing facilities' compliance with certain elements of the visitation standard**. Two examples:
  - ICE forms do not contain items designed to evaluate whether a facility is reasonably allowing contact such as handshakes, embraces, and kisses.
  - ICE forms do not distinguish between access to legal or to general visitation, nor do they distinguish between access for detainees in administrative versus those in disciplinary segregation.
- **Over two dozen facilities failed either to allow detainees to retain certain small items of personal property or to post their policies** regarding receipt of property and money.
- **Over 20 facilities failed to have in place a procedure whereby independent medical service providers and experts were allowed to examine detainees**.
  - Access to such medical exams is crucial for detainees with asylum claims who wish to present the courts evidence of past torture or post-traumatic stress disorder based on past persecution.
- Failure by facilities to comply with the visitation standard **severely hampers detainees' ability to exercise their constitutional and statutory rights of access to counsel**.

## General Visitation

### *Contact Visits*

The standard allows facilities to limit contact visits between detainees and loved ones, but implies that contact including handshakes, embraces, and kisses should be allowed on a reasonable basis.[21] ICE's facility review forms do not contain items designed to evaluate whether a facility is meeting this requirement.[22] Thus, ICE reviews do not indicate whether facilities unduly limit contact visits. In a few instances, however, ICE reviewers noted on a facility review form that the facility being reviewed completely prohibits contact visits.[23]

### *Posting of Visitation Policies*

The standard requires facilities to notify detainees of the facility's visitation policies in the detainee handbook and to prominently post them in the facility.[24] Both types of notice are necessary for effective notification of the visitation hours and rules. Over a dozen facilities failed to properly notify detainees of visitation rules or hours.[25]

### *Personal Property of Detainees, Deposits of Money*

The standard provides that each facility must allow detainees to retain certain small items of personal property and that each facility should post its policy regarding receipt of property and money.[26] Over two dozen facilities violated this element.[27]

### *Visitation by Minors*

If a facility does not permit visits by minors, the standard requires the facility to make provisions for visits with a detainee's children or stepchildren within thirty days.[28] Several facilities violated this element of the standard.[29] Several others imposed restrictions on visitation by minors.[30]

### *Detainees in Segregation: Right to Visitation*

The standard provides that facilities should allow detainees in administrative or disciplinary segregation access to visitation.[31] Also, these detainees must be given legal visitation rights.[32] ICE does not adequately evaluate facilities' compliance with the access-to-visitation element for detainees in segregation because the facility review forms do not distinguish between access to legal visitation and access to general visitation, and they also do not distinguish between access for detainees in administrative versus those in disciplinary segregation.[33]

### *Other Limits on General Visitation*

One facility prohibited visits by people who arrived on foot, effectively excluding families traveling by public transportation.[34] Two facilities unduly limited visitation hours, without making accommodations for families who might need alternate arrangements.[35] Some facilities required detainees to maintain visitor lists, and only those on the list were allowed to visit; or they imposed other burdens that made family visitation more difficult.[36]

## Other Visitation Requirements

### *Availability of Independent Medical Exams*

The standard requires facilities to have a procedure whereby independent medical service providers and experts are allowed to examine detainees.[37] Access to such medical exams is crucial for detainees with asylum claims or claims under the Convention Against Torture (CAT) who wish to present medical evidence, such as evidence of past torture or post-traumatic stress disorder based on past persecution, in their immigration cases. Over 20 facilities violated this element of the standard.[38] One facility expressly prohibited independent medical exams.[39]

### *Nongovernmental Organizations (NGOs), News Media, and Law Enforcement Visitation*

The standard requires facilities to allow certain nongovernmental and media organizations to visit and have access to nonconfidential and nonclassified information about the facility.[40] Over a dozen facilities violated this element of the standard.[41] Several facilities also violated the element relating to law enforcement visitation.[42]

### *Improper Delegation of Authority to Permit or Deny Tours*

The ICE facility review form provides a means of evaluating whether facilities delegate the decision to permit or deny a tour of the facility to a field office director or other ICE personnel with similar or greater authority.[43] ICE reviews found that over a dozen facilities violated this element of the standard.[44] One facility simply banned all such tours.[45]

## AMERICAN BAR ASSOCIATION AND UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES REVIEWS

## Additional Violations Found by the ABA and UNHCR

American Bar Association (ABA) and United Nations High Commissioner for Refugee (UNHCR) reviews of detention facilities found additional violations of the visitation standard. These independent agency reviews help shine greater light on the extent to which facilities simultaneously violated several ICE visitation rules.

In a June 2002 review of Mira Loma Detention Center, the ABA found that the facility violated the

visitation standard by requiring attorneys to show state bar cards to gain admission and by forbidding attorneys from giving detainees more than one business card.[46] The facility also prohibited any contact during family visitation, and the facility's remote location made it difficult for detainees' family members to visit them.[47]

In an August 2002 review of Kern County Jail, the ABA found that the facility required attorneys to show state bar cards to gain admission.[48] In addition, the ABA found, among other things, that the facility effectively forced detainees to undergo a strip search in order to have confidential legal visits, did not provide them notice of consular visitation, and limited family visitation by number of relatives.[49]

In January 2003, the ABA reviewed the Houston Service Processing Center and uncovered visitation-related problems.[50] The facility's legal visitation area was not adequately private, and the facility imposed a burdensome visitor list requirement on each detainee and limited the number of family members who could visit at one time.[51]

In June 2003, the ABA reviewed St. Mary's County Detention Center and found that the facility's written visitation policy did not provide the minimum visitation times required by the standard.[52] In addition, the ABA found that the facility's policy on strip searches was unclear, leaving staff with considerable discretion in conducting them, and that the legal visitation room was extremely cramped.[53]

The ABA's June 2003 review of Plymouth County Correctional Facility also uncovered violations concerning visitation.[54] The facility's legal visitation area did not provide adequate privacy, detainees encountered difficulties with getting legal documents notarized, and the facility strip-searched detainees after visits with legal representatives.[55]

The ABA's July 2003 review of the El Paso Service Processing Center found that the facility's legal visitation rooms were noisy and did not adequately protect confidentiality, and that the facility did not effectively ensure detainees access to contact visits with attorneys.[56]

The ABA's July 2003 review of Middlesex County Jail uncovered similar problems. The facility did not allow contact visits with family, it required detainees to make visitor lists and limited visitation on that basis, and it did not provide written rules and regulations, resulting in confusion among detainees.[57]

The ABA's review of Monmouth County Correctional Institute in July 2003 found significant violations of the visitation standard.[58] The facility required attorneys either to show a state bar card or membership in a bar association in order to gain admission to the facility.[59] It did not notify detainees adequately of pro bono legal services organizations, it provided very little storage space for detainees' personal property and legal documents, and it made contact visits nearly impossible.[60]

The ABA's review of Oakland County Jail in July 2003 found that the facility's handbook contained unclear information on legal visitation rules, that the legal visitation area was uncomfortable, that the facility did not post lists of pro bono legal service organizations, and that it had a policy of limiting family visits to fifteen minutes.[61]

The ABA's review of Clay County Jail in August 2003 revealed numerous violations.[62] The facility did not ensure the confidentiality of legal visits, it required visitor lists that were difficult to amend, and it banned minors from visiting under any circumstances.[63] Shockingly, the facility shackled and handcuffed some detainees during routine visits with family.[64] Finally, it refused to allow multiple visitors to split the visitation time with a detainee.[65]

The ABA's review of Queens Detention Center in March 2004 found that facility guards interrupted legal visits and that detainees in the psychiatric ward had limited access to legal visits.[66] In addition, the facility refused to accommodate the visitation needs of detainees whose family members lived a significant distance from the facility, and it did not translate the list of pro bono legal service organizations into the languages spoken by large numbers of detainees.[67]

In July 2004, the ABA reviewed the Ozaukee County Jail and found that the facility did not allow detainees to continue legal visits through meals or lockdowns, that pressing the panic button in the room reserved for legal visits resulted in the recording of all conversations in that room, that the facility prohibited all contact visits with family, that it turned away all visitors who were late, and that the facility limited family visits to those visitors identified on detainees' visitor lists.[68]

In July 2004, the ABA reviewed York County Prison and uncovered numerous violations.[69] The facility did not adequately inform detainees of legal visitation rules, it did not allow legal visits during meals or counts, and it did not properly post lists of pro bono legal services organizations.[70] The facility also required detainees to have visitor lists that were difficult to amend, it made it difficult to arrange family visitation outside normal visitation hours if needed, and it allowed minors under 14 to visit only if they were children of detainees.[71]

The ABA reviewed the Bristol County Jail in August 2004 and reported numerous visitation standard violations.[72] The facility strip-searched a detainee after a contact visit, it required attorneys to show state bar cards to gain admission, and it limited family visitation to certain numbers of visitors.[73] In addition, the ABA noted difficulties in visitor registration and a prohibition on contact visits with family.[74]

In March 2005, the ABA reviewed Colquitt County Jail and found that the facility prohibited contact visits with family and that it did not make detainees adequately aware of available pro bono legal service organizations.[75]

### ABA- and UNHCR-reported Violations Not Reported by ICE, Though Reviews Conducted at Approximately the Same Time

In some instances, the ABA and UNHCR discovered visitation-related violations that ICE had not uncovered during its annual reviews conducted at approximately the same time. The ABA and UNHCR may have uncovered these additional violations by interviewing detainees in the course of their reviews, which ICE reviews do not require.

ICE reviewed Elizabeth Correctional Facility each year from 2002 to 2004. While ICE's 2002 review revealed that the facility did not allow attorneys to call ahead to determine if a detainee was at the facility, ICE's 2003 and 2004 reviews found no problems with visitation.[76] By contrast, the ABA's October 2003 review found that the facility did not allow contact visits with family.[77]

In the ABA's review of Bergen County Jail in August 2003, the ABA found that the facility did not allow contact visits with family and that visitors encountered difficulties in depositing money in detainees' accounts.[78]

The ABA reviewed the Dodge County Detention Facility in June 2004 and found that the facility did not allow contact visits with legal representatives and that it made family visitation more difficult than necessary by requiring detainees to have visitor lists.[79] In addition, facility staff had discouraged detainees from continuing a legal visit through a meal.[80] The ICE annual review in June 2004 did not uncover these violations.[81]

In its July 2004 review of the Passaic County Jail, the ABA found several problems with visitation, including a confusing visitation schedule, a discrepancy between posted visiting hours and those provided for in the detainee handbook, a blanket prohibition on contact visits, and the fact that visits were limited to 15-20 minutes.[82] In its August 2005 review of the same facility, the ABA found additional problems, including failure to maintain attorney-detainee confidentiality during legal visits, failure to provide bathroom breaks and pens during legal visits, and failure to provide the minimum 30 minutes for family visitation.[83] ICE annual reviews of the facility in 2004 and 2005 failed to uncover these same violations.[84]

In July 2004, the ABA reviewed the Dorchester Detention Center and found that the facility discouraged legal visits on certain days of the week, that it made contact visits with family very difficult, that the warden did not notify detainees that exceptions to the general visitation hours could be made for family members who lived at a great distance from the facility, and that the facility limited visits to fifteen minutes, in clear violation of the 30-minute minimum.[85] ICE's review of the facility in September 2004 missed some of these violations.[86]

In July 2004, the ABA reviewed the Santa Ana Detention Facility and found that the facility prohibited contact visits with family and that its handbook did not contain information on its policy of conducting strip searches after visitation.[87] ICE's review of the facility in August 2004 did not address these violations.[88]

The ABA reviewed Pamunkey Regional Jail in August 2004 and found that the facility did not allow detainees in segregation to have family visitation; that its written policy allowed only an attorney of record to visit the detainee for legal visitation, thereby excluding interpreters, mental health experts, and legal assistants; and that the facility required attorneys to show bar cards to gain admission to the facility, with few exceptions.[89] The ABA also found interruptions of legal visits by lockdowns.[90]

### Repeated Reviews Provide a Clearer Picture of Facilities' Performance

Finally, when both the ABA or UNHCR and ICE reviewed a facility repeatedly over a number of years, the facility's record of compliance with detention standards, including corrections of violations, or lack thereof, was more clearly revealed.

ICE reviewed CSC Detention Facility in September 2002 and found that the facility did not have legal visitation rooms that provided privacy.[91] The ABA's review four months earlier in May 2002 had found the same problem.[92] In addition, the ABA found that the facility routinely cut short family visits under the 30-minute minimum, that visitation rooms were generally cramped, and that contact visits were only allowed under "special circumstances," but that these circumstances were not laid out.[93] In July 2003, ICE reviewed the facility again and uncovered persisting problems, including failures to post lists of pro bono legal services organizations and mandatory strip searches.[94]

ICE reviewed the San Pedro Service Processing Center five times between 2002 and 2005.[95] In May 2002, the ICE review found numerous problems with visitation, including no mention in the handbook of consular visits, no provision for NGOs to visit, no procedure for independent medical exams, and no posted list of pro bono organizations.[96] Subsequent ICE reviews found no violations of the visitation standard. However, the ABA, which reviewed the facility three times between 2002 and 2005, found serious visitation-related violations each time.[97] In 2002, the ABA found

extensive difficulties with family visitation, including a prohibition on contact visits, long waiting lines for family members, failure to provide special arrangements outside normal visitation hours when necessary, visits cut short of the 30-minute minimum, and extremely small family visiting rooms.[98] Legal visits were also interrupted for routine headcounts, and the ABA suggested that facility remodeling might be needed to improve visitation.[99] In its July 2003 review, the ABA found that the posted list of pro bono legal organizations was outdated and inaccurate, that conversations during legal visits could be easily overheard, and that deposits to detainee accounts were capped at $50.[100] In August 2005, the ABA reported that the facility cut short the minimum time for family visitation, and it noted as an example that one legal visit had been limited to five minutes because of a guard shift change.[101]

ICE reviewed the Kenosha County Detention Center in 2003 and 2004. In 2003, ICE found that segregated detainees did not have adequate access to visitation, that the facility did not properly post the list of pro bono organizations, and that procedures for NGO visitation were not adequate.[102] ICE found no visitation-related problems in its May 2004 review.[103] However, the ABA reviewed the facility in July 2004 and found that the facility required legal representatives to provide advance notice of their visits and that the facility's restrictive visitation policies may have led to rare legal visitation.[104]

The ABA reviewed Clay County Jail in August 2003 and found a lack of attorney-detainee confidentiality during legal visits, a flat ban on minor visitation, problems changing detainees' visitor lists, and, most shockingly, handcuffing and shackling of noncriminal detainees as routine policy.[105] A year later, ICE reviewed Clay County Jail in September 2004 and found that the facility did not post a list of pro bono legal organizations and that legal visitation was not available for a sufficient number of hours each week and on weekends.[106]

ICE reviewed Aguadilla Service Processing Center in March 2004 and noted that detainees lacked privacy during legal visits.[107] When UNHCR reviewed the facility over a year later, in May 2005, the problem had not been alleviated.[108]

The ABA reviewed the Krome Service Processing Center in April 2004 and found that that the facility required attorneys to show state bar cards to gain admission and that procedures relating to money deposits for detainees were not appropriate.[109] ICE reviewed the facility in June 2005 and found that the procedures relating to detainees' personal property were still not adequate.[110]

### Shortcomings of ICE Visitation Standard–related Reviews

A comparative analysis of ICE, ABA, and UNHCR reports reveals the shortcomings of ICE reviews of facilities with respect to the visitation standard. Unlike ABA and UNHCR reviewers, ICE reviewers did not examine the interaction between different requirements of the standard. For example, while ICE reviews examined whether detainees could avoid strip-searches by choosing a noncontact legal visit, and whether detainees were afforded privacy in legal visits, ICE reviews did not examine these requirements together. By contrast, ABA reports noted that detainees who chose noncontact legal visits in order to avoid strip searches were, in some cases, forced to forego privacy during those legal visits.[111]

In addition, ICE reviews did not address one crucial visitation problem, namely the use of visitor lists. Although the standard prohibits facilities from imposing undue burdens on visitation, many facilities limited family visitation to only those persons identified on a detainee's visitor list. Nine facilities required such lists, and many of them limited the number of times the list could be revised to once per month.[112] Moreover, many facilities limited the number of names that could be included on the lists at any given time.[113]

## CONCLUSION

The persistent failures of facilities to respect detainees' visitation rights severely hamper detainees' ability to exercise their constitutional and statutory rights of access to counsel. Not only did facilities fail to notify detainees of available pro bono legal services organizations, they also burdened confidential attorney-client visitation in numerous ways. In addition, facilities violated rules on general visitation, a practice that inevitably results in severe and unnecessary deprivation of access to family and loved ones. Given the isolation of immigration detention, ICE must do more to ensure that facilities comply with the visitation standard and allow detainees to meet with their lawyers and loved ones with as few restrictions as necessary.

# Recreation

## INTRODUCTION

The detention standard regarding recreation acknowledges the importance of recreational activities to the mental and physical wellbeing of detainees. To this end, the standard requires facilities to offer supervised and safe recreational opportunities to all detainees,[1] including individuals with special needs and those in segregation.[2] The standard provides that "[e]very effort" be made to place detainees in facilities that provide outdoor recreation programs, although the standard accepts that detainees may be held for significant periods of time (nine months or more) at facilities with no outdoor recreation.[3] Outdoor recreation may include organized, limited-contact sports and must be provided a minimum of one hour each day, five days per week, weather permitting.[4] Such recreation provides an essential release for detainees who are confined indoors for extended periods, frequently in facilities lacking exposure to natural light.[5] In addition, exposure to sunlight may alleviate symptoms of depression in immigration detainees. The standard also requires facilities to provide detainees with sedentary recreational opportunities, including board games and television.[6] Recreation activities are to be overseen by a staff recreation specialist.[7]

The standard sets forth criteria and procedures for transferring detainees out of facilities that fail to provide outdoor recreation, unless the detainees waive transfer. Detainees may be held without an offer of facility transfer for up to nine months in facilities lacking outdoor recreation. In facilities with neither outdoor recreation nor indoor recreation areas, detainees may be held only for 60 days before a transfer is offered. Facilities must obtain from detainees their written acceptance or waiver of a transfer after they have been deprived of outdoor recreation for these time periods; however, detainees will not be transferred if their proceedings before an immigration judge have not been completed or they are deemed likely imminently to be either released from detention or removed from the United States (i.e., deported).[8] The standard requires that facilities inform the detainees' legal representatives about any facility plans and client decisions related to such transfers.[9] In theory, allowing detainees to decline such transfers allows them to determine for themselves whether their inability to partake in recreational activities is sufficiently important to cause them to move to a different facility, which may be at a greater distance from loved ones or potential legal service providers.

The standard also provides for the safety of recreation programs through provisions addressing staff supervision, inspections of recreation areas and equipment, and searches of detainees for contraband.[10] Each of these provisions is necessary, as recreation areas that expose detainees to security risks or lack functioning equipment deprive detainees of the psychological release and physical benefits that recreational programs provide.

In addition, the standard sets forth various requirements for the recreation of detainees in the Special Management Unit (SMU), where detainees are held in segregation, and for the procedures whereby facilities may deny or suspend such privileges.[11] These provisions are necessary to ensure that detainees in segregation are not denied access to recreation merely because it is more difficult to administer their recreational opportunities. Finally, the standard states that outside groups may offer recreational, religious, or educational activities to detainees, provided that they give notice to the officer-in-charge (OIC) and that there are no countervailing security concerns.[12]

## ICE MONITORING OF THE RECREATION STANDARD

As with the other standards, U.S. Immigration and Customs Enforcement (ICE) reviewers use a checklist as the principal tool for monitoring compliance.[13] A notable defect of the checklist used to monitor the recreation standard is that it combines into a single element the monitoring of the availability of outdoor and indoor recreational facilities. In addition, the checklist for this standard has no element relating to differences in recreational access by gender. ICE reviewers can capture such information only by noting it in the comments section of the form. Similarly, the checklist fails to contain elements to assess specific inadequacies with recreational equipment. Therefore, these problems, which some inspectors commented upon in the comments sections of the monitoring forms, are likely to be more widespread than the specific violations reported on the checklists would indicate, since the form does not require ICE reviewers to report these problems.

## ICE-DOCUMENTED VIOLATIONS OF THE RECREATION STANDARD

### Availability of Recreation Programs

The recreation standard mandates that facilities provide detainees with recreational opportunities under the supervision of facility staff.[14] This policy is intended to ensure that recreational programs are offered as a mandatory component of immigration detention and are not contingent upon facility discretion, staffing, or resources.

Despite this requirement, the Office of the United Nations High Commissioner for Refugees (UNHCR) found that one facility had no recreation areas, either indoors or outdoors..[15] Although detainees at this facility were permitted to exercise in their cells or a common dayroom, they were denied access to a dedicated recreation space. Staff reported that the facility lacked sufficient personnel to allow for a recreation program.[16]

### Availability of Outdoor Recreation Programs

The recreation standard provides that ICE must make every attempt to assign detainees to facilities with outdoor recreation space.[17] Weather permitting, outdoor recreation must be offered for a minimum of one hour per day, five days per week, and may include organized, limited-contact sports.[18]

ICE reviews reveal, however, that many facilities failed to provide such programs. In addition to the facility inspected and documented by UNHCR, which lacked *any* recreational programs, ICE reviews of nineteen other facilities found that they had no outdoor recreation programs at the time of their annual reviews,[19] yet only four of these facilities were rated deficient for the recreation standard.[20] Moreover, for four of the facilities ICE found to lack outdoor recreation, a subsequent ICE annual review found that each still lacked any outdoor recreation, yet every one of these subsequent annual reviews rated the facility acceptable for the recreation standard.[21] Moreover, ICE reported that another facility planned to close its outdoor recreation area within the year following its review, yet it was rated acceptable for the standard.[22]

Failure to offer outdoor recreation poses dire consequences for the physical and mental health of detainees. Lacking exposure to the outdoors, detainees may feel increasingly isolated or depressed, and they understandably interpret their confinement as a form of punishment rather than as a civil measure intended to secure their appearance at future proceedings. This result is particularly troubling as it pertains to detained asylum-seekers, many of whom seek refuge from abusive and inhumane treatment in their native countries. It defies logic that facilities lacking outdoor recreation space could be rated acceptable for the recreation standard, as provision of recreational opportunities is the quintessiental requirement of the standard.

### Transfer Provisions for Facilities Lacking Recreation Programs

Acknowledging the hardship posed by lacking exposure to fresh air and outdoor recreation, the recreation standard sets forth procedures whereby detainees may be transferred out of facilities that lack outdoor

### KEY FINDINGS

- Though **provision of outdoor recreation is a basic requirement** of the recreation standard, ICE reviewers rated facilities as being in compliance **even when the facilities lacked outdoor recreation programs.**
  - **Only 4 of 19** ICE-reviewed facilities that had no outdoor programs **received a rating of deficient** for the recreation standard.
  - When ICE subsequently reviewed 4 facilities that had lacked outdoor programs, it rated each of them as acceptable for the standard, **even though they still lacked such programs.**
- One UNHCR-reviewed facility **lacked either indoor or outdoor recreation programs.**
- Six ICE-reviewed facilities **lacked an indoor recreation program,** as did one ABA-reviewed facility.
  - Of these 7, reviewed a total of 10 times, 2 were found in consecutive years to have no indoor recreation.
  - **Yet ICE gave only 2 of these facilities ratings of deficient for the standard.**
- **16 facilities did not provide detainees the minimum amount of required recreation time**, according to ICE reviews.
  - 8 of these were shown in more than one review to have failed this requirement.
  - **25 additional facilities** violated this requirement, **according to ABA and UNHCR reports.**
- **18 facilities** provided recreation areas that **could not accommodate all detainees.**

recreation opportunities.[23] Pursuant to the standard, staff must review the files of detainees who are held for six months without outdoor recreation to determine the detainees' eligibility for transfer to another facility with such opportunities; no detainees are to be held longer than nine months in a facility lacking outdoor recreation unless they sign a waiver of transfer.[24]

However, ICE reviews reveal that, of the twenty-four facilities lacking outdoor recreation, three failed to consider the transfer eligibility of detainees lacking access to outdoor recreation within the designated time. The UNHCR reported the same problem at two additional facilities.[25] Detainees in these facilities thus were subjected to indefinite periods without outdoor recreation.

### Indoor Recreation Activities

The standard requires that, in the event that outdoor recreation is not provided, facilities must designate an indoor space for detainees that affords access to exercise equipment and sunlight.[26] In such cases, indoor recreation must be offered for a minimum of one hour each day.[27] Although this alternative is inadequate to meet the standard's outdoor recreation requirement,[28] it is an important stopgap, providing detainees at least some exposure to sunlight and exercise until they are offered either outdoor recreation or an option to transfer to another facility. Nevertheless, several facilities failed to implement even this minimal provision. In addition to the Racine County Jail, which UNHCR found to lack either indoor or outdoor recreation programs, six other facilities failed to offer indoor recreation to detainees, according to ICE reviews.[29] The American Bar Association (ABA) found the same violation at an additional facility.[30] Of these seven facilities, reviewed a total of ten times, two were found in consecutive years to have no indoor recreation.[31] Yet ICE reviewers gave only two of these facilities ratings of deficient for the standard.[32]

### Minimum Hours and Days of Recreation

The standard specifies that, weather permitting, facilities must offer detainees outdoor recreation for a minimum of one hour each day, five days per week.[33] The standard further specifies that, when possible, Service Processing Centers (SPCs) and Contract Detention Facilities (CDFs) also should allow detainees to participate in outdoor recreation on weekends.[34] Where indoor recreation alone is offered, facilities must ensure that detainees have access to an indoor recreation area with sunlight for a minimum of one hour daily.[35]

ICE reviews reveal that sixteen facilities failed to provide detainees with the minimum amount of recreation time required by the standard,[36] and that eight of these facilities were shown in more than one review to have failed to meet this requirement.[37] ICE gave seven facilities deficient ratings for the standard as a whole, three of which were found in more than one annual review to have violated this requirement.[38] Moreover, ABA and UNHCR reports identified violations of this requirement at an additional twenty-five facilities.[39] All told, the evidence reveals that at least forty-one facilities failed to provide detainees with the minimum amount of recreation time required by the standard.

### Law Library and Recreation Scheduling

Pursuant to the standard, facilities may not schedule recreation periods such that detainees must choose between use of the law library or participation in recreational activities.[40] This provision recognizes that the concurrent scheduling of library and recreation time puts an unjustifiably high price on a detainee's pursuit of his or her legal case. Detainees should not be presented with the unfair and impossible choice of researching their cases or enjoying recreation due to arbitrary and coercive scheduling practices. Unfortunately, the monitoring checklist for the recreation standard does not include this requirement, although it is included in the "Access to Legal Material" standard. Reports by the ABA and UNHCR reveal that the schedules at six facilities required detainees to choose between using the library and exercising recreation privileges, in violation of the standard.[41] (See also the chapter in this report titled "Access to Legal Material.")

### Provision of Recreation Materials and Equipment

The standard states that exercise areas in facilities must contain "fixed and movable equipment" for use by detainees.[42] Additionally, detainees lacking outdoor recreation opportunities must be afforded access to cardiovascular exercise through a recreation room equipped with cardiovascular machines.[43] Cardiovascular exercise provides detainees with a desperately needed means of maintaining their health and burning otherwise unspent energy that accumulates during confinement. In addition, facilities must offer sedentary recreational activities such as television and board games in supervised dayrooms, and must distribute the materials for such activities at least once daily.[44]

However, the checklist for the recreation standard does not monitor compliance with all these requirements. Instead, it simple asks: "Does regular maintenance keep recreational facilities and equipment in good condition?" and "Do dayrooms offer sedentary activities, e.g. board games, cards, television?" Despite the lack of elements on the checklist to systematically review equipment requirements, ICE reviewers did note

violations at four facilities.[45] It is likely that violations are far more widespread. Indeed, the ABA and UNHCR identified significant violations at fourteen additional facilities, where little or no equipment was provided.[46]

### The Condition and Sufficiency of Recreational Areas

ICE reviews and reports from independent agencies suggest that several conditions not always tracked by ICE annual reviews may imperil detainee access to recreation. Although the standard does not specify space parameters for recreation areas, it clearly implies that facilities must provide rooms and outdoor spaces of sufficient size to allow all detainees to participate in recreational activities for the minimum periods outlined by the standard. ABA and UNHCR reports and some ICE annual reviews reveal, however, that eighteen facilities provided recreation areas that were insufficient to accommodate recreational opportunities for all detainees.[47] Moreover, five facilities severely limited the recreational activities of detainees, sometimes permitting only walks around outdoor areas.[48] In three facilities, recreational offerings varied by gender, with male detainees receiving more favorable recreation privileges than female detainees.[49]

### Segregation and Detainee Recreation

The recreation standard mandates that facilities provide recreational opportunities for detainees in administrative or disciplinary segregation that are distinct in time and place from those offered to the general population.[50] It specifies that segregated detainees may be denied recreational privileges only upon written authorization from the OIC stating that the detainee poses a safety risk to himself or others.[51] The standard further requires facilities to review on a weekly basis the cases of detainees whose recreation privileges have been denied.[52] In cases where privileges have been suspended for disciplinary reasons, facilities must notify detainees in writing regarding the reasons for and all conditions related to such decisions.[53]

According to ICE reviews, detainees at four facilities did not receive written explanations when their recreation privileges were suspended or revoked,[54] yet all these facilities received acceptable ratings for the standard.[55] Moreover, in an additional five facilities, the OICs did not review all of the revocation decisions made by disciplinary panels before these decisions took effect.[56]

### Supervision of Recreational Activities

The standard contains various provisions addressing the safety of recreational programs. These include requirements that staff routinely supervise recreational activities and maintain radio contact with a control center, inspect recreational spaces and equipment, and search detainees traveling to and from recreation areas for contraband.[57] Each of these provisions is important, as recreation areas that either expose detainees to security risks or lack functioning equipment deprive detainees of the very release that recreational programs are intended to provide.

Several facilities failed to comply with the supervision and safety requirements set forth in the standard. ICE identified six facilities where recreation areas were not under constant staff supervision,[58] only one of which received a deficient rating.[59] Moreover, reviewers of two facilities revealed that detainees had escaped or attempted to escape from recreation areas that year.[60] In three facilities, staff members lacked radios or other communication devices with which to communicate with the control center while supervising detainees.[61] In addition, staff at two facilities did not search recreation areas both before and after use by detainees; both facilities were rated deficient for the standard.[62]

## VIOLATIONS REPORTED BY ABA AND UNHCR, BUT NOT REPORTED BY ICE

Further deficiencies in the ICE monitoring process are revealed by an examination of ICE's annual reviews for particular facilities in conjunction with reports from the ABA and UNHCR for the same facilities during the same time period. The five facilities discussed below provide clear examples of the failures of the ICE annual reviews to capture or account for violations documented by independent reviewers.

### Kenosha County Detention Center

In May 2003, ICE reviewed Kenosha County Detention Center and rated the facility acceptable for the standard, despite noting that the facility had no recreation staff or specialists,[63] that the OIC did not review decisions to revoke the recreation privileges of detainees in disciplinary segregation before those decisions became effective, and that case officers were unaware that the standard required them to make written transfer recommendations about every six-month detainee lacking access to outdoor recreation.[64] A report by UNHCR issued four months later further revealed that while male detainees had access to recreation facilities for about two hours a day, female detainees were not allowed access to the facility's outdoor recreation area

because of its location and concerns that male detainees could see the outdoor area from their windows.[65] UNHCR recommended that female detainees be allowed an hour of outdoor recreation daily, in accordance with the standard.[66] However, in May 2004, ICE again rated the facility's recreation program acceptable, failing to address in any way the disparity in male and female access noted in the UNHCR report.[67] Two months later the ABA reported that female detainees still had no access to outdoor recreation and were restricted to an indoor gym that lacked equipment.[68] The ABA also reported that, when outdoors, male detainees were not allowed to run or play ball games. They were limited to walking and sitting, apparently to prevent injuries.[69] In June 2005, ICE once again rated the facility acceptable for the standard, again without any consideration of the prior ABA or UNHCR reports.[70] Subsequently the ABA conducted a second inspection and reported in September 2005 that female detainees were still barred from the outdoor recreation area.[71] Thus, after three years of repeated notice, ICE failed to respond to the need to provide female detainees with an opportunity for outdoor recreation.

In addition to shedding light on the nonresponsiveness of ICE to troubling disparities in the recreational opportunities offered to men and women, the reports of UNHCR and the ABA highlight the insufficiency of the ICE checklist for documenting such problems. Since the checklist for this standard has no element related to differences in recreational access by gender, and ICE reviewers can only capture such information by noting it in the comments or remarks sections of the form, it is quite possible that other facilities experienced similar problems that went unnoticed by ICE.

### Passaic County Jail

In March 2004, ICE reviewed the Passaic County Jail. Despite reporting that volunteers were not required to sign waivers of liability before entering a secure area where detainees were present (and advising staff to make this a requirement),[72] ICE rated the facility acceptable for the recreation standard.[73] However, when the ABA reviewed the facility four months later, it found that the facility "fail[ed] to meet, in large part, the detention standards regarding recreational programs and activities."[74] While facility staff reported that detainees received one hour of exercise and recreation per day, including one hour per week in an outdoor rooftop area, detainees whom the ABA interviewed reported receiving far less than this amount.[75] The detainees also reported that after waiting to sign in to use the recreation facilities, they were left with only 20 minutes of recreation time.[76] One detainee said that he was prevented from using the recreation facilities because he would not receive his HIV medication if he was not in his cell when the nurse came.[77] In June 2005, ICE once again rated the facility as acceptable for the recreation standard, finding no violations of it that year,[78] while the ABA found the facility still "fail[ing] to meet, in large part," the standard.[79] In its August 2005 report, the ABA stated that the large facility had only one weight room and two outdoor areas, that detainees were required to formally request board games and card games from the guards, and that a recreation specialist supervised activities but did not tailor them to the detainees' needs.[80] The ABA further noted that while staff claimed that a "recreation rotation" system provided detainees with five days of indoor recreation and two days of outdoor recreation per week, for an hour at a time,[81] detainees stated that recreation was rarely available, and that outdoor recreation was often cancelled due to inclement weather — and that whenever it was cancelled, it was not rescheduled.[82] The deficiencies suggest both ICE's failure to speak with detainees during its reviews and the need for such communication in order to ascertain the actual conditions at facilities housing ICE detainees.

### Dodge County Detention Center

In June 2004, ICE reviewed Dodge County Detention Center and reported that the facility had no outdoor recreation and no recreation specialist.[83] The reviewer rated the facility acceptable for the recreation standard,[84] while urging it to "continue to find a way to comply with" the standard's outdoor recreation requirement.[85] In the same month, the ABA reviewed the facility and found several additional violations and substandard conditions. In addition to providing no access to outdoor recreation, this facility failed to provide detainees with cardiovascular or muscular exercise equipment, or to offer access to natural light in its indoor recreation area, or to permit detainees to play basketball, even though the recreation room contained a basketball hoop.[86]

### Dorchester County Detention Center

In September 2004, ICE also reviewed Dorchester County Detention Center and reported that daily recreational opportunities were provided to detainees, but that outdoor recreation was available only two days per week.[87] The review also noted that the facility had no recreation specialist, and the checklist item requiring that recreation areas be under constant staff supervision was marked "N/A," with no further explanation.[88] ICE rated the facility deficient for the standard.[89] Just three months earlier, the ABA had noted several other violations at the facility, each of which was overlooked by ICE in its later review. The ABA observed the potential for conflicts between a detainee's time for attorney

visitation and possible library use, and the facility's daily gym period;[90] reported that detainees were denied outdoor recreation for long periods during the winter; and stated that detainees receiving pain medication were not permitted to participate in outdoor recreation, resulting in the refusal of some detainees to take necessary medications.[91] The ABA further noted that detainees in segregation were denied recreation opportunities[92] and that the facility had no fixed weight training or other exercise equipment, apparently for "security reasons."[93]

### Santa Ana Detention Facility

In August 2004, ICE reviewed the Santa Ana Detention Facility and rated the facility's compliance with the standard acceptable,[94] while noting that the facility had no recreation specialist or equivalent, that recreation volunteers were not required to sign waivers of liability, and that the element of the standard regarding regular maintenance of the recreation areas and equipment was "N/A."[95] A month earlier, the ABA had reviewed the facility and found that the outdoor recreation site was limited to a small concrete area with high walls that blocked much natural light from entering; that there was only one piece of exercise equipment, consisting of a pull-up bar and sit-up bench; and that the indoor recreation area had no board games, despite the handbook indicating that they were available.[96]

## CONCLUSION

Both ICE reviews and reports by independent agencies reveal that detainees were regularly deprived of recreational opportunities that are essential to their physical, mental, and emotional health. Especially pervasive was the failure of many facilities to provide the minimum number of hours and days of recreation required by the recreation standard. These violations render recreational programs inherently inadequate, as they may be offered only sporadically or at the discretion of facility staff. In addition, many facilities failed to provide access to outdoor recreation, which offers detainees both physical benefits and an opportunity to interact with the natural environment. Problematically, several of these facilities also failed to implement the standard's procedures for transferring detainees to facilities that had such programs. Even where facilities had recreation programs in place, these were rendered inadequate or meaningless at a large number of facilities due to a lack of exercise equipment and materials, and to insufficient space in which to partake in recreational activities. Finally, several facilities unnecessarily restricted access to recreation by denying opportunities to individuals in segregation, by providing more limited offerings to females than males, and by concurrently scheduling law library and recreation time.

# Telephone Access

## INTRODUCTION

The telephone access standard is intended to ensure that facilities provide detainees "reasonable and equitable access to telephones."[1] This standard is important because it helps facilitate detainees' access to legal counsel as they challenge the government's attempts to remove them from the United States. Access to telephones while in detention also allows detainees to maintain contact with family and friends, including their U.S. citizen children, while they are being detained.

The telephone access standard has several key provisions. First, upon admittance to the facility, detainees must be provided the facility's phone access rules in writing.[2] Second, the telephones must be in proper working order and there must be at least one telephone for every 25 detainees.[3] Third, detainees must be permitted to make direct calls to legal service providers, consulates, and certain courts and government offices.[4] These calls must be free for indigent detainees if the number is local.[5] Fourth, detainees must be afforded privacy for their legal calls.[6] Fifth, detainees must be permitted to make inter-facility calls to immediate family members held in other U.S. Immigration and Customs Enforcement (ICE) detention facilities.[7] Sixth, detainees must be able to receive phone messages.[8] Seventh, detainees in administrative segregation for nondisciplinary reasons must be permitted telephone access similar to detainees in the general population.[9] Detainees in disciplinary segregation must be able to make all calls mandated under the standard, except if "compelling" security reasons require otherwise.[10]

## VIOLATIONS REPORTED BY ICE, ABA, AND UNHCR

### Notice to Detainees of Telephone Access Policies

Each facility must provide telephone access rules in writing to each detainee when the detainee first arrives and must also post these rules where detainees may easily see them inside the facility. ICE reviews revealed that 38 facilities failed to abide by this requirement—they did not post telephone-related rules in public spaces in the detention facility.[11] The American Bar Association (ABA) identified one additional facility that violated this requirement.[12] Five of these 39 facilities failed to post phone rules for two years in a row.[13] In addition, ICE reviews found that 14 facilities failed to fully explain the telephone policy in detainee handbooks as required, leaving detainees confused about their rights and the proper phone procedures.[14] Two of these facilities had multiyear violations. The United Nations High Commissioner for Refugees (UNHCR) found one additional facility that failed to fully explain the phone procedures in its handbook.[15]

Detainees who are not fluent in English find it difficult to navigate any detention policies. For that reason, the telephone access standard requires facilities to make a "reasonable effort" to translate their telephone-related rules into languages spoken by a large number of detainees; but, unfortunately, it does not define what constitutes a "reasonable effort." ICE reviews showed that 10 facilities failed to provide information regarding telephone access in the languages spoken by a significant portion of the facility's population.[16] One of these facilities failed this element of the standard two years in a row, and at 6 of these facilities no phone instructions were provided in *any* language aside from English.[17] The ABA identified another facility where no phone rules were provided in languages other than English.[18]

### Privacy

The standard requires facilities to ensure that detainees can place private phone calls regarding their legal cases. Facilities must provide a reasonable number of telephones to allow detainees making such calls to talk without being overheard by officers, other staff, or other detainees. Detainees in numerous facilities routinely report that the lack of privacy for legal calls is a serious problem and undermines their attorney-client relationships and their ability to pursue legal relief. For example, a detainee pursuing an asylum claim based on past persecution on account of his sexual orientation may fear harassment if other detainees overhear his conversations and, therefore, may fail to provide critical details to his counsel. ICE reports revealed that 16 facilities failed to provide detainees with a reasonable degree of privacy for legal phone calls.[19] The ABA and UNHCR also documented violations of these privacy requirements at 14 additional facilities, one of which was a multiyear violation.[20]

The standard also requires facilities to inform detainees that they may contact a detention facility officer if they have difficulty making a confidential legal call, so that arrangements can be made to accommodate the detainee's need for privacy. ICE reviews found that procedures in place at three facilities were insufficient to allow detainees to ask for assistance when they had

difficulty placing a confidential call, and the ABA found an additional facility that violated this requirement.[21]

In addition, the standard requires each facility to have a written policy on the monitoring of detainee calls. Under the standard, facility staff may not electronically monitor detainee legal calls unless they first obtain a court order. If other calls are monitored, the facility must notify detainees in the detainee handbook when they first enter the facility and must place a notice at each monitored phone stating (1) that calls from that phone are subject to monitoring and (2) the procedure for obtaining an unmonitored call to a court or legal representative. ICE reviews revealed that six facilities failed to post notices next to telephones that were monitored, and the ABA identified one additional facility violating this requirement.[22] ICE reviews also showed that three facilities inappropriately monitored all detainee calls, including legal calls, without the required court order.[23]

### Direct Calls and Free Calls

The standard requires facilities to establish systems to allow detainees to make "special access" calls, which are direct calls to (1) the local immigration court and the Board of Immigration Appeals, (2) federal and state courts presiding over legal proceedings in which detainees are involved, (3) consular officials, (4) legal service providers, and (5) government offices, to obtain documents regarding their cases. In addition, facilities must also allow free calls in cases of personal or family emergency, or when the detainee demonstrates a compelling need to make such a call. Facility staff must allow detainees to make these direct calls as soon as possible after the request, generally within 8 waking hours of the request and no longer than 24 hours. Incidents of delays beyond 8 waking hours must be documented and reported to ICE.

Indigent detainees may not be required to pay for the aforementioned types of calls if they are local calls or nonlocal calls that need to be made for a compelling reason. All detainees, regardless of whether or not they are indigent, must be allowed to make calls to the ICE-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party. ICE reviews reveal that 13 facilities failed to allow detainees to make such special access calls.[24] The ABA and UNHCR also documented violations of the special access call requirements at 19 additional facilities, one of which violated these requirements two years in a row.[25]

## KEY FINDINGS

- **38 facilities failed to post telephone-related rules in public spaces**.
- **16 facilities did not provide a reasonable degree of privacy for legal phone calls**, according to ICE reviews.
  - The ABA and UNHCR found **violations of these privacy requirements at 14 additional facilities**, one of which was a multiyear violation.
- **13 facilities failed to allow detainees to make special access calls**, the ICE found.
  - The ABA and UNHCR found **violations of the special access call requirements at 19 additional facilities**, one of which violated these requirements two years in a row.
- **20 facilities did not afford detainees in nondisciplinary segregation the same rights as those in the general population**.
  - 2 of these facilities violated this element two years in a row.
- **11 facilities did not have a system in place for taking and delivering emergency phone messages**, ICE found.
  - 2 of these facilities violated this element of the standard 2 years in a row.
  - At least 1 of these facilities had no system for delivering any messages to detainees.
  - The ABA and UNHCR found **serious violations of the message requirements at 8 additional facilities**.

### Inter-Facility Telephone Calls

Upon a detainee's request, a facility must make arrangements permitting the detainee to call an immediate family member detained in another facility. ICE reports reveal a staggering number of violations of this requirement. At least 33 facilities failed to make special arrangements for detainees to call immediate family members in other facilities,[26] and 3 of these facilities had violations in two consecutive years.[27] Some of these facilities allowed detainees to call family members in other detention centers only when there was an emergency, although the telephone access standard contemplates no such limitation.[28]

### Telephone Privileges for Detainees in Segregation

According to the standard, detainees placed in segregation for nondisciplinary or administrative reasons,

such as for their own safety, must have telephone access comparable to detainees in the general population, only with restrictions required to accommodate the special security needs of these units. Similarly, facilities must permit detainees placed in segregation for disciplinary reasons to make free calls regarding legal matters, family emergencies or other compelling matters, except when security necessitates limits.

The ICE reviews show that twenty facilities did not afford detainees in nondisciplinary segregation the same rights as those in the general population,[29] and that two of these facilities violated this element two years in a row.[30] In addition, ABA reviews found two additional instances of inappropriate restrictions on phone access for detainees in nondisciplinary segregation.[31] In three facilities, the phone access rights of detainees in disciplinary segregation were also violated.[32]

### Phone Messages

The standard requires each facility to take and deliver all telephone messages to detainees as promptly as possible. Emergency messages are to be handled in an expedited fashion. ICE reviews found that eleven facilities did not even have a system in place for taking and delivering *emergency* detainee telephone messages.[33] For two of these facilities, ICE reviews documented violations two years in a row.[34] And at least one of these facilities had no system for delivering messages of any kind to detainees.[35] In addition, the ABA and UNHCR found serious violations of the message requirements at eight additional facilities.[36]

### Telephone Maintenance

Of course, even the most detailed phone access and privacy provisions are useless if a facility's actual phones do not work. Therefore, the standard requires that each facility must ensure that telephones available to detainees are in working order. Facility staff must inspect the telephones regularly, promptly report out-of-order telephones to the repair service, and ensure that repairs are completed quickly. However, ICE reports revealed that in four facilities the telephones were not inspected regularly and that those facilities relied on detainees to inform detention facility staff about any malfunctions.[37] The ABA and UNHCR identified four additional facilities where significant phone problems indicated that facilities were failing to regularly inspect their phones.[38] ICE reviews of two additional facilities found that facility staff did not promptly report the existence of out-of-service telephones to their service providers or monitor repairs to ensure they were completed in a timely fashion.[39] In one of these facilities, several phones were found to be out of service for an extended period of time.[40]

### Insufficient Access to Telephones

The standard requires that detainees be provided "reasonable and equitable access to telephones during established facility waking hours."[41] Specifically, each facility must provide at least one telephone for every 25 detainees. ICE reports show that adequate numbers of phones were not provided at two facilities, and the ABA and UNHCR documented inadequate numbers of phones at two additional facilities.[42]

In addition, facilities may "not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones."[43] If time limits are necessary for such calls, they cannot be shorter than 20 minutes, and the detainee must be allowed to continue the call, if desired, "at the first available opportunity."[44] The ICE reviews revealed that three facilities limited detainees' calls in contravention of the standard, and in each of these cases the ICE reviewer still rated the facility's performance with regard to the overall telephone access standard as acceptable.[45] The ABA, too, documented inappropriate time restrictions on calls at two other facilities.[46]

### ICE Rates Facilities "Acceptable" Despite Violations

ICE reviewers often documented significant violations of the telephone access standard at particular detention facilities but then failed to assign them a "deficient" rating for the standard as a whole. For example, in 2004 ICE reviewed the York County Prison and found several phone access violations. ICE found that the access rules were not posted in the housing units, but listed only in the handbook. The reviewer, however, nevertheless marked the checklist item for this element of the standard "acceptable."[47] Next, the ICE reviewer found that the facility took and delivered only emergency messages to detainees, but still marked "acceptable" the checklist item for the element of the standard requiring a general message system for detainees.[48] Finally, the reviewer reported that detainees in nondisciplinary segregation were denied telephone privileges afforded to the general population.[49] In spite of these three clear violations, the ICE reviewer rated the facility's performance with respect to the overall telephone access standard as "acceptable,"[50] thus sending a mixed message to the facility about whether it should take immediate steps to remedy the telephone access–related problems identified in the review.

### Excessive Costs

The standards do not set limits on the amount detainees can be charged for phone calls. Nonetheless, some ICE reviewers noted that facilities they reviewed charged detainees excessive amounts of money for using the facility's telephones.[51] ICE should revise the telephone access detention standard to set maximum charges for phone calls, because excessive phone charges can have the same impact as simply failing to make phones available for detainees' use.

## VIOLATIONS REPORTED BY ABA AND UNHCR, BUT NOT REPORTED BY ICE

Tellingly, at many facilities, ICE reviews failed to document telephone access violations that were discovered by the ABA or the UNHCR in their reviews of the same facilities within six months or in the same calendar year of the ICE reviews. The facts reported below are from reviews of facilities for which the discrepancies and unreported violations were the most pervasive and severe.[52]

In 2004, ICE reviewed the Berks County Prison, found no violations of the telephone access standard, and gave the facility an "acceptable" rating for telephone access.[53] The ABA visited the facility the same month, however, and found numerous violations of the standard. The ABA reported that for their first four days at the facility detainees were placed in "quarantine," where they were denied telephone access and permitted to make only one free call;[54] when first admitted to the facility, detainees were not provided a handbook informing them of telephone access rules;[55] and rules for telephone use were not posted near the telephones.[56] Furthermore, the ABA reported that detainees were afforded virtually no privacy when using the phones, as there were no privacy partitions and the phones were located in common areas where legal calls could be overheard by officers, staff, or other detainees.[57] In addition, the facility electronically monitored phone calls without informing detainees of this fact via notices posted at the telephones, and it had no procedures whereby detainees could request unmonitored legal calls.[58] The ABA also documented that detainees were not permitted to receive incoming messages of any kind, including emergency messages.[59]

ABA and UNHCR reviews of the Kenosha County Detention Center in 2003 and 2004 also revealed violations that ICE failed to report. ICE reviewed the detention center in 2003 and, despite finding that the facility failed to make a reasonable effort to provide key information to detainees in languages spoken by any significant portion of the detainee population,[60] rated the facility "acceptable" for phone access.[61] Four months later, UNHCR visited the facility. In addition to confirming that the facility was not providing rules and orientation materials to detainees in the most common languages spoken by the population,[62] UNHCR found that phone cards were not made available to detainees because, according to staff, the jail "needs the revenue stream from collect calls."[63]

In 2004, ICE again reviewed the Kenosha County Detention Center, found no violations, and gave the facility an "acceptable" rating for phone access.[64] However, the ABA reviewed the facility two months later and found several violations, the most serious being the facility's monitoring of detainees' telephone calls with their attorneys.[65] In 2005, ICE once again found no violations and gave the facility a rating of "acceptable,"[66] but an ABA report dated three months later found numerous problems and violations, including lack of privacy,[67] failure to provide written notice of telephone usage instructions,[68] and failure to deliver telephone messages to detainees.[69]

When the ABA reviewed the Passaic County Jail three months after the ICE reviewed it in 2004, the ABA found several violations that the ICE reviewer did not report. ICE had rated the facility "acceptable" for phone access,[70] even though it found that the facility violated the standard by failing to post notification by the telephones when calls were being monitored.[71] After the ABA reviewed the facility, it reported that the facility failed to provide phone usage instructions for illiterate or non–English speaking detainees;[72] there were no instructions on how to use the preprogrammed phone technology;[73] the phones were located in open spaces that afforded detainees no privacy;[74] and the facility staff did not take or deliver phone messages to detainees because they refused to be "an answering service."[75]

In 2005, ICE again gave the facility a rating of "acceptable,"[76] despite finding that detainees in nondisciplinary segregation were not given the same telephone privileges as those in the general population.[77] The ABA reviewed the facility two months later and found repeat violations with respect to telephone privacy,[78] the ability to telephone free legal service providers and consulates free of charge,[79] and the taking and delivery of messages.[80]

In June 2004, ICE reviewed the Dodge County Detention Facility, found no violations of the telephone access standard, and assigned the facility an "acceptable" rating.[81] However, when the ABA reviewed the facility that same month, it found many violations. The ABA reported that the facility would allow detainees to make only collect calls,[82] and that all calls made by detainees were subject to a 15-minute time limit.[83] The ABA also found that the facility did not post any notification near the phones regarding detainees' ability to place direct calls,[84] and the facility appeared to lack the

necessary technology to allow detainees to place the needed direct calls free of charge.[85] Detainees were not afforded privacy for their phone calls, since the phones were located in public dayrooms without privacy partitions.[86] A detainee interviewed by the ABA reported that all phone conversations made on the outgoing phones were monitored and recorded.[87] In addition, the facility did not accept phone messages[88] and denied telephone access to detainees placed in disciplinary segregation.[89]

In 2004, ICE reviewed the Keogh-Dwyer Correctional Facility. Although ICE found that the facility violated the standard by failing to post notification by the phones informing detainees that their calls may be monitored,[90] it nevertheless rated the facility "acceptable" for this standard.[91] The ABA had reviewed the facility one month before and, in addition to confirming the privacy violation that ICE found,[92] discovered that telephones in the housing unit were located in open areas without privacy panels and that there were no areas designated to ensure that legal phone calls could be made in private.[93] The ABA also found that the facility's written rules limited all telephone calls to 15 minutes,[94] the facility did not provide detainees with a procedure for making or receiving unmonitored legal calls,[95] and the facility did not take nonemergency phone messages for detainees.[96]

## CONCLUSION

The ABA and UNHCR reviews, as well as ICE's own reviews, offer compelling evidence that ICE has consistently failed to require detention facilities to comply with the telephone access standard. The most pervasive and troubling violations are lack of privacy afforded to detainees when making confidential legal calls, monitoring of legal calls by facility officials, failure to post instructions regarding free and other special access calls, arbitrary and unnecessary time limits placed on detainees' telephone calls, and refusal by facility staff to deliver phone messages to detainees. All told, the reviews paint a picture of a system in which phones are present, but detainees have a difficult time using them due to a lack of information about phone procedures and cumbersome processes for placing what should be direct calls. As a result, detainees' ability to obtain legal assistance and develop their cases is greatly compromised.

# Access to Legal Material

## INTRODUCTION

Taking into account the fact that the majority of detainees cannot afford their own legal counsel, the detention standard on access to legal material is intended to ensure that detainees have the ability to research and pursue their legal cases while in detention. The standard requires facilities to set up a physical law library to provide detainees with an adequate environment in which to conduct legal research and writing and to prepare their own legal documents.[1] Specifically, facilities are required to have a well-lit law library with typewriters and/or computers and writing utensils.[2] The law library must contain all required legal material and also must post a list of that required material. This material is to be catalogued and updated regularly by a designated facility employee.[3] The standard provides that the Office of General Counsel of the Immigration and Naturalization Service (INS), an agency that was abolished in 2003,[4] is required to review the contents of the list at least annually and update the list as needed.[5] Legal material is to be available in languages other than English in order to provide equal access to English and non–English speaking detainees.[6]

The standard provides that each detainee must be permitted to use the law library for a minimum of five hours per week and may not be forced to forgo recreation time to use it.[7] Moreover, a facility shall permit detainees to assist other detainees in researching and preparing legal documents, upon request.[8] Detainees in administrative segregation or disciplinary segregation are to be given the same access to the law library as the general population, barring security concerns.[9]

Finally, the standard contains elements intended to protect detainees who make use of law library resources by stating that detainees may not be subject to reprisals, retaliation, or penalties because of a decision to seek judicial relief on any matter, including (1) the legality of their confinement, (2) the legality of the conditions in which they are detained or how they are treated while in detention, (3) any issue relating to their immigration proceedings, or (4) any allegation that the government is denying them a right protected by law.[10]

A facility's compliance with the Access to Legal Material detention standard is particularly critical because many detainees are unable to retain legal counsel for their immigration cases and therefore represent themselves. In addition, without access to a law library with basic immigration law and other legal holdings, detainees cannot raise challenges to the legality of their detention or the conditions they must endure while detained.

## VIOLATIONS OF THE STANDARD REPORTED BY ICE AND INDEPENDENT AGENCIES

### Lack of Law Libraries, Required Legal Material, or Equipment

According to U.S. Immigration and Customs Enforcement (ICE) and independent agency reviews, an alarming total of twenty-nine facilities lacked a physical law library. The ICE reviews revealed twenty-four facilities that lacked a physical law library, five of which had multiyear violations.[11] The American Bar Association (ABA) documented five additional instances of facilities lacking a law library.[12] In some facilities, mobile carts with some books were used in lieu of a physical law library. In others, detainees had to request a specific case or statute through a designated facility staff person in order to receive any legal material to review. In still other facilities, there was no sort of substitute for the required physical law library.

Many ICE reviewers indicated that they thought that computer access to Lexis-Nexis could be provided in lieu of a physical library with written legal material, though the standard contemplates no such exception. For example, the 2004 ICE review for the Yavapai County Detention Center noted that the facility lacked a law library, but suggested that the facility remedy this violation by providing a computer with Lexis-Nexis "[d]ue to the benefit ICE would gain from the additional bed space" if no space were allocated to a law library.[13]

At fifty-nine facilities, the law libraries failed to contain some or all of the required legal material. ICE reviews revealed that at least thirty-nine facilities did not have all the material, and that four of these facilities had multiyear violations.[14] In addition, the ABA and the Office of the United Nations High Commissioner for Refugees (UNHCR) found that twenty additional facilities failed to provide all the required material.[15] The ABA and UNHCR also reported that five of the facilities that ICE reported as being noncompliant with this element of the standard had violations in additional years that were not reported by ICE.[16] Some facilities had *none* of the required material.[17] One facility incorrectly claimed that the list of required law library material had been withdrawn by the federal government.[18]

In addition, several facilities violated the requirement that facilities post a list of the required material where detainees can see it.[19] The full extent of noncompliance with this requirement was impossible to determine because the checklist used by ICE reviewers

to evaluate compliance with this detention standard combines into one question the separate elements of (1) whether the list was posted and (2) whether all required material was provided.

The standard also requires facilities to designate an employee to update legal material and to discard outdated material. Thirty facilities failed to designate such an employee. ICE reviews revealed that twenty-four facilities failed to meet this requirement, one of which had a multiyear violation.[20] The ABA documented an additional six facilities that violated this element of the standard.[21] The ABA also documented a violation of this element at one facility where ICE had found a violation in a different year.[22] With regard to many facilities, reviewers commented that the material available was terribly outdated, meaning that much of it was useless to detainees or even potentially harmful, as it may have provided outdated and inaccurate legal information.[23]

In order to file court documents, detainees also need access to typewriters or computers; for that reason, the standard requires facility libraries to contain sufficient typewriters or computers. A total of fifteen facilities failed to equip their law libraries with any typewriters or computers. ICE reviews revealed fourteen of these violations, two of which were multiyear violations.[24] In addition, the ABA documented repeat violations at two of these facilities, but in different years.[25] The ABA also found that one additional facility failed to allow detainees to use the one available computer for legal research.[26] In addition, a total of twenty facilities had inadequate numbers of computers or typewriters for detainees. ICE reviews documented nine of these violations, one of which was a repeat deficiency,[27] while the ABA and UNHCR documented similar violations at eleven additional facilities, one of which had a multiyear violation.[28]

The law libraries at twelve facilities were found to be inadequate in size, poorly lit, or lacking the appropriate number of chairs for detainees. ICE reviews found six of the facilities whose law libraries were substandard in these ways, one of which it found to be substandard in multiple years, and another of which the ABA found to be substandard in multiple years.[29] The ABA and UNHCR documented similar violations at six additional facilities.[30] In addition, ICE reviews of two facilities found that their libraries' location affected their noise level, making it difficult for detainees using those libraries to research their legal claims.[31]

ICE reviews found that twenty-six facilities did not supplement the required legal material with access to Lexis-Nexis,[32] while the ABA documented one additional instance in which Lexis-Nexis was not provided.[33] Several facilities had outdated versions of Lexis-Nexis available.[34] Some facilities used Lexis-Nexis in lieu of providing a law library with written material.[35]

The standard also requires facilities to accept legal material from outside persons or organizations. Furthermore, if the facility declines to add such material to the library, it must forward the material to ICE for review. Several facilities failed to accept material from outside persons or organizations.[36]

### Inappropriate Limits on Detainees' Access to Law Libraries

Twenty-seven facilities inappropriately limited detainees' access to their law libraries. ICE reviews found that nine facilities inappropriately limited detainees' law library use,[37] while the independent agency reports documented similar violations at eighteen additional facilities, one of which had a violation during three different years.[38] Many facilities inappropriately imposed limits on which detainees could visit the library or imposed other arbitrary limits on law library use. For example, at some facilities detainees could visit the law library only after making a request, while at other facilities certain classifications of detainees were denied library access altogether. At several facilities, arbitrary limits on the number of detainees allowed in the library at one time or limits on the number of hours a housing pod could use the library impeded detainee access to the law library.

At twenty-four facilities segregated detainees were not provided with the same access to the law library as the general population, as required by the Access to Legal Material standard. ICE reviews showed this violation at twenty-one facilities, three of which had multiyear violations.[39] The ABA found three additional violations of this requirement, one of which was at a facility where ICE reviewers had documented a violation in a previous year.[40] ICE reviews revealed that twelve facilities failed to document instances in which detainees were denied access to legal material, as required by the standard.[41] The ABA documented one additional violation at a separate facility.[42]

At seven facilities, detainees were not permitted to assist other detainees in researching and preparing legal documents, as required by the standard. ICE documented violations at five facilities,[43] while the ABA and UNHCR documented similar violations at two additional facilities.[44] In addition, the UNHCR found that that one of the facilities that ICE had found to be in violation of this requirement also violated it in a year when ICE did not review the facility.[45]

### Lack of Sufficient Accommodations for Non–English Speaking or Illiterate Detainees

ICE reviews found that seventeen facilities failed to ensure that illiterate or non–English speaking detainees had adequate access to legal material they could understand, and that two of these facilities had multiyear violations.[46] The ABA documented similar violations at four additional facilities, as well as an additional violation (in a different year) at one of the facilities where ICE had found a violation.[47]

The form used by ICE to monitor compliance with this element of the standard inappropriately states that ICE staff should ensure compliance with this requirement, while the actual standard requires facility staff (whether or not the facility is run by ICE) to ensure compliance with it. As a result, many ICE reviewers interpreted this requirement as applying only to facilities where ICE staff is present; therefore, the actual violations of this requirement were, no doubt, underreported.

The standard provides for a meager, and likely ineffective, remedy to the obvious problem confronted by non–English speaking or illiterate detainees trying to use law library materials to prepare their legal cases. According to the standard, facilities are to attempt to facilitate translation assistance by other detainees or provide such detainees a list of local low-cost legal service providers (who generally receive many more requests for legal assistance than they can comply with). The standard does not specifically require that any particular types of legal material be provided in Spanish or other languages commonly spoken by non–U.S. citizen detainees. Nor does the standard require specifically that facility law libraries include Spanish/English–English/Spanish dictionaries in their collections.

## KEY FINDINGS

- **29 detention facilities lacked an actual law library** containing immigration law–related material, according to ICE and independent agency reviews.
  - ICE reported that 24 facilities lacked actual law libraries.
  - The ABA reported that 5 additional facilities lacked actual law libraries.
- **Law libraries at 59 facilities did not contain some or all of the required legal material**.
  - ICE reported that 39 facilities were deficient in this area.
  - The ABA and UNHCR reported that 20 additional facilities were deficient.
- **30 facilities failed to designate an employee to update legal material and discard outdated material**.
- **27 facilities inappropriately limited detainees' access to their law libraries**.
- **At 24 facilities, segregated detainees were not provided with the same access to the law library as the general population**, as required by the standard.
- **15 facilities failed to equip their law libraries with any typewriters or computers**.
- **20 facilities had inadequate numbers of computers or typewriters for detainees**.
  - ICE documented 9 such violations, 1 of which was a repeat violation.
  - The ABA and UNHCR documented 11 additional violations, 1 of which was a multiyear violation.
- **At 12 facilities, the law libraries were too small, poorly lit, or lacking the appropriate number of chairs for library users**.

## VIOLATIONS REPORTED BY ABA AND UNHCR, BUT NOT REPORTED BY ICE

A handful of the facilities reviewed by ICE were reviewed shortly afterward by either the ABA or UNHCR. An analysis of these reviews' results makes clear that the ICE review process routinely missed key violations of the Access to Legal Material standard that subsequently were identified by independent monitors. For example, an ICE review marked as "acceptable" the fact that the law library at the Colquitt County Jail was located "in Chief's Office," without providing any explanation of how detainees accessed the library.[48] The ABA review of that same facility, however, found the facility deficient because it had only one computer and one typewriter for 39 ICE detainees who were in the jail at the time of the visit.[49] In the case of the Seattle Contract Detention Center, ICE reviewers discovered no violations, while the ABA review highlighted the absence of dictionaries and legal material in languages other than English as an indicator that non–English speaking detainees did not use the library at all.[50]

At the Keogh Dwyer Correctional Facility, ICE reviewers marked as "not applicable" the section of the monitoring form that asks whether the law library contains all required legal material and whether the list of resources is posted in the library for detainees to see.[51] However, the ABA review of the same facility states that it had no immigration law library: The "law library" was a mobile cart on which books were haphazardly stacked. There was, however, a well-lit, quiet computer room in the ICE detention unit, equipped with two computers and one typewriter. The computers appeared old and outdated. The facility did have a "general library," but it contained New Jersey statutes and New Jersey case law,[52] which would not be helpful to most noncitizens preparing immigration law–related cases.

Though ICE found no violations of the Access to Legal Material standard at the San Pedro Servicing Center, the ABA emphasized in its 2003 review that all of the law library's material was in English. A facility officer explained to ABA reviewers that detainees translate for each other and that often they (improperly) charge for translating.[53]

When ICE reviewed the Passaic County Jail, it failed to note that detainees must submit a written request to use the library and that priority for using it is given to detainees with upcoming court appearances.[54] As a result, some detainees had to wait several weeks to use the law library, and many detainees reported to the ABA that they had to make multiple requests to use the library before they were finally granted access to it.[55]

In 2003, ICE found that the required immigration law–related legal material was missing or not available at the Queens Detention Center in Queens, New York.[56] One year later, when ABA reviewers toured the facility, the problem had not been fully addressed. The ABA report states that, although the library contained most of the required legal material, most of it was outdated, and detainees could not request more current material from outside sources. In addition, ABA reviewers found that the library provided *no* immigration forms, such as the Application for Asylum and Withholding of Removal (Form I-589).[57]

In several instances, ABA or UNHCR reports provide more details on violations than do ICE reports for the same detention facilities. For example, ICE reviewers noted the following about the Pamunkey Regional Jail: "under equipment, no typewriter."[58] ABA reviewers elaborated that the law library was located in very small room, so only two to three detainees could comfortably use the library at a time. There was no typewriter, no computer, and detainees could not store information on computer discs.[59]

In reviewing the Dorchester Detention Center, the ICE staffer marked as "not applicable" the item on the monitoring form that asks whether ICE is notified when detainees are denied access to the law library, even though the same form states that detainees in segregation lose such access.[60] The ICE reviewer's response does not make clear whether ICE is notified that detainees in segregation were denied access to legal material, as required. In its review of the Dorchester Detention Center, the ABA reports that detainees could sign up to use the law library for one hour on Wednesdays; therefore, the facility was not in compliance with the element of the standard which requires that detainees be provided at least five hours of access to the law library per week.[61] While the ICE review also noted this violation of the standard's requirements, it nonetheless rated the facility as acceptable for compliance with the Access to Legal Material standard.

The ICE review of the law library at the Elizabeth Correctional Facility states that it is noisy because it is located right by the entrance gate.[62] The ABA review of the same facility provides more information: the law library was "cramped, disorganized and in need of improvement." It provided only one typewriter for 300 detainees.[63]

## CONCLUSION

Immigration law is notoriously complex, and noncitizens' chances of being allowed to remain in the U.S. increase dramatically when they are represented by qualified counsel. Hiring counsel, however, is a luxury that many detained noncitizens simply cannot afford. As a result, many detainees attempt to represent themselves in their immigration proceedings and are heavily dependent on the quality of their detention facility's law library as they prepare their cases. The available evidence makes clear that this is a herculean task for many detainees, some of whom are held in facilities that have no law library at all, while others of whom are held in facilities where the few legal holdings are so outdated that they likely present misguided information to detainees preparing their cases. At still other facilities, detainees can read legal material only if they make a request for a specific legal document, regardless of the fact that most detainees have no way of knowing the titles of the statutes or court cases that might help them win the right to remain in the U.S. ICE reviews reveal that at other facilities, even if the appropriate legal books are available, there are either no or not enough typewriters or computers available for detainees to use in filing their legal paperwork.

All told, ICE and independent agency reviews present an appalling picture of noncompliance with the Access to Legal Material standard and indicate that detained immigrants have regularly been denied their constitutional right of access to the courts. So long as our immigration system remains one in which govern-

ment-appointed counsel is unavailable to noncitizens in immigration proceedings, ICE must do much more to ensure *at least* that all detention facilities meet the standard's minimal requirements for law libraries.

# Group Presentations on Legal Rights

## INTRODUCTION

The detention standard titled "Group Presentations on Legal Rights" (referred to in this chapter as "GP") is designed to enable detainees to obtain vital information about their legal rights and remedies. The standard requires facilities to allow authorized attorneys and representatives, upon written request, to conduct presentations about immigration law and the rights of immigrant detainees.[1] It encourages such presentations by requiring facilities to provide detainees with at least two days' notice of presentations by posting announcements,[2] permitting presenters to distribute short handouts to detainees,[3] and requiring that facilities play legal rights videos at regular intervals, at the request of organizations.[4] Presenters must be permitted at least one hour to make their presentations, which may include a question-and-answer component.[5] Crucially, facilities also must allow presenters to provide individual legal counseling to small groups of detainees following presentations, provided that these meetings do not pose safety risks.[6] The standard provides that facilities should encourage group legal rights presentations by cooperating with legal representatives and advocates.[7] It requires only that facilities be receptive to requests from presenters, not that they affirmatively organize legal rights programs.[8] The protections of this standard have become increasingly important because as the number of detained immigrants has increased, more and more detention facilities have been located further from free or low-cost legal services, making it more difficult for detained immigrants to secure counsel. These group presentations on legal rights may be the only time a detainee is able to speak to someone who can help the detainee assess if he or she has a valid claim to relief from deportation.

## DEFICIENCIES IN THE ICE FORM AND PROCEDURES FOR MONITORING COMPLIANCE

A fundamental deficiency in the form used by U.S. Immigration and Customs Enforcement (ICE)[9] to monitor compliance with the GP standard precludes evaluating whether facilities that have not had a group legal rights presentation in the past twelve months in fact comply with the standard. This form contains a checklist for reviewers to use in evaluating a facility's compliance with a series of elements of the standard. However, the instruction at the top of the form states:

> ☐ Check here if No Group Presentations were conducted within the past 12 Months. Mark Standard as Acceptable overall and continue on with next portion of worksheet.[10]

At 133 facilities, reviewers followed these instructions literally, skipping review of the GP standard's individual elements and marking the facility acceptable for the standard.[11] In numerous other instances, reviewers checked this box and marked all the elements as either acceptable[12] or not applicable[13] and rated the facility's compliance with the GP standard acceptable overall. In none of these cases does the form provide meaningful information about whether a facility has adhered to the GP standard or is even aware of the standard's requirements. By instructing reviewers not to proceed with evaluating a facility's compliance with the standard upon finding that the facility hosted no presentations during the preceding year, the checklist trivializes the basic requirements of the standard. For example, this instruction effectively directs reviewers to disregard the form's element inquiring whether "[t]he Field Office is responsive to requests by attorneys and accredited representatives for group presentations."[14] As a result, reviewers do not consider whether ICE or the facility itself is responsible for the lack of legal rights presentations at the facility. Similarly, reviewers heeding this instruction need not report whether facilities play ICE-approved legal rights videos at the request of organizations or whether they make their GP policies available to detainees upon request.[15]

### Deficiencies Found by ICE Monitors

At a small number of facilities, reviewers disregarded the monitoring form's instruction and proceeded to consider several elements of the standard on an individual basis, despite indicating that no presentations had taken place during the preceding year and marking the majority of the elements as not applicable.[16] These facility reviews are, however, the exception rather than the rule.

ICE rated thirty-five facilities deficient for the GP standard in 2004, with a shocking thirty-four of these representing repeat deficiencies. Fifteen facilities received "at-risk" ratings the same year. With no explanation, "deficient" ratings fell dramatically the following year, with only three facilities receiving such ratings for the standard in 2005, two of which were repeat deficiencies. However, because of the pervasive failure of ICE monitors to evaluate compliance with the standard at facilities at which no presentation was con-

ducted in the prior 12 months, as well as the lack of any consistent criteria for rating deficiencies, the smaller number of "deficient" ratings in 2005 cannot be taken as any indication of improvement in actual compliance with the standard. The most telling evaluation of this standard is that in 2004 and 2005 there were at least 133 facilities where no group legal rights presentation had been conducted in at least a 12-month period.

### Failure to Investigate Deficiencies Found by NGOs

Another problem with ICE monitoring of the standard is the agency's failure to investigate deficiencies identified in monitoring conducted by nongovernmental organizations (NGOs). For example, one year before the August 2004 ICE review of the Bergen County Jail, the American Bar Association (ABA) had inspected the same facility and found that although staff claimed that the facility hosted group presentations once each month, they were unable to produce documentation related to the prior month's presentation.[17] A facility officer also stated that he was unfamiliar with the ICE-approved know-your-rights video produced by the Florence Project.[18] Moreover, in contrast to the facility's assertion that presentations were conducted regularly, one detainee told the ABA that he had not seen a single group rights presentation during the six weeks he had been at the facility, and another detainee stated that he had never seen such a presentation.[19] Yet in August 2004, ICE reviewed the jail and rated the facility acceptable for the GP standard, noting "yes" for the monitoring form's first two elements (that the facility is responsive to requests for group presentations and notifies attorneys when presentations are authorized), and marking all eleven of the remaining elements as "not applicable" (including whether posters announcing the presentations to detainees are put up at least 48 hours in advance of presentations, sign-up sheets are made available and accessible, detainees in segregation are permitted to attend, interpreters are admitted, presenters are afforded a minimum of one hour for the presentation and to conduct a question-and-answer session, small group meetings are permitted, and presenters are permitted to distribute materials).[20] This example actually illustrates two defects with ICE monitoring: ICE's failure to use its monitoring visits to follow up on the findings of prior inspections by NGOs, and ICE monitors' misunderstanding of the elements of the checklist.

## VIOLATIONS OF THE GP STANDARD

Despite the fact that the above-described deficiencies in the monitoring form precluded effective review of compliance with the standard at a majority of facilities, violations and remarks that were sporadically reported by ICE reviewers, as well as reports by independent agencies, identify several areas in which facilities have failed to comply with the standard. These failings, while likely underreported, are discussed in detail below.

### Availability of Group Legal Presentations

Several facilities hindered, rather than encouraged, legal rights presentations. At three facilities, staff were not responsive to requests from legal representatives to make group legal presentations,[21] and at one of these facilities group presentations reportedly were not permitted.[22] At another facility, group presentations were not permitted, although the facility designated particular areas, such as the kitchenette, in which visiting organizations could and did meet with individual detainees. Problematically, the facility required detainees to submit written requests to attend these meetings, prohibited detainees in disciplinary segregation from participating in the sessions, and deducted time spent at such meetings from the recreation time allotted to detainees.[23] Staff at another facility explained that no group presentations had taken place or, to their knowledge, been requested but expressed that such presentations do not make sense in light of the relatively small number of ICE detainees and the relatively short time each detainee spends at the facility.[24] In the evaluation of still another facility, a reviewer remarked that the

## KEY FINDINGS

- **ICE's monitoring form trivializes the basic elements of the standard** by instructing reviewers not to proceed with evaluating a facility's compliance with it if they find that the facility hosted no legal rights presentations during the preceding year.
- **ICE rated 35 facilities deficient for the standard in 2004.**
  - 34 of these were repeat deficiencies.
  - 15 facilities received "at-risk" ratings.
- In 2004 and 2005, there were **at least 133 facilities where no group legal rights presentation** had been conducted in at least a 12-month period.
- **ICE failed to investigate deficiencies identified by NGOs** that monitored the ICE detention facilities.

facility was "unaware of present [Immigration and Naturalization Service] policy and procedure regarding Group presentations."[25]

### Posting of Announcements and Sign-up Sheets for Presentations

The standard requires that facilities place posters and sign-up sheets for presentations in common areas at least 48 hours in advance of the presentation.[26] Sixteen facilities failed to satisfy this element.[27] These deficiencies suggest that even in facilities where presentations are offered, they may in actual practice be rendered inaccessible because detainees are not notified of or able to sign up for them.

### Documenting Denials of Group Legal Presentation Requests

Pursuant to the GP standard, facilities must make group legal presentations accessible to all detainees, except to those individuals who pose security concerns.[28] The ICE checklist further requires that officers in charge document the reasons underlying any decisions to deny detainees access to these presentations.[29] These provisions are intended to prevent facilities from arbitrarily depriving detainees of access to crucial legal information. Three facilities failed to comply with this element of the GP standard.[30]

### Providing for Attendance by All Detainees

Acknowledging space constraints and security concerns that may arise at facilities, the standard allows officers-in-charge to cap the number of detainees permitted to attend any one group presentation, provided that they permit presenters to conduct additional presentations to accommodate any remaining detainees interested in attending group presentations.[31] Three facilities violated this element of the standard.[32]

### Airing of ICE-approved Videotapes on Legal Rights

The standard requires that, if requested by organizations, facilities must play ICE-approved legal rights videos for detainees at regular intervals.[33] Videos play an important role in transmitting vital legal rights information to large numbers of detainees, many of whom are housed in facilities located a significant distance from urban areas. ICE reviews and ABA reports reveal that at least seven facilities had no legal rights videos, either because ICE failed to provide them or because the videos were not in working order.[34] At another facility, the reviewer indicated that the facility was complying with this element, even though the legal rights video was not being shown due to construction.[35]

### Process for Rejecting the Material of Presenters

The standard provides that ICE must approve all written materials and videotapes before they are presented to detainees.[36] ICE may reject or request modifications to these materials based on concerns that the material poses a threat to facility security and order or contains inaccurate statements of law or policy.[37] These provisions ensure that facilities do not have unbridled discretion to censor legal rights presentations. ICE reviews reveal that seven facilities failed to follow ICE policy and procedures regarding the rejection or requested modification of a presenter's materials or program.[38]

### Availability of Facility Presentation Policy

The standard requires facilities to make copies of their GP policies, including all relevant attachments, available to detainees who request them.[39] Five facilities violated this element of the GP standard.[40] One ICE reviewer mistakenly conflated this element of the standard with the requirement that facilities comply with the "Access to Legal Material" standard, which requires facilities to provide detainees with regular access to a law library and make photocopiers, pens, paper, and computers or typewriters available for detainees to use in preparing legal documents.[41] While both the GP and "Access to Legal Material" standards play a vital role in enabling detainees to access legal information and materials that are essential to the pursuit of their cases, these standards are not coextensive. Compliance with both standards must be evaluated thoroughly and independently.

### Admission of Presenters and Interpreters

Recognizing that language barriers may limit the reach of legal rights presentations, the GP standard requires that facilities permit interpreters to accompany legal rights presenters.[42] Reports from the ABA highlight the necessity of interpretation in making legal rights presentations meaningful and accessible to diverse detainee populations. In its December 2003 report about the Yuba County Jail, the ABA reports that language barriers were so great that a group of 50 detainees had to be broken down into several small groups.[43] In its May 2002 report on the facility, the ABA notes that an advocate from the Northwest Immigrant Rights Project had explained, "I know there are people who have no knowledge of Spanish or English that completely fall through the cracks in our current system."[44] Nevertheless, ICE reviews reveal that one

facility failed to admit interpreters when necessary to assist presenters.[45] The failure of even one facility to permit interpretation of legal rights presentations may have ramifications for hundreds of detainees, and the failure of this particular facility is striking as it is one of only seven ICE-owned-and-operated facilities, where knowledge of, if not compliance with, the detention standards would be presumed to be higher.

## CONCLUSION

ICE reviews reveal that a striking number of facilities housing ICE detainees (133 facilities) hosted no legal rights presentations in the twelve months preceding their annual reviews. The simple fact is that the majority of ICE detainees have no access to free legal rights presentations while they are in detention. The extent to which this reality is the result of failure to follow the GP standard is difficult to ascertain in light of deficiencies in the monitoring instrument used to evaluate compliance with the standard. It is thus possible that both the scarcity of presenter resources and improper conduct by facilities contributed to the striking lack of availability of these important programs. Moreover, ICE reviews indicate that even when legal rights presentations are offered, their accessibility to detainees may be limited by the failure of facilities to provide adequate notice to detainees, to permit a sufficient number of presentations to accommodate all interested detainees, and to admit interpreters to assist in overcoming language barriers. Equally troubling is the failure of some facilities to permit individual counseling by presenters or to present showings of ICE-approved legal rights videos. These violations of the standard have grave consequences for detainees, many of whom rely exclusively on the information provided by legal rights organizations to navigate the immigration system and fight their legal cases. Unfortunately, due to the deficiencies in ICE monitoring, the reported violations likely represent only a small percentage of the actual violations.

# Correspondence and Other Mail

## INTRODUCTION

The purpose of the standard titled "Correspondence and Other Mail" (referred to in this chapter as COM) is to ensure that detainees may send and receive correspondence in a timely manner, subject to limitations based on facility security and orderly operation.[1] Access to correspondence is crucial for detainees, as mail is a primary means of communication with family and loved ones, attorneys and advocates who assist detainees with their immigration cases, and courts to which they must make timely legal filings. Facilities' failure to respect detainees' correspondence rights can cause detainees to lose their cases or their access to counsel.

The standard provides for timely collection and distribution of mail, with incoming correspondence to be distributed to detainees within 24 hours of the time it is received by the facility.[2] It also provides that each facility must notify detainees of its policies on sending and receiving correspondence, timelines for processing mail, how to obtain writing implements, and procedures for obtaining postage.[3]

The standard also sets limits on the inspection of incoming correspondence. With respect to special correspondence, which refers to detainee written communications with attorneys, judges, courts, consulates, elected officials and the media, the standard allows inspection only for physical contraband. Facility personnel are not allowed to read or copy special correspondence.[4] All other incoming correspondence, which is termed general correspondence, must be opened and inspected in the presence of the detainee and read only to the extent necessary to maintain security, as authorized by the officer-in-charge (OIC).[5]

With respect to outgoing correspondence, the standard allows facility personnel to inspect and/or read *general* correspondence only if it is addressed to another detainee or if there is reason to believe that it might present a threat or danger.[6] In contrast, outgoing *special* correspondence may not be opened, inspected, or read.[7] In addition, the standard sets forth procedures for notifying detainees when facility staff confiscate or withhold incoming or outgoing mail, in whole or in part.[8] It also requires staff to record in writing when they find and remove contraband items from a detainee's mail.[9]

The standard provides that indigent detainees may send at least five pieces of special correspondence and three pieces of general correspondence per week.[10] It further requires facilities to have a system for detainees to purchase stamps or to allow detainees to mail at government expense all special correspondence and at least five items of general correspondence per week.[11] In addition, it requires facilities to provide writing paper, writing implements, and envelopes at no cost to detainees.[12] Finally, facilities must allow detainees in administrative or disciplinary segregation the same mail privileges as other detainees.[13]

## VIOLATIONS OF THE COM STANDARD

### Inspection of Correspondence and Other Mail

Dozens of facilities violated the standard's requirement that facility personnel not inspect or read incoming general correspondence outside of the detainee's presence without authorization from the OIC.[14] Some of the facilities that violated this provision provided the vague excuse that they did so for "security reasons."[15] However, their failure to be more specific leaves open the possibility that the actual reasons were frivolous or baseless. The U.S. Immigration and Customs Enforcement (ICE) review forms and practices employed in evaluating facilities' compliance with this element of the standard added confusion regarding whether and how it had been violated.[16] For example, some reviewers noted in comments that incoming general correspondence was "scanned" outside detainees' presence, without explaining how scanning differed from other types of inspection and why they had scanned the correspondence rather than inspecting it.[17]

Many facilities also inspected or searched outgoing mail, in violation of the standard's requirements.[18] Violations of these inspection provisions can easily undermine detainees' right of access to counsel. Many detainees use correspondence as the primary means of communicating with attorneys and advocates.[19] Facilities' failure to respect the confidentiality of special correspondence may intimidate detainees from communicating candidly and thoroughly with their attorneys, which communication is essential to preparing their cases.

The American Bar Association (ABA) also found that facilities violated the rules on inspecting and reading incoming and outgoing correspondence.[20] In one facility, the ABA found that a facility retaliated against a detainee who alleged that his outgoing mail had been improperly read. The retaliation consisted of refusing to send out his mail and, later, of reading all his mail.[21]

### Notification to Detainees of Correspondence Policies

The standard requires facilities to notify detainees of correspondence policies through detainee handbooks and by posting rules in conspicuous locations within housing areas.[22] Several facilities violated at least one of these provisions.[23] The ABA also found that some facilities failed to notify detainees about how to properly label special correspondence or how to send or receive packages, and about other mail procedures.[24]

The standard also requires facilities to make "all reasonable efforts" to notify detainees of correspondence policies in languages other than English that are spoken by any significant portion of the facility's population.[25] ICE reviews found that over twenty facilities violated this provision.[26] Although some facilities claimed to use oral translation services to notify detainees of mail and other policies, ICE reviews revealed that translators were not always available.[27] Notably, only a single detention center reported having handbooks available in English, Spanish, Chinese, and Arabic.[28]

ABA reports revealed that some facility handbooks provided inadequate notice to detainees regarding their correspondence rights. For example, one handbook did not state that special correspondence may be opened only in the detainee's presence and may be inspected for contraband, but not read, while another did not inform detainees about how to label special correspondence.[29] Another Service Processing Center's handbook lacked vital information on correspondence policy, including protections for special correspondence, procedures to send or receive packages, instructions on obtaining writing implements, and rules regarding free postage for indigent detainees.[30]

### Notice for Rejected or Censored Mail

The standard requires that each facility provide written notice, with an explanation, to both the sender and the addressee when the facility rejects incoming or outgoing mail — for example, because of contraband items or sexually explicit material.[31] Over twenty facilities violated this requirement.[32] As a result, detainees who received no explanation for the rejection of particular items of mail could not take steps to correct any problems.

The standard also requires facility personnel to record in writing when items are removed from a detainee's mail.[33] This record must specify the reasons for removing the items. A number of facilities violated this requirement by failing to make any written record when they removed items from detainee mail.[34]

#### *Handling of Specific Items: Cash*

The standard requires facilities to handle particular contraband items in a detainee's mail, such as cash, identity documents, or contraband, in a specific manner. Although facilities may prohibit detainees from receiving cash through the mail, if cash does arrive through the mail, facilities must safeguard it, credit it to the detainee's account, and provide the detainee with a receipt.[35] Several facilities violated this requirement by refusing to process cash received through the mail.[36] As a result, many detainees may have been unable to receive cash from family members who lived a great distance away, preventing these detainees from buying supplies at the facility, such as phone cards or extra food.

#### *Handling of Specific Items: Records and Identity Documents*

The standard requires facilities to place any identity document sent to the detainee via mail in the detainee's A-file, and to make a certified copy available to the detainee upon request.[37] Many facilities did not keep detainee identity documents at the facility; instead, ICE kept these documents off-site, presumably at ICE

## KEY FINDINGS

- **Dozens of facilities violated** the standard's requirement that facility personnel **not inspect or read incoming general correspondence outside of the detainee's presence** without authorization from the officer-in-charge.
- Many facilities also **inspected or searched outgoing mail**, in violation of the standard's requirements.
- Many facilities **did not keep detainee identity documents at the facility, or provide copies of such documents to detainees on request**.
  - At one Florida facility, personnel **destroyed detainees' documents rather than securing them.**
- **Over 20 facilities** imposed **unreasonable limitations on the number of mail items detainees could send for free**, and several violated the requirements regarding **access to writing implements.**
  - Typically, detainees might be **limited to mailing only two items for free per week.**
  - Facilities **charged some detainees but not others for writing implements**, or **imposed cumbersome procedures** for obtaining them.

offices.[38] As a result, detainees likely had difficulty obtaining copies of identity documents in a timely fashion, if at all. Indeed, many facilities admittedly did not provide copies of identity documents to detainees upon request.[39]

In one Florida facility, personnel destroyed detainees' identity documents, including passports and birth certificates, rather than securing them.[40] This facility, like most facilities around the country in which individuals are detained under an "Intergovernmental Service Agreement" (IGSAs), had no ICE staff assigned to it.

### Inspection of Special Correspondence

The standard makes clear that facility staff may neither read nor copy incoming special correspondence.[41] Likewise, facility staff may not read, copy, or even inspect outgoing special correspondence.[42] A violation of these requirements may compromise the confidentiality of attorney-client and court communications and inhibit the detainee from communicating valuable case-related information.

Several facilities violated these requirements. In one Florida facility, a detainee reported to the ABA that facility staff had read his outgoing special correspondence that had been clearly marked as such and addressed to his attorney.[43] Thereafter, a jail guard approached him with the letters in hand and asked, "What the hell is this? How can you write this about us?" The detainee stated that, after reading his mail, facility personnel retaliated against him for his complaints by placing him in solitary confinement, where he was mistreated.[44]

In another facility, a detainee reported to the ABA that facility staff frequently read incoming special correspondence outside the presence of the detainee to whom it was addressed.[45] At another facility, staff read incoming mail, including special correspondence, if they suspected it to be from another detainee.[46] At yet another facility, detainees reported that facility staff opened special correspondence outside their presence and that staff delayed the distribution of such correspondence, often causing detainees to miss court deadlines.[47]

Detainees in a Massachusetts facility reported to the ABA numerous serious problems. For example, special correspondence such as court documents often arrived late; mail sometimes took a week to reach detainees after the facility received it; and one detainee's incoming special correspondence had been opened and delivered with a note saying, "Sorry opened by mistake."[48]

In a Dallas, Texas, facility a detainee complained to the ABA that, although the facility allowed indigent detainees to send special correspondence without charging for postage, the facility insisted on reading all such mail before sending it to ensure that it was indeed special correspondence.[49]

Finally, the standard requires facilities to treat detainee correspondence to a politician or the media as special correspondence. A few facilities violated this requirement.[50]

### Access to Mail and Writing Implements

The standard requires facilities to provide writing paper, writing implements, and envelopes at no cost to all detainees.[51] It also requires facilities to provide indigent detainees a postage allowance at government expense.[52] Indigent detainees must be allowed to send a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.[53] In addition, facilities may not limit the amount of correspondence that detainees may send at their own expense, except for purposes of facility safety.[54]

ICE reviews found that over twenty facilities violated these requirements by imposing unreasonable limitations on the number of mail items that detainees could send for free, typically by limiting the number to two free items per week.[55] A number of facilities violated the requirements regarding access to writing implements, by charging some or all detainees for such implements, or by imposing cumbersome procedures to obtain such implements.[56]

The ABA found similar violations. In a Colorado facility, one detainee complained that although the facility generally provided stamps and envelopes and paper for legal correspondence, it would restrict such supplies for any detainees who allegedly had "abused this privilege."[57] Other detainees at the same facility complained that the facility did not provide them with stamps and stationery for correspondence to judges and lawyers.[58] At a Connecticut facility, the ABA found that indigent detainees were allowed only two free pieces of general correspondence per week and only five pieces of special correspondence per month.[59] At a New Jersey facility, the ABA found that indigent detainees were limited to three pieces of mail *per month* at government expense.[60] At an Illinois facility, the ABA found that all detainees were charged for each piece of mail, including special correspondence.[61]

Finally, standards for determining a detainee's indigent status varied from one facility to another, resulting in some facilities imposing extremely restrictive rules that unfairly denied detainees access to postage. For example, one facility defined a detainee as indigent only if he had "less than 50 cents in his account for at least 30 days."[62] Another facility termed detainees indigent only if they had $2.50 in their accounts.[63] Yet another facility termed detainees as indigent only if

they had $3 or less in their accounts for *at least* thirty days.[64]

The ABA and the United Nations High Commissioner for Refugees (UNHCR) found similar violations of access to mail and writing implements, especially with regard to indigent detainees. At a Wisconsin facility, for example, facility personnel stated that the facility provided envelopes and stamps to detainees on a reasonable basis. Detainees reported to the ABA, however, that indigent detainees were forced to purchase stamps. One detainee reported that "she could not get envelopes or stamps if she had no money" in her account.[65] At an ICE-run facility in California, the ABA found that although facility personnel claimed to provide free envelopes and stamps for legal correspondence to all detainees, without limit to the amount of materials provided, some detainees reported that they were limited to one envelope per day.[66] Similarly, the UNHCR found at a Florida facility that indigent detainees lacked adequate access to mail services.[67]

### Timely Delivery and Processing

The standard requires facilities to distribute incoming correspondence to detainees within 24 hours of the time the facility receives it, and to deliver outgoing correspondence to the postal service no later than the day after the facility staff receives it.[68] A few facilities failed to distribute mail in a timely fashion because, for example, staff did not distribute mail on weekends or holidays.[69] Other facilities did not record priority, overnight, and certified mail delivered by the U.S. Postal Service and deliveries from alternative delivery services, as required.[70] The ABA recorded one detainee's complaints regarding timely receipt of mail.[71]

### Problems with ICE Reviews of the COM Standard

ICE facility reviews give only a cursory overview of detention standard violations because of the checkbox forms used. In contrast, ABA reports provide a more in-depth view of violations of mail privacy, mishandling of mail and correspondence, limited access to mail implements, and instances of retaliation against detainees for having complained about a facility in correspondence. One key deficiency in ICE reviews is the lack of information provided directly by detainees. By contrast, ABA reports include detainee interviews, which add dimension and help explain the real-life consequences of violations of the standard.

ICE reviews are not always clear or thorough. For example, ICE reviewers marked checkboxes for certain elements as "not applicable" without any explanation or comment, making it impossible to determine whether a violation had occurred.[72] In addition, reviewers often marked the facility's rating for the standard as "acceptable" despite three or more violations.[73]

## CONCLUSION

Facilities most commonly violated aspects of the standard involving inspection procedures for incoming mail, confiscation of items from detainee mail, and the procedures to notify detainees of mail policies. As a result, facility personnel may have read confidential special correspondence, destroyed identity documents, caused detainees to miss court deadlines, and intimidated detainees from freely sending and receiving mail. In addition, by reading mail, facility personnel may have accessed information that caused them to retaliate against or mistreat detainees.

Since ICE holds thousands of detainees at a great distance from family and available legal service providers, access to correspondence is vital. For many detainees it is the primary means of communication. Violations of the correspondence standard impede confidential attorney-client communications, intimidate detainees from communicating openly with courts and advocates about their cases, and prevent indigent detainees from having adequate access to correspondence. ICE must do much more to ensure consistent compliance with the COM standard.

# Administrative and Disciplinary Segregation
## *Special Management Units*

### INTRODUCTION

When the detention facility reviews upon which this report is based were conducted, two detention standards regulated the isolation of certain detainees from the general detainee population in any particular facility: the "Special Management Unit (Administrative Segregation)" standard and the "Special Management Unit (Disciplinary Segregation)" standard.[1] The two types of segregation, administrative and disciplinary, serve different purposes. Administrative segregation is supposed to be nonpunitive isolation in which conditions of confinement are restricted for the limited purposes of ensuring the safety of the isolated detainee or other detainees, or for facility security and order.[2] Detainees placed in administrative segregation include, among others, victims of assault by other detainees; informants; witnesses; and those who seek protection, or who appear to be in danger of bodily harm, or who require separation for medical reasons.[3] Disciplinary segregation, on the other hand, is used to temporarily isolate detainees for punitive purposes when their behavior does not comply with facility rules.[4]

Although administrative and disciplinary segregation are designed to isolate different populations, the core requirements of the standards are the same. Both standards require (1) that detainee placement in segregation be reviewed regularly;[5] (2) that detainees be allowed to maintain their personal hygiene; (3) that medical personnel visit segregated detainees regularly; (4) that the segregation quarters be well-maintained and sanitary; and (5) that occupancy limits for the segregation quarters be strictly enforced.[6] Because administrative segregation is supposed to be nonpunitive, the standard generally requires that detainees in administrative segregation have the same privileges as those in the general population, including regular access to legal materials, telephones, visitation, recreation, and correspondence.[7] The administrative segregation standard also requires that a supervisory officer approve isolation and make a written order before a detainee is isolated[8] and that certain basic living standards be maintained. By contrast, the disciplinary segregation standard requires (1) that a hearing be held and the detainee be found to have violated a particular facility rule or regulation before he or she may be segregated, (2) that placement in disciplinary segregation be limited to 60 days for a single incident,[9] and (3) that access to legal materials, telephones, visitation, recreation, and correspondence be more limited than it is to those in the general detainee population.[10]

### SEGREGATION STANDARDS VIOLATIONS REPORTED BY ICE

#### Lack of Separate Segregation Units

At the most basic level, the segregation standards require facilities to establish a Special Management Unit (SMU) that is physically isolated from the general detainee population and to separate administrative and disciplinary segregation within the SMU.[11] U.S. Immigration and Customs Enforcement (ICE) reviews[12] found that 13 facilities either did not have a separate SMU or they used other units, such as a maximum security unit, as the SMU.[13] Nevertheless, ICE reviewers rated half of these facilities "acceptable" with respect to compliance with the standards.[14] At least 3 facilities that did not have an SMU transferred detainees in need of segregation to other facilities, causing unnecessary disruption in their detention.[15] Two additional facilities failed to separate administrative and disciplinary segregation within their SMUs.[16]

#### Timely Review of Placement and Right to Appeal

Because segregation can constitute a severe punishment with serious ramifications for the segregated detainee's mental state, the standards provide specific guidelines for how long the detainee may be kept in segregation and establish set periods of time after which facility officials must review whether the segregated detainee should be kept in or removed from segregation. The administrative segregation standard requires that a supervisory officer approve a detainee's placement in segregation and review the placement after several intervals.[17] A written record of the decision and justification to keep the detainee segregated must be made after each review.[18] At twenty-one facilities it reviewed, ICE found that the required reviews were not conducted at the required intervals. Two of these facilities had multiyear violations.[19] The United Nations High Commissioner for Refugees (UNHCR) found a similar violation at one additional facility.[20]

The administrative segregation standard also provides detainees the right to appeal a review decision to a higher authority within the facility.[21] According to

ICE reviews, this right to appeal was curtailed at six facilities.[22]

The disciplinary segregation standard limits segregation to 60 days for a single incident.[23] ICE reviews revealed that sixteen facilities violated this requirement, subjecting detainees to excessive lengths of punishment.[24] Seven of these facilities allowed a 90-day maximum,[25] and three placed detainees in segregation for as many as 180 days for a single incident.[26] One facility held detainees in disciplinary segregation for "up to 365 days" per incident.[27]

The standard requires that whenever a detainee is held in administrative or disciplinary segregation for more than 30 days, facilities must notify the U.S. Immigration and Customs Enforcement (ICE) assistant district director of detention and removal.[28] ICE reported sixteen violations of this provision.[29] In an additional eleven facilities, it was unclear whether ICE was appropriately notified.[30] When a detainee has been in administrative segregation for more than 30 days and objects to this placement, the standard requires the officer in charge (OIC) to review the detainee's case.[31] This requirement was violated in eleven facilities.[32] Three more facilities inappropriately required detainees to file a grievance under the grievance procedure rather than following the standard's requirement that the OIC conduct a direct review.[33] At two facilities where the OIC did review the cases of detainees who objected after 30 days in the SMU, the OIC did not provide written justification for prolonging segregation,[34] as was required.[35]

### Detainee Knowledge of Reason for Placement

Both standards require that a detainee receive a copy of the written order approving the detainee's placement in segregation within 24 hours of such placement.[36] Facilities are also required to provide the detainee with a copy of the decision and justification for each review of the detainee's placement.[37] According to ICE reviews, sixteen facilities did not provide detainees with the written order placing them in segregation.[38] In addition, twenty-two facilities failed to provide a copy of the decision and justification for each review to the detainees; one facility failed to do this for two consecutive years.[39] If they are not properly informed of the specific reasons why facility management decided to place—and keep—them in segregation, detainees have no real means of challenging their continued segregation.

### Basic Living Conditions

Both segregation standards attempt to ensure that segregated detainees live in sanitary and habitable envi-

## KEY FINDINGS

- **13 facilities either did not have a separate Special Management Unit**, as required, or they used other units, such as a maximum security unit, as the SMU, ICE found.
  - Nevertheless, ICE reviewers rated half of these facilities "acceptable" with respect to compliance with the standard.
- **21 facilities failed to conduct required reviews**, at the required intervals, of the decision to keep a detainee segregated.
  - 2 of these facilities had multiyear violations.
- **16 facilities segregated detainees for more than 60 days for a single incident**, in violation of the disciplinary segregation standard.
  - **7 facilities allowed 90 days** of segregation for a single incident.
  - **3 facilities allowed 180 days** of segregation for a single incident.
  - **1 facility allowed "up to 365 days"** of segregation for a single incident.
- **16 facilities did not provide detainees with the written order** authorizing their segregation.
  - **22 facilities failed to provide detainees a copy of the decision and justification** for each review of detainees' segregation.
  - **1 facility failed to do this for two consecutive years**.
- **32 facilities failed to provide each segregated detainee a visit by a health care professional three times per week**, as required.
- **36 facilities failed to provide detainees in disciplinary segregation a visit by a health care professional every workday**, as required.
- **Numerous facilities violated the requirement that the number of segregated detainees in each cell or room "should not exceed the capacity for which it was designed."**
  - 14 facilities violated this requirement with respect to administratively segregated detainees.
  - 10 facilities violated it with respect to detainees segregated for disciplinary reasons.

ronments and have regular access to health care, laundry exchange, and barbering services. The administrative segregation standard generally requires that detainees in segregation be treated the same as detainees in the general population. The disciplinary segregation standard allows more restrictions on the services segregated detainees can access but generally prohibits living conditions from being modified for disciplinary purposes.[40]

The ICE reviews revealed a shockingly widespread level of noncompliance with the requirements that health care professionals visit segregated detainees regularly. The administrative segregation standard requires that a health care professional visit every segregated detainee at least three times a week.[41] Thirty-two facilities violated this requirement.[42] Detainees in disciplinary segregation must be visited by a health care professional every workday.[43] Thirty-six facilities violated this critical requirement.[44] When segregated detainees are denied regular access to health care professionals, their health is put at serious risk. Immigration detention facilities have come under increasing scrutiny for their failure to treat sick detainees appropriately.[45] In some cases, negligence has led to detainees' deaths.

According to the segregation standards, facilities must permit segregated detainees to maintain a normal level of personal hygiene, and they must provide them with regular access to barbering services.[46] ICE reviews found that fifteen facilities violated this requirement.[47] Facilities are also required to provide segregated detainees with the same opportunity for laundry and exchange of clothing, bedding, and linen as those in the general detainee population.[48] According to ICE reviews, eight facilities violated this requirement.[49]

Both standards require that the number of segregated detainees in each cell or room "should not exceed the capacity for which it was designed."[50] ICE reviews revealed that fourteen facilities violated this element of the standard with respect to administratively segregated detainees.[51] In addition, ten facilities violated it with respect to detainees segregated for disciplinary reasons.[52] Further, five facilities did not have beds for every segregated detainee, and one violated this element of the standard for two consecutive years.[53] Violations of physical space requirements have a greater impact on detainees in segregation, since they have extremely limited access to common areas and must remain in overcrowded cells for extended periods.

The segregation standards also require that "quarters used for segregation shall be well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition."[54] According to ICE reviews, thirteen facilities had segregation areas that did not meet this minimal requirement; and some facilities were alarmingly unsanitary.[55] For example, the 2004 ICE review of the Smith County Jail revealed that segregation areas were poorly lit, that the cells were so cold that detainees used paper plates to block the vents, and that the segregation area had "[t]errible sanitation" including bags of trash in cells and enormous amounts of mildew in showers.[56]

The segregation standards also require that detainees in administrative segregation receive three nutritionally adequate meals per day from the menu served to the general population.[57] Detainees in disciplinary segregation "shall receive their meals according to the schedule used by the general population" and "ordinarily from the menu served to the general population."[58] And both the administrative and disciplinary segregation standards ban facilities from using food as punishment.[59] ICE reviews revealed that six facilities did not meet the standard with regard to meals and nutrition.[60]

## Adequacy of Services and Privileges

Facilities are required to allow detainees in administrative segregation to have all the same privileges as general population detainees, including access to the law library,[61] telephones,[62] visitation,[63] and recreation.[64] ICE reviews revealed that more than twenty-two facilities violated these basic requirements.[65] A correctional officer interviewed at one facility was "forthright but erroneous in stating that those placed in segregation lose all privileges, including visitation and telephone use, thus precluding their ability to contact even their attorneys."[66]

The disciplinary segregation standard contemplates that detainees in disciplinary segregation will have fewer privileges than those housed in administrative segregation, including "more stringent personal property control, restricted reading material, and limitations imposed on television viewing, commissary/vending machine privileges, etc."[67] However, facilities are not permitted to modify standard living conditions for disciplinary purposes.[68] ICE reviews revealed that many facilities limited detainees in disciplinary segregation in impermissible ways.

Facilities are generally required to provide visitation and recreation for detainees in administrative and disciplinary segregation as required under the "Visitation" and "Recreation" standards,[69] but ICE reviews found that thirty-two facilities violated this requirement.[70] According to the recreation standard, facilities must provide detainees housed in administrative segregation at least one hour of recreation time daily, five times a week.[71] Twelve facilities violated this requirement, and segregated detainees at one facility lost all recreation privileges.[72]

ICE reviews revealed that detainees in both forms of segregation often were inappropriately denied access to a law library. Thirteen facilities did not meet the law

library access component of the administrative segregation standard.[73] Several more facilities technically did provide access to a law library, but the libraries were inadequately equipped, so the access was not meaningful.[74] Segregated detainees' access to a law library was unclear at two additional facilities.[75] The ICE reviews also showed that law library access was also inappropriately restricted for detainees in disciplinary segregation. Alarmingly, seven facilities provided no law library access for detainees in disciplinary segregation.[76] At least five additional facilities had libraries that were technically available but inadequate.[77]

ICE reports revealed that at eight facilities detainees in administrative segregation were not provided the same telephone access as the general population, in violation of the standard.[78] While access to telephones may be restricted for detainees segregated for disciplinary reasons, they must be able to make legal calls, calls to consular/embassy officials, and calls in family emergencies.[79] According to ICE reports, eighteen facilities failed to comply with this requirement.[80]

### Sufficiency of Written Policies and Segregation Documentation

Both segregation standards require facilities to develop and follow written policies consistent with the standards.[81] ICE reviews found that six facilities did not have a written disciplinary segregation policy in place.[82] In addition, four facilities did not have adequate written policies for administrative segregation.[83] Only one facility subsequently adopted such policies after an ICE review noted the deficiency.[84]

Both standards require facilities to maintain a permanent log to record all activities, including meals, recreation, visitation, showers, and so on.[85] Thirty-two facilities failed to keep adequate documentation of these activities.[86] Without adequate documentation, it is impossible to verify that segregated detainees receive adequate visitation and other privileges.[87]

The administrative segregation standard further requires that a new record be created for each week the detainee is in administrative segregation.[88] Thirty-nine facilities failed to follow this requirement,[89] making it difficult to determine if detainees were placed in administrative segregation for inappropriate lengths of time.

## VIOLATIONS REPORTED BY ABA AND UNHCR, BUT NOT REPORTED BY ICE

In addition to the reviews conducted by ICE, the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR) conducted independent reviews of various detention facilities throughout the United States. This section presents a nonexhaustive list of the segregation standards violations that the ABA or UNHCR found but that ICE either did not discover or did not consider severe enough to be reported.

For example, the ABA delegation to the Berks County Prison in 2004 reported that, for segregated detainees, visits were extremely limited. One detainee told the delegation that while he was segregated "he was limited to one half-hour visit per week, social or legal, and thus chose not to meet with his attorney during that time," according to the delegation's report.[90] An ICE review conducted two months later, however, found that the visitation standard was met for all segre-

### KEY FINDINGS *(Continued)*

- **13 facilities violated the requirement that "quarters used for segregation shall be well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition."**
- **22 facilities failed to allow detainees in administrative segregation to have all the same privileges as general population detainees**.
- **32 facilities failed to provide adequate visitation and recreation for detainees** in administrative and disciplinary segregation.
- **Numerous facilities failed to provide adequate access to a law library** for detainees in segregation.
  - 13 facilities did not comply with the law library access element of the administrative segregation standard.
  - The law libraries of several facilities were inadequately equipped.
  - 2 facilities' policy or practice with respect to this element was unclear.
  - 7 facilities provided no law library access for detainees in disciplinary segregation.
- **32 facilities failed to keep adequate documentation of all detainee activities**, including meals, recreation, visitation, showers, etc., as required by the standards, making it difficult to determine if these requirements were met.
- **39 facilities failed to create a new record for each week that a detainee was in administrative segregation**, making it difficult to determine if detainees were segregated for inappropriate lengths of time.

gated detainees.[91]

The 2002 ABA report on the San Pedro Service Processing Center states the following with respect to reviews of segregation placements: "According to INS staff, segregation cases are usually reviewed after five, fifteen, and thirty days, but [they] also noted that 'it depends'—an apparent reference to exercise of discretion on a case-by-case basis. There did not appear to be a fixed time period or policy."[92] The ICE review conducted two months later also indicated that review of administratively segregated detainees within 72 hours by an OIC was "[i]nconsistent."[93] Nevertheless, the ICE reviewer marked the facility as being compliant with the standard's requirement that placements be reviewed every week for the first month and every 30 days thereafter.[94] The ICE review also found that the facility met the standard for reviewing disciplinary segregation cases "at set intervals."[95]

Regarding access to legal materials for segregated detainees, the July 2004 ABA delegation to the Kenosha County facility reported that such detainees "may only use the legal research system at the discretion of the Facility staff."[96] In order to make the system available, facility officers had to transport its computer to the segregation unit from a different part of the facility, and thus only did so, according to the ABA report, "if the particular Detainee making the request has an urgent need for legal information, such as an imminently pending hearing."[97] In addition, the ABA reported, "When considering a request for computer use from a segregated Detainee, Facility officers take into account the duration of the Detainee's stay in segregation. For example, if a segregated Detainee requests computer use but is due to be released from segregation shortly, Facility officers generally will not transport the computer to the segregated Detainee."[98] These deviations from the segregation standard were not reflected in the ICE review of that facility two months earlier, which stated, without explanation, that the facility was in compliance with legal access standards for detainees segregated for both administrative and disciplinary reasons.[99]

With respect to telephone privileges in disciplinary segregation, the ABA delegation to the Kenosha facility in 2005 could not make an assessment regarding compliance with the standard. The report noted that the facility's detainee handbook inappropriately provides for a "loss of 'Privileges' for both Minor and Major violations,"[100] and found that, "While the Handbook does not define 'Privileges,' the Handbook section on telephones refers to 'telephone privileges' implying that detainees could lose telephone privileges if they were being disciplined."[101] The 2005 ICE review of this facility, which was conducted three months before the ABA review, stated that it met the standard regarding telephone use in disciplinary segregation.[102]

## CONCLUSION

Segregation, particularly when it is disciplinary, is a severe punishment that should be used with the utmost caution and with careful adherence to required procedures. The government and independent reports reveal, however, that at numerous facilities segregated detainees were subjected to excessive isolation or punishment in violation of the detention standards. These reports found widespread violations with respect to unduly limited privileges, inappropriately long segregation periods, unsanitary conditions, as well as inadequate health care protection for segregated detainees. More must be done to ensure the safety, good health, and basic privileges of segregated detainees.

# Disciplinary Policy

## INTRODUCTION

The detention standard titled "Disciplinary Policy" is meant to protect detainees against arbitrary disciplinary sanctions for acts that violate a facility's rules. It also lays out procedures giving detainees notice of their rights and responsibilities regarding compliance with facility rules and the opportunity to be heard if sanctions are imposed. Specifically, the standard requires progressive levels of sanctions, appeals, and reviews, and it prohibits capricious or retaliatory discipline.[1] It further requires specific investigatory procedures, provides for a Unit Disciplinary Committee and Institutional Disciplinary Panel to administer disciplinary sanctions, establishes a disciplinary severity scale, limits the duration of punishment that may be imposed, and provides a documentation procedure for hearings and sanctions imposed.[2] Finally, it categorizes offenses based on severity. Compliance with this standard is vital to ensuring a fair and reasonable facility disciplinary policy. The policy also is intended to protect the mentally incompetent and those who cannot understand why they are subject to disciplinary proceedings.

## PROBLEMS IN ICE REVIEWS OF THE DISCIPLINARY POLICY STANDARD

Several problems with U.S. Immigration and Customs Enforcement's (ICE's) review methods for this standard decrease review accuracy and usefulness.[3] ICE uses a standard form to review compliance with the standard.[4] The form contains 15 subcategories of the standard, each of which a reviewer must mark as being compliant, noncompliant, or not applicable. The reviewer may add remarks to explain his or her notations.

Because ICE reviewers sometimes failed to mark one of the boxes for each subcategory, it is impossible to determine whether a facility that was being evaluated complied with particular provisions of the standard.[5] In addition, the form itself is written in a cumulative manner, with several of its subcategories each summarizing multiple provisions of the standard. Where reviewers marked a subcategory as noncompliant but failed to include specific comments, as is often the case, it is impossible to determine the exact nature of the facility's noncompliance. For example, one critical subcategory reviews whether a facility prohibits staff from imposing sanctions, including corporal punishment, deviations from normal food service, loss of correspondence privileges, and deprivations of clothing, bedding, personal hygiene items, and physical exercise.[6] But unless the reviewer wrote in comments, it is impossible to tell whether a noncompliant facility is sanctioning detainees by imposing corporal punishment or by depriving them of clean clothing.

Furthermore, reviewers' checkmarks sometimes indicate that a facility is complying with one of the standard's subcategories while their written comments indicate otherwise. For example, one reviewer checked "Yes" for the element that limits disciplinary segregation to 60 days, implying compliance, but then commented that the maximum time imposed is 90 days, which clearly violates the standard.[7] And, finally, the reviewers' answers are not consistent. For example, with respect to the component of the form evaluating compliance with the facility's conspicuous posting of sanctions and rules in English and Spanish, two reviewers came to different conclusions based on the same

### KEY FINDINGS

- **64 facilities violated the requirement that disciplinary rules be conspicuously posted**, according to ICE reviews.
- **Detention facilities must not allow staff to impose certain sanctions**, such as:
  - corporal punishment
  - deprivation of food, exercise, clothing, or personal hygiene items
  - withholding of correspondence privileges

  **11 facilities violated this standard**, according to ICE reviews.
- **33 facilities failed to meet basic procedural requirements** for disciplinary procedures, ICE reviews revealed.
- **Impermissible and retaliatory discipline was a common problem** reported by ABA and UNHCR reviewers. Violations reported included:
  - deprivation of recreation and library time
  - deprivation of hygiene items
  - use of corporal punishment, including shackling

facts. While both reviewers found that this information was not posted and was available only in the facility handbook, one reviewer marked this treatment of the information as compliant, while the other did not.[8] These problems with the facility review procedures make it highly likely that violations of the standard are more widespread than is indicated on the forms.

## ICE-DOCUMENTED VIOLATIONS OF THE STANDARD

### Notification to Detainees of Facility Disciplinary Policies

The standard requires facilities to conspicuously post rules, prohibited acts, the disciplinary severity scale, and possible sanctions for prohibited acts in Spanish, English, and/or other languages spoken by significant numbers of detainees.[9] This was by far the most widely violated provision, with 64 facilities failing to make the required postings.[10] In addition, several facilities failed to define in writing the rules of conduct, sanctions, and procedures for violations, and to communicate them to all detainees.[11]

### Limitations on Sanctions for Violations of Facility Rules

The standard requires that facilities have rules that prohibit staff from imposing certain sanctions, including corporal punishment; deviation from normal food service; loss of correspondence privileges; deprivation of clothing, bedding, and personal hygiene items; and denial of opportunities to engage in physical exercise. Reviewers found that 11 facilities violated this provision.[12] The standard also requires the facility rules to state that disciplinary action shall not be capricious or retaliatory; 6 facilities violated this provision.[13] Finally, the standard provides that the duration of punishment should not exceed established sanctions, including a maximum time in segregation of 60 days; 25 facilities violated this provision.[14]

### Procedures for Investigation and Imposition of Sanctions

The standard provides for particular procedures with respect to a disciplinary panel that adjudicates infractions. Several facilities failed to follow these procedures, which include that the panel judge based on the preponderance of evidence and impose only authorized sanctions.[15] Also, one facility failed to investigate incidents within 24 hours.[16] In addition, the standard provides that minor infractions should be resolved informally wherever possible, and that an intermediate disciplinary process — not a full disciplinary panel — should be used to adjudicate minor infractions. Two facilities violated this latter provision.[17]

When a disciplinary investigation is conducted, the standard requires certain facility staff to complete and distribute specific forms and documents, including those provided to the detainee to help him prepare his defense. Four facilities violated this provision.[18]

The standard provides, among other things, that each facility must make a staff representative available upon request to a detainee facing a disciplinary hearing. Twelve facilities failed to comply with this provision.[19] In addition, the standard requires each facility to allow postponement or a continuance of a disciplinary hearing when conditions warrant. Four facilities failed to comply with this provision.[20] Finally, with respect to disciplinary hearings, ICE reviewers examined whether facilities have procedures to handle information from confidential informants, and criteria for recognizing "substantial evidence." Thirty-three facilities failed to comply with these provisions.[21]

## VIOLATIONS REPORTED BY ABA AND UNHCR

In addition to ICE reviews, reports by the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR) of select detention facilities contained information relating to disciplinary policies. The problem most commonly noted by ABA and UNHCR reviewers was the use of impermissible or retaliatory discipline.[22] These reports note the use by facilities of deprivation of recreation[23] and library time,[24] deprivation of personal hygiene items,[25] imposition of disproportionate punishment,[26] and even the use of corporal punishment,[27] including shackling.[28] In addition, nine facilities' handbooks were found to be inadequate in communicating disciplinary policies and rules to all detainees.[29]

Another common violation noted by ABA and UNHCR reviewers was inadequate notice to detainees concerning an aspect of the disciplinary policy. Their reports found that facilities did not adequately post detainees' rights[30] or prohibited acts,[31] or they did not provide adequate notice of the discipline severity scale,[32] or they failed to explain the facility's discipline procedure.[33] In addition, three facilities did not post the rules and regulations in English, Spanish, and/or other languages spoken by significant numbers of detainees[34].

Other violations concerned the investigation of incidents. Five facilities either failed to explain the investigation procedure in the handbook,[35] failed to get an incident report to detainees within 24 hours as required,[36] or failed to investigate an incident within 24 hours.[37]

Facilities failed to have fair, transparent, and impartial disciplinary policies in numerous ways. One facility flatly claimed it could not comply with the standard, without explaining why it could not.[38] Another facility did not have a sufficiently structured disciplinary scale.[39] One facility posted its rules and regulations in the required languages but not in plain sight.[40] Another punished detainees "informally" even though the nature of the alleged offense and attendant punishment require a hearing.[41] Others segregated asylum-eligible detainees based on minor rule infractions.[42] One facility imposed 72-hour segregation for a minor violation but did not conduct a hearing on the matter for seven days.[43]

## CONCLUSION

ICE found numerous instances in which facilities failed to notify detainees of their rights or responsibilities with respect to a facility's disciplinary policy. Perhaps because of limitations in the review forms used to perform the evaluations, ICE did not uncover the serious violations that ABA and UNHCR reviewers found, such as the imposition of prohibited or retaliatory sanctions for disciplinary infractions. Since fair, even-handed, and transparent disciplinary policies are vital to ensuring the rights of individual detainees as well as facility security, stricter compliance with the disciplinary standard is crucial to achieving both these objectives.

# Detainee Handbook

## INTRODUCTION

The detention standard on detainee handbooks requires that every facility housing immigration detainees develop a facility-specific detainee manual that provides an overview of the facility's policies, rules, and procedures.[1] Every detainee must receive a copy of this handbook upon admission to the facility.[2] And facilities must establish procedures for immediately communicating handbook revisions to staff and detainees — for example, by posting any such changes in detainee housing units.[3] To promote accessibility, the standard specifies that handbooks should be written in English and translated, at a minimum, into Spanish.[4] The standard further contemplates translation of the handbook, when appropriate, into the next most common language(s) spoken by detainees.

Handbooks are vital sources of information for detainees and, pursuant to the standard, must advise detainees of their rights and responsibilities while in immigration custody.[5] Handbooks also must include descriptions about the facility programs and services available to detainees, as well as any associated rules.[6] Specifically, detainees must be informed about: (1) voluntary work programs, (2) recreation opportunities, (3) correspondence, (4) library use, (5) canteen/commissary access, (6) telephone policies, (7) visitation, (8) the schedule for group legal presentations, (9) meal service, and (10) barber hours.[7] Handbooks also must apprise detainees about facility policies related to smoking, restricted areas of the facility, disposable razors, and contraband.[8] In addition, handbooks must outline the detainee grievance process and the facility's disciplinary policy, including any prohibited acts and the scale against which detainee conduct will be measured.[9] Facility detention rules are notoriously complex. Handbooks serve as detainees' guide to navigating life while detained, including how to access all facility services and to remain in compliance with facility rules.

## ICE MONITORING OF THE HANDBOOK STANDARD

### Violations of the Detainee Handbook Standard

For a disturbingly large number of facilities, U.S. Immigration and Customs Enforcement (ICE) reviewers noted that handbooks were not appropriately translated into languages other than English.[10] At eighteen facilities, ICE reviewers found that facility handbooks were not available in Spanish, and four of these facilities had multiyear violations of this element of the standard.[11] At one additional facility, the ICE review noted that a translation of the handbook in a language other than Spanish was necessary to accommodate the detainee population, but was not available.[12] These failures to translate handbooks into Spanish or other appropriate languages in all likelihood left thousands of non–English speaking detainees without a way to understand basic facility protocols.

Furthermore, many facilities' handbooks failed to include information that is central to a detainee's ability to access legal services and materials. For example, ICE reviews revealed that 30 facility handbooks did not describe law library procedures and schedules, and 2 of these facilities had multiyear violations.[13] ICE reviews also found that 27 facilities' handbooks failed to discuss attorney visitation hours, the location of a list of pro bono legal services, and the schedule for group legal rights presentations.[14] Since these three elements of the standard were grouped together in one question on the review form, it was usually not clear which component was missing from the handbook, or if all were missing. At 6 of these facilities, ICE reviewers found that information about pro bono legal services and group legal rights presentations was provided only to detainees directly by ICE, rather than being included in the handbook.[15]

ICE reviews also identified widespread deficiencies in the handbook descriptions of the detainee grievance processes. Reviewers reported that at 30 facilities, handbooks were missing some or all of the required information about the grievance process.[16] ICE reviewers found that the handbooks at several facilities did not explain how detainees could file complaints with the U.S. Department of Justice or with ICE regarding problems at the facility. At other facilities, whether and how detainee grievance procedures were made known to detainees appeared to depend on the discretion of facility staff rather than on established procedures. For example, upon reviewing the Reno County Jail, the ICE reviewer noted that information about the grievance process was given to detainees only when a "problem occurs," so the "disciplinary policy," rather than the grievance procedure, was applied.[17] At Anchorage Jail Complex, the ICE reviewer noted that the grievance process section was missing from the handbook, but that "when there is a problem, ICE is notified immediately."[18]

ICE reviews also revealed that many facilities failed to include in their handbooks descriptions of various services and policies that are important to de-

tainees. For example, ICE reviews revealed that 36 facility handbooks lacked sections outlining the methods for classifying detainees and relevant classification levels, as well as the process by which detainees could appeal classification determinations.[19] In addition, 13 facilities failed, in their handbooks, to cover the timing of medical examinations.[20] ICE reviews found that handbooks at 19 facilities failed to adequately describe the facilities' telephone policies and procedures, and one of these facilities had a multiyear violation.[21] On the ICE review form, several different telephone-related requirements were grouped together as part of one question, so in most instances someone examining a reviewer's answers to the question could not definitively determine which of the standard's requirements were missing from a facility's handbook.

ICE reviews also revealed that 19 facilities did not include appropriate descriptions of voluntary work programs in their handbooks.[22] For example, the handbooks for immigration detainees at many of these facilities listed voluntary work programs, even though ICE detainees could *not* participate in them, thus creating false expectations in detainees. Reviewers also reported that the handbooks at 8 facilities did not address general facility visiting hours.[23]

In addition, 15 facilities' handbooks did not mention the procedures for obtaining shaving supplies, and one of these facilities had a multiyear violation.[24] Another 22 facilities failed to include information on the timing of head counts.[25] And 12 facility handbooks did not cover the personal items that detainees could retain and the initial issuance of clothes,[26] while 5 facility handbooks did not mention the procedures for clothing exchange and obtaining personal hygiene items.[27]

ICE reviews identified several facilities whose handbooks were deficient in numerous, striking ways. For example, in 2004 the Pettis County Detention Center was rated "at-risk" for its handbook, as the review showed that the facility's handbook failed to include information on commissary/vending machine use; the facility's voluntary work program; the law library; attorney visitation hours; the facility's group legal rights presentation schedule; the facility's classification system; the location of the pro bono legal services list; the facility's correspondence policy; important portions of the facility's disciplinary policy; the facility's grievance process; its recreation program; its sick call policy; its detainee dress code; its procedures for the initial issuing of clothing and hygiene items; its segregation units; its count times, meal times, and smoking policy; its barbering and shaving procedures; its telephone procedures; its religious programming or detainee rights.[28] All told, the ICE review found the facility to be noncompliant with 24 of the 30 elements of the handbook standard.

And the Pettis County's severely deficient handbook was not an isolated example of a facility falling far short of the handbook standard. The 2004 ICE review for the Madison County Jail revealed that the facility was not providing a handbook to immigration detainees at all—this despite being written up for this violation in the prior year's review.[29] In addition, the review found that, although the facility had prepared an English-language handbook, it was missing crucial contents, and that the facility had not prepared a Spanish-language translation of the deficient handbook.

Finally, other ICE reviews showed that reviewers rarely rated a facility as deficient for the handbook standard even when they had identified numerous areas

## KEY FINDINGS

- **18 facilities did not have handbooks available in Spanish**, ICE reviewers found.
  - **4 of these facilities had multiyear violations** of this element.
  - The standard **requires that handbooks be available in English and Spanish**, at a minimum.
- **30 facility handbooks did not describe law library procedures and schedules**, as required.
  - **2 of these facilities had multiyear violations** of this element.
- **27 facility handbooks failed** to discuss **attorney visitation hours**, the location of a **list of pro bono legal services**, and the schedule for **group legal rights presentations**.
- **36 facility handbooks failed to outline the methods for classifying detainees and relevant classification levels**.
- **30 facility handbooks were missing required information about the grievance process**.
- **19 facility handbooks failed to describe adequately the facilities' telephone policies and procedures**.
  - 1 of these facilities had a multiyear violation of this element.
- **19 facility handbooks lacked appropriate descriptions of voluntary work programs**.
- **13 facility handbooks failed to cover the timing of medical examinations**.

of noncompliance. For example, the 2004 review for the Charleston County Detention Center noted that the facility handbook was not translated into Spanish, as required, and that it failed to include mandated information on the law library location and hours, the detainee grievance process, religious programming, and the detainee classification system.[30] Despite these deficiencies, the facility still was rated "acceptable" for the standard.

## ICE's Failures to Report Violations of the Detainee Handbook Standard

In several instances, the independent agency visits to immigration detention facilities conducted by the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR) identified violations of the handbook standard that ICE failed to report when it visited facilities during the same year. What the ABA and UNHCR found at the five facilities discussed below underscores the continuing need for these independent facility reviews, which routinely uncover violations of the standard that the government reviews miss or fail to report.

### *Passaic County Jail*

For example, when the ABA visited the Passaic County Jail in 2004, it found numerous deficiencies in the facility's handbook.[31] First, most immigration detainees interviewed by the ABA said that they had never received a copy of the handbook.[32] The ABA also noted that the handbook that had been prepared was intended for distribution to *all* inmates and, therefore, did not address concerns specific to immigration detainees. The ABA also found that the facility made no attempt to communicate the handbook information to detainees who did not speak English or Spanish, or who could not read.[33] In addition, the ABA review revealed that the facility handbook only briefly described the detainee grievance procedure,[34] and it did not appropriately explain the classification levels or the procedures by which a detainee might appeal his or her classification.[35] Many sections of the handbook were not accurate or were at odds with the facility's actual policies. For example, the handbook explained that detainees could use the law library and could expect recreation at certain times, but the ABA observed that detainees actually were granted less time for these activities than what the handbook allowed for.[36] In addition, the ABA noted that the actual visiting schedule posted in the facility differed significantly from the one published in the handbook.[37] When ICE reviewed this facility four months earlier, however, it noted none of these deficiencies with the handbook.[38]

The ABA noted continuing, egregious errors in the Passaic County Jail handbook when it again reviewed this facility in 2005. At that time, the ABA found that the facility still did not have an immigration-specific handbook and that the facility had not properly revised the handbook's description of the classification and grievance procedures. In addition, the ABA again noted a concern that there were no provisions for communicating information from the handbook to detainees who did not speak English or Spanish, or who could not read.[39] The ABA also noted that the list of rights in the handbook did not include the "right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment." Neither did the handbook inform detainees of the "right to freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs." Finally, the handbook's section on recreation fell drastically short of the recreation standard's requirements. Despite this long list of deficiencies identified by the ABA, ICE had not marked any deficiencies with regard to the handbook standard when it had reviewed this facility two months earlier.[40]

### *Dodge County Jail*

When UNHCR visited Dodge County Jail in June 2004, it noted several deficiencies with the facility's handbook. UNHCR found that the handbook did not adequately explain either the detainee classification levels, and the conditions and restrictions associated with each, or the facility's grievance procedure.[41] When the ABA reviewed the Dodge County facility in the same month, it also documented the facility's failures to include appropriate information on the detainee classification system and the grievance process. Specifically, the handbook covered neither the fact that detainees could receive assistance in filing grievances nor the procedures for filing a complaint about officer misconduct with the U.S. Department of Justice. The ABA review also revealed that the facility handbook was not specific to immigration detainees, but was a general handbook for all inmates.[42] The ABA further found that the handbook incorrectly stated that attorney visitation was not available during meals. However, when ICE reviewed this facility during the same month, its reviewer did not note any deficiencies with facility's handbook.[43]

In 2005, the ABA again reviewed the Dodge County Jail and found that the facility still lacked a handbook that was specifically for immigration detainees and that contained all the required information outlined in the ICE detention standards.[44] The 2005 review also showed that the facility had not fixed the deficiencies in the handbook sections on the detainee clas-

sification system or grievance process previously identified by the ABA and the UNHCR. The ABA review also indicated that the handbook section on special correspondence did not contain important information and that the handbook incorrectly stated that legal visitation would not be allowed during meals.[45]

### *El Centro and San Pedro Service Processing Centers*

ICE noted no deficiencies for the facility handbooks during its review of the El Centro and San Pedro Service Processing Centers in 2005.[46] However, the 2005 ABA reviews of these facilities noted deficiencies with their handbooks. The ABA found that the El Centro facility did not have a handbook specifically for immigration detainees and that the criminal inmate handbooks provided to immigration detainees lacked information required by the ICE detention standards.[47] During its review of the San Pedro facility, the ABA found that the facility's handbook did not specify that special correspondence may be opened in a detainee's presence, but not read.[48]

### *Dorchester County Jail*

The ABA reviewed the Dorchester County Jail in 2004 and found that it did not have an immigration detainee–specific handbook, and that a single set of rules was used for both immigration detainees and other inmates.[49] The ABA also noted that the handbook contained only a cursory description of the classification system, and that it did not make any mention of the procedures for contacting ICE to appeal a grievance decision or any information on the opportunity to file a complaint about officer misconduct directly with the U.S. Department of Justice. The ABA also noted that the written hours and procedures for the use of the law library fell below the detention standard's requirements. When ICE reviewed this facility two months later, it noted that the handbook's description of the classification system was still inadequate—indicating that the handbook likely had not been updated since the ABA visit—but failed to report any of the other handbook deficiencies that the ABA had identified.[50]

## CONCLUSION

Detainee handbooks serve an essential function when they communicate facility rules and regulations to detainees. The evidence from the government and independent reviews show, however, that facility handbooks too often presented an inaccurate or incomplete picture of facility policy, because key portions of the detainee handbook were missing or contained erroneous or inappropriate information. In many instances, handbooks presented information on facility programs or rules that did not match actual facility practice. ICE must do better to ensure that all immigration detention facilities provide adequate handbooks to detainees. Being provided no or inadequate handbooks places detainees in the difficult position of either not knowing facility rules and policies or not being able to point to written rules and policies, yet still having to bear the consequences if they violate them.

# Hold Rooms in Detention Facilities

## INTRODUCTION

The detention standard titled "Hold Rooms in Detention Facilities" provides that "hold rooms will be used for the temporary detention of individuals awaiting removal, transfer, [Executive Office for Immigration Review] hearings, medical treatment, intra-facility movement, or other processing into or out of the facility."[1] This standard sets forth physical space requirements and design specifications for hold rooms, requirements for holding detainees, and requirements regarding monitoring and inspecting hold rooms. The hold room standard is important because it sets forth minimum standards of habitability, including provision for rudimentary needs, such as basic hygiene and food, and the applicable hour limits for detention of different groups in hold rooms. Because hold rooms are often used when detainees are moved around a facility, violations of this standard have the potential to impact a large number of detainees. In practice, numerous facilities do not comply with the standard, so detainees frequently are held for much longer periods than the hour-limit standards allow. The fact that many detainees are held for inappropriately long lengths of time in hold rooms exacerbates other violations of the standard.

The hold room standard contains many specific elements that are applicable only to U.S. Immigration and Customs Enforcement (ICE)–run Service Processing Centers (SPCs) and private Contract Detention Facilities (CDFs).[2] These elements do not apply strictly to the hundreds of local and state jails in which individuals are detained under an "Intergovernmental Service Agreement" (IGSAs). With respect to these requirements, the hold room standard specifies that IGSAs may establish alternative procedures, "provided they meet or exceed the objective represented by each standard."[3] The standard includes detailed specifications for the design of hold rooms in SPCs and CDFs.[4]

## ICE MONITORING OF THE STANDARD

ICE uses two different monitoring checklists for reviewing facilities with respect to hold rooms, which reflect the fact that many of the requirements of the standard apply only to SPCs and CDFs.[5] Thus, one monitoring checklist is used to review IGSAs ("IGSA checklist"),[6] and the other checklist is used to review the majority of SPCs and CDFs ("SPC/CDF checklist"). Both checklists are deficient in terms of content when compared with the original Immigration and Naturalization Service detention standard monitoring instrument, "Hold Rooms in Detention Facilities," dated September 20, 2000 ("INS checklist") and consisting of 25 elements; and evidence reveals that both forms have consistently been misapplied by ICE reviewers. These defects result in a flawed review process, since ICE reviewers have not checked (and likely still are not checking) all the elements necessary to determine whether facilities are meeting the hold room standard.

The IGSA checklist consists of 15 elements. Some of the INS checklist elements are absent from this list because they pertain only to SPCs and CDFs. However, 2 elements are missing from the IGSA checklist that *do* pertain to IGSAs and should be on the IGSA checklist. One of the missing elements requires that officers provide a meal to any adult who is in the hold room for more than six hours, and that juveniles, babies and pregnant women must have regular access to meals and snacks.[7] This element is very important, because the standard allows that a detainee can be held for up to twelve hours in a hold room. The second element missing from the IGSA checklist is the requirement that each facility maintain a detention log for every detainee placed in a hold cell.[8] This element is also very important, because detention logs are the only accurate means for monitoring detainees' length of detention in a hold room[9] or whether anything unusual or unsafe occurred while they were detained there.

The SPC/CDF checklist contains 24 elements. While this form conforms quite closely to the INS checklist, it is missing one important element: the one forbidding detainees from smoking in the hold room.[10] However, an examination of the reviews of SPCs and CDFs on which this report is based reveals that quite often ICE reviewers used the IGSA checklist instead of the SPC/CDF checklist. Out of a total of 25 reviews of SPCs and CDFs, there were 7 instances in which the ICE reviewer used the abbreviated IGSA checklist to review an SPC or CDF, the result of which was that, for those 7 facilities, they reviewed only 15 of the 25 elements of the hold room standard applicable to SPCs and CDFs.[11] There is no doubt that the form used to monitor the hold room standard results in undercounting of actual violations of the standard. Nonetheless, numerous violations were documented by ICE reviews.

## ICE-DOCUMENTED VIOLATIONS OF THE HOLD ROOM STANDARD

In 2004, ICE reviewers rated nine facilities as being deficient with respect to the hold room standard,

seven of which facilities had been rated deficient for the standard previously. That year, ICE reviewers rated two facilities as being "at risk" with respect to the standard. In 2005, ICE reviewers rated three facilities as being deficient for the hold room standard and four facilities as being "at risk" with respect to it. In 2006, ICE reviewers rated four facilities as being deficient for the standard.

Five of the reviewed detention facilities did not even have hold rooms; nevertheless, an ICE reviewer gave each of the five an "acceptable" rating with respect to the hold room standard.[12] In most instances when a detention facility had no hold room, the reviewer assigned an "N/A" for each element of the hold room standard, despite observing that detainees were being held under various conditions that did not meet the standard.[13] For example, at one facility detainees who, under standard conditions, would have been placed in a hold room were instead "placed on wall [sic] under constant supervision."[14] At another facility, the ICE reviewer noted that because there was no hold room, "[b]enches with handcuffs" were used to hold detainees during processing.[15] At yet another facility, the ICE reviewer wrote "N/A" for many elements because "facility has no holding room," and yet the reviewer marked on the checklist that the facility was acceptably meeting some elements of the standard.[16]

## KEY FINDINGS

- In 2004, ICE reviewers **rated 9 facilities as deficient** with respect to the hold room standard.
  - Of these, **7 had previously been rated deficient** for the standard.
- **28 facilities** were rated in violation of the requirement that **bunks, cots, beds, and other makeshift sleeping apparatus are not permitted inside hold rooms.**
- **34 facilities** were rated in violation of the requirement that **individuals must not be held in hold rooms for more than 12 hours.**
  - In **13 additional instances,** reviewers' checkmarks indicated that a facility was in compliance with this standard, **but their written remarks indicated the opposite.**
- **12 facilities** violated the standard that **male and female detainees must be segregated from each other at all times,** according to ICE reviews.
- **11 facilities violated the requirement that, in all facilities, minors be held apart from adults,** "unless the adult is an immediate relative or recognized guardian and no other adult detainees are present in the hold room."
- In **47 reviews, monitors failed to assess whether detainees in hold rooms had adequate access to toilet facilities,** due apparently to the monitors having misunderstood checklist questions.

### Physical Space Requirements

#### *Toilet Facilities*

Under the hold room standard, toilet facilities must have lavatory/toilet fixtures with modesty panels and meet Americans with Disabilities Act (ADA) requirements. The SPC/CDF checklist contains two elements that address toilet facilities in hold rooms, one setting forth physical requirements and the other pertaining to toilet facility access. The first element, pertaining only to SPCs and CDFs built after 1998, addresses whether the hold rooms are equipped with stainless steel combination lavatory/toilet fixtures with modesty panels. This element also addresses (1) whether the lavatories are compliant with the ADA, (2) whether small hold rooms (those that, according to the room-size standard, may hold 1-14 detainees) have one combi-unit, and (3) whether large hold rooms (those that may hold 15-49 detainees) have two combi-units. Reviewers noted two violations of this hold room standard element.[17]

The second element pertaining to both SPCs/CDFs and IGSAs is: "In older facilities officers are within visual or audible range to allow detainees access to toilet facilities on a regular basis."[18] Many IGSA reviews indicate "N/A" for this element of the hold room standard. Seven comments made by ICE reviewers in the remarks section for this element indicate that the reviewers misinterpreted this element as applying only to older facilities, when in fact the element applies if there are no toilets in the hold room.[19]

It appears that if the facility being reviewed was not "older," the reviewer simply marked "N/A," without addressing the actual meaning and intent of this element, which is that detainees must have regular access to toilet facilities. If a hold room is not equipped with toilet facilities, detainees held in it do not have access to toilet facilities unless they can, whenever necessary, either signal or speak to an officer who can provide them access. Forty-seven facility reviews indicated "N/A" for this element, without providing any indication of whether detainees being held in hold rooms actually had access to toilet facilities.[20]

### *Beds, Bunks, Etc.*

Bunks, cots, beds, and other makeshift sleeping apparatus are not permitted inside hold rooms.[21] Twenty-eight facilities were rated to be in violation of this requirement.[22] Also, in six instances the ICE reviewer indicated that the detention facility being reviewed was in compliance with this element of the hold room standard even though accompanying remarks contradicted such a conclusion.[23] A common reason noted on the checklist for a facility not being in compliance with this element is that hold rooms are frequently used for other purposes, such as segregation (e.g., of women from men), detoxification, and emergency bed space.[24]

### *Escape- and Tamper-Proof*

Hold rooms must be escape- and tamper-proof.[25] ICE reviews found that two detention facilities were in violation of this element of the hold room standard, and the reviewers' remarks in both instances indicated very unsafe conditions.[26] At one facility, the reviewer reported that the "[h]old room was wide open with 10 or more inmates inside."[27] At another facility, the reviewer reported that there was "[g]lass in [the] holding room broken and [a] detainee [was] left unattended."[28] At two other facilities the ICE reviewers indicated that the facility was in compliance with this element of the standard; however, the reviewer's remarks indicated that the facilities had drop ceilings that were not tamper-proof.[29]

### *Ventilation and Lighting*

Under the standard, the hold room must be well ventilated and lighted, and all activating switches must be located outside the room.[30] Four detention facilities were rated as being in violation of this element of the standard, one on multiple occasions.[31] There were violations regarding all aspects of this element, including ventilation, lighting, and having activating switches located within the hold room.[32] In two reviews, the reviewer indicated that the facility was in compliance with this element of the standard even though the comments in the remarks section of the monitoring instrument clearly indicated that the detention facility was not in compliance.[33]

### *Sufficient Seating*

Hold rooms must have sufficient seating.[34] Five detention facilities were found to be in violation of the standard requiring that hold rooms contain sufficient seating for the number of detainees held.[35] In three of the facilities found to be in violation of this element of the standard, the underlying issue was that of general overcrowding in the hold rooms.[36] For one facility, the reviewer remarked that there was no seating for the detainees at all.[37] With respect to another facility, the reviewer reported, "Inmates lying on floor in overcrowded cell."[38]

### *Room Size*

Hold rooms must meet minimum size requirements.[39] One SPC did not meet the minimum space requirements set forth in this element of the hold room standard for at least two consecutive years.[40]

### *Doors*

Hold room doors must swing outward rather than inward.[41] Two SPCs were rated to be in violation of this element of the standard.[42]

### *Drainage*

Hold rooms must have floor drains.[43] Four SPCs were rated to be in violation of this element of the standard.[44] In one instance the reviewer indicated in the remarks section that the facility was not in compliance with this element of the standard because it was constructed before the standard was implemented.[45]

### *Handicap Rails* [46]

One of the memoranda accompanying an ICE annual review of a facility indicated that the hold rooms at the facility under review needed to have handicap rails installed.[47]

## Operational Requirements for Holding Detainees

### *Time Limit*

Under the hold room standard, individuals must not be held in hold rooms for more than 12 hours.[48] Thirty-four facilities were rated to be in violation of this element of the standard.[49] The ICE annual reviews provide evidence that detainees are being held for periods significantly longer than 12 hours. For example, reviewers indicated the following periods of time for which individuals were detained in hold rooms: 20 hours,[50] 24-48 hours,[51] 55 hours,[52] and 72 hours.[53] In thirteen additional instances, reviewers indicated via checkmarks that the facility was in compliance with this element of the standard even though the reviewer's remarks indicated that the facility was not in compliance.[54] In addition, one facility was found at fault for not logging detainees in and out of hold rooms.[55] A facility's failure to log detainees in and out is problem-

atic because this eliminates the possibility of monitoring whether the facility is in compliance with the 12-hour limit on detaining individuals in hold rooms.[56]

### *Detention Log*

Detention facilities must maintain a detention log for each detainee placed in their hold rooms.[57] Though at least six facilities violated the requirement to maintain detention logs, three of the six nonetheless received an "acceptable" rating for the standard.[58]

### *Segregation by Gender*

Male and female detainees must be segregated from each other at all times.[59] According to ICE reviews, twelve facilities violated this element of the standard.[60] In four of these instances the ICE reviewer rated the detention facility as being in compliance with this element of the standard even though the comments of the reviewer in the remarks section indicated that the facility was not in compliance.

### *Segregation by Age*

Every effort must be made to ensure that any detainee who is a minor (under 18 years of age) is held separate from any adult detainee who is not an immediate relative or "recognized guardian" of the minor.[61] ICE reviews reveal that eleven facilities violated this element of the standard, which requires that in all facilities minors be held apart from adults, "unless the adult is an immediate relative or recognized guardian and no other adult detainees are present in the hold room."[62] In seven of these instances the reviewer rated the detention facility as being in compliance with this element even though the reviewer's comments in the remarks section indicated that the facility was not in compliance, frequently because this element purportedly conflicted with state law.[63] In two additional ICE annual reviews, the reviewer indicated that this standard was not applicable to the facility under review.[64]

### *Personal Hygiene Items*

Detainees in hold rooms must be provided basic personal hygiene items.[65] According to ICE reviews, at least five facilities violated this element of the hold room standard.[66] In two of these facilities, reviewers indicated that hygiene items were available only upon request. These deviations from this element of the standard are particularly problematic because many detainees are not able to ask for needed hygiene items in a language understood by detention facility staff. Moreover, reviewers are in no position to verify whether and to what extent such requests are met. At another facility, the ICE reviewer indicated that this element of the standard was inapplicable because detainees are never in hold rooms for over one hour.[67]

### *Medical Emergencies*

When detention facility staff see that a detainee may be experiencing a medical emergency, they must immediately call an appropriate emergency service.[68] In four instances, the ICE reviewer rated the detention facility as being in compliance with this element of the standard even though the reviewer's comments in the remarks section indicated that it was not in compliance.[69]

## Inspection and Supervision of Hold Rooms

### *Direct Supervision and Monitoring Every Fifteen Minutes* [70]

According to ICE reviews, thirteen facilities violated the element of the hold room standard requiring that officers conduct irregular visual monitoring of detention hold rooms every fifteen minutes.[71] However, in four of these instances the ICE reviewer rated the detention facility as being in compliance with this element even though the reviewer's comments in the remark section indicated that supervision of the hold room was via camera rather than through direct observation.[72]

### *Pat-down Searches for Weapons and Contraband*

Per the hold room standard, all detainees must be given a pat-down search for weapons or contraband before being placed in the hold room.[73] ICE reviews revealed that two facilities violated this element of the standard by requiring substantially more intrusive searches.[74] One facility required a strip search, while another facility utilized a metal detection chair to conduct the search. [75]

### *Inspection and Cleaning of Hold Rooms* [76]

Four facilities were rated in violation of the element of the hold room standard requiring that a hold room be cleaned and inspected once the last detainee has been removed from it.[77] Inspectors' notes regarding two of these violations indicated that the facilities did not clean their hold rooms.[78] For example, one reviewer remarked that "[t]he ICE detainee hold room was filthy, no toilet paper, feces were evident on the walls."[79] In addition, one reviewer rated a facility in compliance even though the reviewer's written comment indicated that the hold room was inspected peri-

odically, but not necessarily cleaned due to its seldom being empty.[80]

### *Written Evacuation Plan*

ICE reviews revealed that four facilities were in violation of the element of the standard requiring that a facility have a written evacuation plan to remove detainees from the hold rooms in case of fire and/or evacuation of the building.[81] In two of the cases, ICE reviewers rated the facilities in question in compliance with this element even though the reviewer's comments in the remarks section indicated that the facilities were not in compliance.[82]

### *Inspection of Detainees' Personal Property*

In SPCs and CDFs, officers must inspect all property, including parcels, suitcases, bags, bundles, and boxes, before accepting the property. One facility was found to be in violation of this element of the hold room standard.[83]

## CONCLUSION

It is impossible to assess thoroughly the extent of ICE compliance with the hold room standard based on the completed ICE monitoring forms, due to fundamental deficiencies in the forms and procedures used by ICE to monitor compliance with the standard. As explained above, the forms fail to measure some important elements of the standard, the wrong forms are sometimes used, and the ratings marked on the forms are often inconsistent with the comments noted by monitors in the margins. Most notably, in 47 reviews the monitors failed to assess whether detainees in hold rooms had adequate access to toilet facilities, due apparently to the monitors having misunderstood the checklist questions. Of the violations noted on the completed checklists, the most widespread was keeping detainees in hold rooms for over 12 hours, which was noted in 47 facility reviews.

# Detainee Grievance Procedures

## INTRODUCTION

A key protection against detention staff misconduct is the ability of detainees to file grievances and have them resolved by uninvolved officers without fear of retaliation. The "Detainee Grievance Procedures" detention standard is designed to ensure such a process exists and that those detainee grievances are resolved in a satisfactory, impartial, and timely manner. The standard requires every facility to implement procedures that establish a reasonable time limit for processing, investigating, and responding to grievances.[1] The standard encourages facilities to resolve detainee complaints at the lowest level possible; to that end, facilities must allow detainees to make oral complaints to any staff member within five days of the event about which they are complaining.[2] Facilities also must establish a formal, written grievance process for detainees who opt to skip the informal process or for grievances that cannot be resolved to the detainees' satisfaction informally.[3] Detainees have the right to appeal the decision made under the formal grievance process to the officer-in-charge (OIC) of the facility.[4] The standard also requires Contract Detention Facilities (CDFs) and Intergovernmental Service Agreement facilities (IGSAs or local jails) to allow detainees to communicate directly with U.S. Immigration and Customs Enforcement (ICE)[5] regarding their grievances, and mandates these facilities to forward all grievances involving alleged staff misconduct to ICE so that ICE may investigate these charges. Under the standard, facilities are directed to establish procedures for handling emergency grievances, which include situations posing an immediate threat to a detainee's safety or welfare.[6] Under the standard, all facilities must document detainee grievances in a grievance log.[7] The standard also specifies that each facility's detainee handbook must include details of the facility's grievance procedure and set out detainees' rights.[8]

## ICE MONITORING OF THE GRIEVANCE STANDARD

### Deficiencies in ICE Form and Procedures for Monitoring Compliance

The form ICE uses to monitor compliance with the grievance standard is deficient in several ways. As a result, the summary of grievance standard violations listed below is certainly under-inclusive. First, the form does not measure whether responses are provided to formal or informal detainee grievances in a timely fashion. According to reviews conducted by the American Bar Association (ABA), the most common detainee complaint regarding facility grievance procedures was that facility staff ignored detainee grievances.

In addition, the only places on the facility monitoring forms that require reviewers to determine whether appropriate grievance policies and procedures exist are in the form used for monitoring compliance with the detainee handbook standard.[9] Consequently, although the completed review forms frequently indicate in the handbook standard section that a facility is

### KEY FINDINGS

- **At least 12 facilities failed to include any of the required grievance procedure information in their detainee handbooks**.
  - 1 of these facilities did this in two consecutive years.
  - 4 of these facilities received an acceptable rating for the handbook standard despite not having the required grievance sections in their detainee handbooks.
- **Another 28 facilities failed to include portions of the required information in their handbooks**.
  - 1 of these facilities did this in two consecutive years.
- **At least 1 facility had no system whatsoever for tracking detainee grievances**, yet the ICE reviewer rated the facility's compliance with the grievance standard as acceptable.
- ICE reviews documented **12 other instances in which facilities failed to maintain a grievance log**.
  - 2 of these facilities had such violations in consecutive years.
- **One of the ABA reports' most pervasive findings is that grievances were not responded to either at all or in a timely fashion**—an element of the grievance standard that the ICE form does not track.

not complying with the grievance element of the handbook standard, these deficiencies are not noted on the form used to review compliance with the grievance standard. In addition, the handbook form lists several required elements of the standard beside one checkbox, making it difficult to determine what is actually missing from the handbook and how extensive any omissions are.

The ICE form for monitoring compliance with the grievance procedures standard also fails to include a question about whether detainee grievance forms are available at the facilities being reviewed. Several ICE and ABA reports show, however, that grievance forms were not made available to detainees at several facilities.

In addition, the item on the ICE form regarding whether detainees are protected against retaliation when they file grievances is so confusing that it is impossible to know, based on reviewers' responses to that item, whether or not retaliation is routinely occurring. The item is written as follows: "There are no documented or substantiated cases of staff harassing, disciplining, penalizing, or otherwise retaliating against a detainee who lodges a complaint. If yes, explain." Because of the way this item is written, a "no" response would indicate that there *are* documented cases of retaliation; and, presumably, these are the cases that should be explained. Yet the form asks the reviewer to explain only "yes" responses.[10] ICE reviewers often checked "no" for this element of the form, but it appears that they intended to indicate that there were no documented cases of retaliation, since they did not proceed to rate the facility as being noncompliant for the standard. Due to the confusing phrasing of this question, it is hard to determine from ICE reviews whether any facilities were inappropriately retaliating against detainees who filed grievances. Given these deficiencies in the forms used to monitor the grievance procedures standard, there is no question that the ICE reviews fail to capture many instances of noncompliance with the standard.

## Violations of the Grievance Standard Documented by ICE

At one facility, a combination of grievance standard violations all but eliminated the possibility that any detainee would have been able to file a grievance. At this facility, the detainee handbooks did not cover the grievance procedures, detainees did not have access to the grievance committee, and no formal grievance appeal procedures were in place.[11] As a result, detainees at the facility had virtually no way of knowing that they had the right to file a grievance, and even if they had tried to file one no real procedure was in place to handle it. Therefore, the facility was unable to monitor staff behavior towards detainees.

### *Grievance Policies in Detainee Handbooks*

As noted above, the monitoring form for the handbook standard combines several questions regarding the content of the grievance section of the detainee handbook into one question, making it difficult to determine the scope of the omission when this element is marked to indicate that the facility is noncompliant. Nevertheless, ICE reviews reveal a staggering level of noncompliance with the requirement that detainee handbooks lay out the facility's basic grievance procedures. At least 12 facilities failed to include *any* of the required grievance procedure information in their detainee handbooks, and at one of these facilities the deficiency occurred in two consecutive years.[12] Four of these facilities still received an acceptable rating for the handbook standard despite the fact that the required grievance sections were entirely missing from their detainee handbooks. Another 28 facilities failed to include portions of the required information in their handbooks, one of which facilities had a repeat violation for two consecutive years.[13] All told, the ICE reviews documented violations of this requirement at 40 facilities. The implication of these failures is simple: detainees cannot file grievances when they do not know the procedures for doing so. As a result, both ICE and immigration detention facility staff are likely to underestimate the true level of detainee grievances.

In addition, at two facilities ICE reviews found that grievance forms were not regularly issued to detainees upon request or that detainees did not know how to pursue a grievance, vastly compromising detainees' ability to file grievances seeking redress for violations of their rights.[14] At two other facilities, the reviewer noted that the facility's number of grievances recorded seemed far too low for the number of detainees housed there, indicating a concern that detainees were not properly advised of the grievance procedures or did not feel free to use them.[15]

### *Grievance Logs*

ICE reports revealed numerous violations of the minimum requirement that facilities maintain a detainee grievance log. These violations are likely substantially underreported because the ICE review form indicates that an alternative recordkeeping system can be used, but the standard itself does not contemplate such an exception.[16] Several facilities failed to keep a log, but instead placed grievances in detainees' files or used other systems. Centralized recordkeeping allows a facility to assess the overall level of detainee grievances, trends in grievances, and whether grievances are resolved in a timely and appropriate manner.[17] Keeping grievances in the individual detainee files, in contrast, makes it difficult, if not impossible, to review the ag-

gregate data. At least one facility had no system whatsoever for tracking detainee grievances, yet the ICE reviewer rated the facility's compliance with the grievance standard as acceptable.[18] In addition, ICE reviews documented twelve other instances in which facilities failed to maintain a grievance log.[19] At two of these facilities the violations occurred in consecutive years.[20] At another facility, although the review indicated that a log was kept, the review found that at least one substantiated grievance against facility officers was not documented.[21]

The reliability of facility grievance logs is further compromised by the fact that the standard does not require IGSAs to record "nuisance" or trivial complaints. Under the standard, only Service Processing Centers (SPCs) and CDFs had to record nuisance complaints. Recording these complaints is important because it helps facilities distinguish between meritorious and nonmeritorious complaints, and it also ensures that proper procedures are followed in every case, which gives credibility to the facility's grievance system. According to ICE reviews, two SPCs and one CDF failed to record "nuisance" complaints in the facility grievance logs—a significant finding, given that at the time there were no more than twenty of these facilities.[22]

### *Grievance Complaint Process*

At six facilities, staff did not know how to handle emergency grievances, or they treated them no differently than nonemergency grievances.[23] According to the standard, each facility should have separate, expedited procedures for handling emergency grievances that threaten detainees' lives or wellbeing.

In addition, ICE reports revealed other deficiencies in facility grievance procedures. At least one facility had no informal grievance process whatsoever,[24] and another facility had no grievance committee to review formal detainee complaints and instead used one official to review all detainee complaints.[25]

## Violations of the Grievance Standard Documented by the ABA

The ABA monitoring reports provide additional insight into the degree to which detention facilities are complying with the grievance standard. While ICE reports indicate that the main violations of the grievance standard are facilities' failures to outline grievance procedures in detainee handbooks and to maintain grievance logs, the ABA reports reveal more fundamental failures. One of the ABA reports' most pervasive findings is that grievances were not responded to either at all or in a timely fashion—an element of the grievance standard that the ICE form does not track. In addition, the ABA reviews found that detainees either did not know about facilities' grievance procedures, or felt that it was no use to file a grievance, or, in some cases, feared that they would be retaliated against if they did file a grievance.

### *Widespread Failure to Respond to Grievances*

The detainee grievance standard provides that a facility shall make every effort to resolve detainee grievances in an orderly and timely manner. The ABA reports, however, document facility failures to respond in a timely fashion, or at all, to detainee grievances. Detainees at four facilities reported that grievances were not responded to in a timely manner.[26] At an additional six facilities, detainees reported that grievances were not responded to at all.[27] At the Kenosha facility, detainees reported to the ABA two years in a row that their grievances were never responded to.[28] Detainees reported problems with timely response two years in a row at the Passaic facility.[29] The ABA also documented that one facility failed to specify a timeline for responding to grievances, as required under the standard.[30] At two other facilities, detainees reported that no reason was provided by a facility when a grievance was denied—a fact that undermined their faith in the grievance system or the utility of making a grievance.[31]

The 2004 ABA report for the Queens detention facility includes two compelling examples of detainee grievances that received no response. In the first example, two detainees reported that a facility guard "displayed extremely unprofessional behavior towards detainees over a period of several years, including taking some of his clothes off and simulating sexual acts with detainees, stating jocularly that he wanted to have sex with detainees, and cursing routinely in his speech. When detainees complained, the [facility] tour commander and security chief dismissed the concerns, stating that [the officer] was crazy and that they could not help." In the second example, a detainee reported that he was being transported back to the facility after an outside dental appointment "when he was made to crawl from the bus to the Facility (approximately sixty-five feet) because the officers aiding in the transport would not loosen the shackles on his legs so that he could walk. . . . Upon reaching the Facility, [detainee] Y complained to other [facility] staff and was told that he would have to address his complaint to the security officers who handle detainee transportation." Each of these detainees filed a formal written grievance against the Queens detention facility and forwarded a copy to the U.S. Justice Department in Washington, DC, but neither received a response.[32]

### *Lack of Knowledge of the Grievance Process*

Like the ICE reviews, the ABA reviews showed that facility handbooks often fail to cover all the required information. Deficiencies were found at seven facilities.[33] ICE reports were produced in discovery for only three of these facilities where the ABA documented handbook violations.[34] However, the ICE reviews for these facilities failed to note a handbook violation. Most commonly, the handbook failed to discuss the procedures for filing an appeal to ICE or a complaint of officer misconduct with the U.S. Justice Department.

In addition, the ABA reviews revealed that facilities failed to inform detainees that a grievance process existed, and, as a result, few grievances were filed.[35] At two facilities, detainees reported that obtaining the grievance forms from the facility staff was difficult.[36] At another facility, detainees reported that they did not know of the existence of grievance forms, which the staff reported were available in the library and at the main desk in each housing unit. However, when ABA reviewers asked to be shown the forms, the lieutenant responsible for reviewing them could not locate the forms at either of those locations.[37]

### *Retaliation and Other Violations of the Standard*

Detainees at several facilities reported that detainees who filed grievances were likely to face retaliation by facility staff.[38] At one facility, according to an ABA report, a detainee stated that she "worried about retaliation for filing a grievance, with one guard telling her that, 'we will get [her]' if she filed a grievance."[39]

In addition, three facilities provided no translation assistance to detainees filing either formal or informal grievances.[40] Finally, three facilities failed to convene a grievance committee to review formal complaints, but the corresponding ICE reviews failed to note these violations.[41]

## CONCLUSION

It is impossible to get a firm handle on how many and what kinds of grievances detainees make or whether facilities are adequately handling these grievances because the forms used by ICE to monitor compliance with the grievance standard are deficient in several key ways that result in an incomplete assessment of the problems that actually exist. Nevertheless, ICE reviews revealed widespread levels of noncompliance with the grievance standard. Most fundamentally, detention facilities do a dismal job informing detainees that they even have a right to file a grievance. Undoubtedly, printing the grievance procedures in a detainee handbook is one of the easiest of the grievance standard's elements to satisfy, but it was routinely violated.

As we have found with the other standards discussed in this report, the ABA reports reveal significant violations of the grievance standard that are not captured by ICE reviews.

# Detainee Transfer

## INTRODUCTION

The detainee transfer standard lays out procedures to be followed when detainees are transferred from one facility to another. This standard, which was adopted only in late 2004, is intended to ensure that detainees are treated respectfully, afforded their legal rights, and protected from security threats during transfer.[1]

The standard provides that detainees may be transferred only for particular reasons, which include (1) medical care transfers, made to accommodate a detainee's specialized medical needs; (2) change-of-venue transfers, which occur when a detainee's removal (i.e., deportation) case moves from one jurisdiction to another; (3) recreation transfers, which a detainee may elect when adequate opportunities for recreation are not available at a particular facility; (4) security transfers, made when a detainee poses a threat to the facility where he or she is currently being detained, or is violent or causes a major disturbance, or when a security threat exists that cannot be cured by segregating detainees within the facility; and (5) transfers made for other reasons, such as to control overcrowding or to meet a detainee's special needs.[2]

If adhered to, the standard also protects detainees during transfers by ensuring that they are notified of the transfer, that their legal materials accompany them, that their personal property accompanies them or is properly stored, and that their medical needs are documented and will be met both in transit and at the facility to which they are being transferred. Under the standard, a transferring facility must notify the detainee of the pending transfer and provide the name, address, and phone number of the destination facility. To prevent any immediate interruption in the relationship between the detainee and his or her attorney, the facility also must notify the detainee's attorney of record of the transfer at the time it is carried out. Finally, the facility must notify the detainee or the detainee's attorney that the detainee or attorney is responsible for informing the detainee's family members of the transfer.

Compliance with this standard is vital to preventing detainees from losing contact with their attorneys and families or suffering from lack of medical care as they are being transferred to remote and distant facilities.

## VIOLATIONS OF THE DETAINEE TRANSFER STANDARD

### Notification

The standard requires facilities to provide detainees being transferred with a Detainee Transfer Notification Sheet (DTNS) at the time of transfer. The purpose of the DTNS is to inform the detainee of the name, address, and phone number of the facility to which he or she will be transferred.[3] According to reviews conducted by U.S. Immigration and Customs Enforcement (ICE),[4] 19 facilities failed to provide completed DTNSs as required.[5]

The standard also requires facilities to inform detainees or their attorneys that they are responsible for notifying family members of the transfer.[6] Unless they are told, detainees might not know that they must directly inform their families of their new whereabouts. A number of facilities failed to comply with this provi-

### KEY FINDINGS

- **19 facilities failed to provide completed Detainee Transfer Notification Sheets**, which provide detainees with the name, address, and phone number of the new facility they are being sent to.
- Several facilities **failed to inform detainees or their attorneys that they**, not the facility, **are responsible for notifying the detainee's relatives of the detainee's transfer.**
  - Unless they are told, detainees might not know that they must directly inform their families of their new whereabouts.
- Some facilities **failed to *fully* notify detainees or their attorneys that they were being transferred**, often by failing to inform them of the reason for the transfer.
- **Being transferred from one facility to another is traumatic for detainees.**
  - The trauma is exacerbated **when detainees are moved far away from families and loved ones.**
  - Transfers can also **interfere with attorney-client relationships** and obstruct the effective presentation of a detainee's legal case.

sion.[7] In addition, according to the standard, attorneys for detainees must be notified when their client is being transferred. This notification must be made when the transfer is under way, and the fact that it has been made must be noted in an ICE database.[8] Some facilities failed to notify attorneys of transfers as the standard requires.[9]

Still other facilities failed to *fully* notify detainees or their attorneys of a transfer, often by failing to inform them of the reason for the transfer.[10] Finally, some facilities failed to use a form required to ensure a safe transfer, which is supposed to contain the detainee's name and destination, the purpose of the transfer, and other security-related information.[11]

### Adequate Medical Care

The standard requires facilities to undertake certain procedures relating to a detainee's medical care prior to and at the time of transferring the detainee.[12] Among the procedures required, medical staff must be alerted to the transfer, and medications and medical records in at least a summary form must accompany the detainee during the transfer.[13] ICE reviews found that three facilities failed to ensure that the necessary medical paperwork was completed and sent with transferred detainees.[14] One facility did not even have procedures in place to comply with the standard's medical care provisions.[15]

## CONCLUSION

The process of being transferred from one facility to another can be traumatic for detainees, especially if they are moved to remote facilities a great distance away from their families and loved ones. A transfer can also interfere with attorney-client relationships and obstruct the effective presentation of a detainee's legal case. Moreover, for detainees with special medical needs, a transfer made without proper attention being paid to those needs can be dangerous or even fatal. Given the importance of this standard, facilities' failures to comply with the notification requirements and with medical care procedures are cause for serious concern.

# Funds and Personal Property

## INTRODUCTION

The detention standard titled "Funds and Personal Property" (referred to in this chapter as "FPP") is designed to safeguard detainees' money and personal property by requiring all facilities to have written procedures for receiving,[1] processing and storing,[2] and returning[3] such items. These procedures are intended to ensure that even if a detention facility is lacking in organization and security, individuals detained there are not permanently deprived of personal property that may be of sentimental, financial, or legal value.

The detailed "implementing procedures" of the FPP standard, including the many provisions setting forth the types of forms, tags, and storage containers to be used in identifying and tracking detainee property, apply only to Service Processing Centers (SPCs) and Contract Detention Facilities (CDFs), while the provisions that are also applicable to facilities where individuals are detained under an "Intergovernmental Service Agreement" (IGSAs) set out general principles.[4] For example, while the standard includes detailed requirements and procedures applicable to SPCs and CDFs for issuing receipts to detainees for all funds, valuables, and other items stored at facilities, the general principle applicable to IGSAs requires only that there be "a written standard procedure for inventory and receipt of detainee funds and valuables."[5] The standard does require that all facilities limit access to detainee property to designated officers or supervisors,[6] and that they implement procedures for regularly auditing and inventorying the contents of property storage areas.[7] Restricted access to property and routine audits lessen the likelihood that detainees' belongings will be tampered with or stolen by fellow detainees or dishonest staff.

Detainees are permitted, however, to keep with them a "reasonable amount" of property, provided that such items do not threaten facility security.[8] Therefore, SPCs and CDFs must permit detainees to retain small religious items, legal papers, addresses, photos, and wedding rings, among other belongings.[9] To be able to communicate with family and friends about their situation, as well as to obtain legal assistance, detainees must be able to have in their possession vital addresses and legal documents. In addition, by allowing detainees to retain small items of personal significance, the standard acknowledges and seeks to alleviate emotional and psychological disturbances that may result due to prolonged confinement. Pursuant to the standard, any other detainee property is deemed contraband and must be turned over to facility staff for processing and storage.[10]

The standard also addresses the processing of detainee medications. It mandates that medical staff at all facilities determine the disposition of any medicine accompanying an arriving detainee.[11] Attentive processing reduces the risk that medications essential to detainees' physical or mental health will not be misplaced during the shuffle of intake and that detainees will not be prevented from continuing to maintain their necessary medication regimen.

In addition to delineating procedures for processing incoming detainee property, the standard requires that

### KEY FINDINGS

- **The ICE checklist for "Intergovernmental Service Agreement" facilities contains only 11 elements for review.**
  - By contrast, the monitoring form for Service Processing Centers and Contract Detention Facilities contains 29 elements.
  - The IGSA form's incompleteness raises questions about the degree to which reviews of IGSAs reflect actual compliance with the FPP standard.
- **When detainees are not allowed to keep correspondence and legal papers in their possession,** this seriously hinders their ability to fight their legal cases and obtain release from confinement.
- **Failure to implement procedures for securing and returning a detainee's property** can result in the detainee effectively forfeiting money and personal property to detention facilities or corrupt staff — a consequence of detention that's shocking and unwarranted.
- **9 non–ICE-run facilities either had no written policies for dealing with property left behind by former detainees or failed to follow such written policies.** Of these facilities, ICE reviewers rated only 4 "deficient" or "at-risk" for the FPP standard.
- **20 facilities did not attempt to notify detainees regarding property left behind, as required by the FPP standard.** ICE reviewers rated only 6 of these facilities "deficient" or "at-risk" for the standard.

facilities have written procedures for investigating and documenting claims of property damage or loss.[12] In addition, to facilitate the reuniting of detainees with property that is lost or left behind, facilities are required to collect forwarding addresses from detainees who arrive with personal property.[13] Such procedures are intended to ensure that facility staff will inform detainees of their property that remains at the detention center following their release rather than treating it as abandoned. The procedures also seek to ensure that detainees can receive compensation for property losses attributable to facility staff.

Finally, the standard requires that all detainee handbooks distributed to detainees describe fully the procedures for processing, storing and returning detainee property, and for addressing claims of loss or damage.[14] Handbooks also must advise detainees about what kinds of items they are permitted to keep with them.[15] This information helps enable detainees to hold facilities accountable for the mistreatment of their property or violations of the standard.

## VIOLATIONS OF THE FUNDS AND PERSONAL PROPERTY STANDARD

The U.S. Immigration and Customs Enforcement (ICE) reviews reveal that facilities frequently violate the FPP standard.[16] The violations compromise the detainees' right to keep certain property in their possession and to regain custody of their belongings upon release. The full extent of these violations is difficult to ascertain, however, in light of the generality of this standard as it relates to IGSAs, as well as important differences in the monitoring forms used to evaluate IGSAs and those used for SPCs and CDFs.

### Monitoring Discrepancies Muddy the Picture

Unlike some of the detention standards, which include both detailed procedures with which *all* facilities, including IGSAs, must comply as well as specific procedures described in italics that are mandatory only for SPCs and CDFs, the FPP standard announces in only the most general of terms what is required of IGSA facilities. For example, the standard provides that all facilities must have written procedures related to the inventory and receipt of detainee funds and valuables,[17] but it does not specify the required content of these procedures for IGSAs. In contrast, the standard contains, printed in italics, detailed procedures for this and other requirements as they relate specifically to SPCs and CDFs.[18]

It defies logic that IGSAs, which house more than half of all immigration detainees and lack an on-site ICE presence, are permitted greater latitude in handling detainee property than SPCs and CDFs. A system intended to ensure the humane and uniform treatment of immigration detainees nationwide should require the same minimum standards of all facilities, regardless of whether they are owned or operated by ICE or by government contractors. Disparities in the standard's comprehensiveness as it applies to IGSAs are replicated in the monitoring instruments used to evaluate compliance with the standard. Thus, while the monitoring form for SPCs and CDFs contains 29 elements for review, the checklist for IGSAs contains only 11 elements.[19] Although these forms share several elements, the IGSA form notably fails to include many important questions asked of SPCs and CDFs — for example, whether the facility under review provides detainees with receipts for their processed property, whether the facility maintains logbooks to track these receipts, and whether the facility conducts routine audits of stored property to identify and prevent loss. Compliance with these provisions is essential to the integrity of property processing and storage systems and they should be evaluated during IGSA reviews.

The incompleteness of the IGSA monitoring form raises questions about the degree to which IGSA reviews reflect actual compliance with the standard. Indeed, because the form does not require reviewers to evaluate whether IGSAs have complied with several elements of the standard, even if in a manner that differs from that of SPCs or CDFs, ICE reviews likely underreport violations of the standard by IGSAs. The value of ICE reviews is further undermined by at least one reviewer's use of the abbreviated IGSA form to evaluate an SPC.[20] Notwithstanding these limitations, ICE's own reviews reveal that many facilities fail to comply with the standard. These violations are discussed below.

### Securing Detainee Property

Pursuant to the standard, funds and valuables must be separated from other property and stored in a safe that is accessible only to designated supervisors.[21] Of the facilities reviewed by ICE, twelve violated this element,[22] two in consecutive years.[23] Nevertheless, five of these facilities received "acceptable" ratings (the highest possible) for the standard.[24] Two other facilities failed to adequately secure and limit access to storage areas holding personal property.[25]

Two examples of violations illustrate the vulnerability of detainee funds and the importance of procedures for tracking and securing such monies. At one facility, an ICE reviewer reported that staff routinely confiscated funds from detainees when they were admitted to the facility and after they received visitors, and documented these funds in a money ledger, but did not return them to detainees upon their release or trans-

fer from the facility.[26] The reviewer added that, since 1997, the facility had taken more than $3,290 from detainees, the majority of which had been confiscated from Spanish-speaking detainees.[27] At another facility, an ICE reviewer noted that the facility's property storage areas were not properly secured and that "an intake officer was previously identified, prosecuted and terminated for pilfering inmate monies."[28] The reviewer further remarked that, despite this incident, the facility had not taken steps to prevent future theft by facility staff.[29] These egregious examples clearly show how the lack of procedures for securing and returning detainee property may result in the effective forfeiture of these items to facilities or corrupt staff — a shocking and unwarranted consequence of detention.

The standard also addresses the processing of large valuables. It mandates that facilities place such items in secure lockers to be accessed only by designated supervisors.[30] ICE reviews reveal that eighteen facilities did not store large valuables in secure locations with the specified limited access.[31] One of these facilities was a repeat violator, having failed to comply with this element in two consecutive years.[32] Notably, however, only two of these facilities were rated "deficient," and one "at-risk," for the FPP standard.[33] Moreover, six facilities failed to accept large valuables,[34] some of them requiring detainees to send such items to family members, despite the standard's requirement that facilities store the property of detainees who lack addresses or family or trusted others to whom excess property may be shipped.[35]

### Processing Detainee Property

The standard provides that all facilities must have written procedures for inventorying and receiving detainee funds and valuables as well as baggage and other personal property.[36] SPCs and CDFs must follow the detailed procedures set forth in the standard. Specifically, these facilities must process baggage and other personal property by using a property inventory form that documents the date the property is processed, the name and A-number of the detainee, a description of the property and its disposition, and the signatures of both the detainee and the processing officer. After completing this form, officers also must fill out a three-part baggage check form. They must then distribute one portion of the form to the detainee, place another in the detainee's file, and attach a third portion to the detainee's property. These baggage checks must then be recorded in a logbook. Finally, officers must secure baggage and other personal property containers with tamperproof straps before placing property in secure storage areas. Once property is secured with the straps, they should be broken only in the detainee's presence.

Acknowledging the heightened risk of loss or theft that attends the storage of funds and valuables, the standard mandates separate, specific procedures for processing these items.[37] These requirements create an essential chain of custody, enabling facilities to track and ultimately return detainee property. ICE reviews reveal, however, that several facilities failed to comply with these requirements.

While four facilities failed to itemize baggage in accordance with ICE standards,[38] only one was rated "deficient" for the standard.[39] In addition, four facilities failed to tag large valuables or other property with the forms required by the standard;[40] one such facility was nevertheless rated acceptable for the FPP standard.[41] Two facilities failed to have two officers present to document the receipt of funds and valuable property,[42] one in consecutive months of the same year.[43] Another facility failed to provide detainees with property receipts.[44] Finally, of eight facilities that failed to secure property containers with tamperproof straps,[45] only five received "deficient" or "at-risk" ratings for the overall standard.[46] These deficiencies expose detainees to the serious and unnecessary risk of property loss.

### Auditing Detainee Property

The standard mandates that facilities have written procedures for conducting routine audits of detainee property to prevent and identify property loss.[47] In addition to the regular audits that are required of all facilities upon staff shift changes, supervisors and staff of CDFs and SPCs without commissaries must conduct comprehensive audits on a weekly basis.[48] The standard also requires SPCs and CDFs to conduct quarterly inventories of detainee baggage and nonvaluable property and to record these audits in a daily logbook.[49]

Seven facilities failed to conduct the required weekly audits,[50] one in two consecutive review years.[51] Despite this deficiency, three of these facilities received an "acceptable" rating for the standard.[52] Moreover, three facilities failed to conduct or log quarterly property audits,[53] one of which facilities was nevertheless rated "acceptable" for the standard.[54]

Property audits are not mere administrative hurdles; they are important safeguards through which facilities may be held accountable for the security of detainee property. The failure of several facilities to observe auditing protocols raises concerns about the integrity of the storage systems at facilities housing ICE detainees.

### Retention of Property by Detainees

According to the standard, detainees must be allowed to keep certain personal property in their possession, so long as these items do not pose a security

risk.[55] American Bar Association (ABA) reports reveal that two facilities did not permit detainees to retain small personal belongings, including photographs, religious items, wedding rings, correspondence, and legal papers.[56] These failings deprive detainees of meaningful reminders of their outside lives. The withholding of items such as correspondence and legal papers can seriously hinder detainees' ability to fight their legal cases and obtain release from confinement.

### Review of Detainee Medication by Medical Staff

The standard provides that on intake of an arriving detainee, "medical staff will determine the disposition of all medicine accompanying" the detainee.[57] Though vaguely worded, this element is crucial, given that the failure to expeditiously forward medications to appropriate medical staff may jeopardize the health of detainees whose survival depends on these medications. ICE reviews reveal that two facilities failed to comply with this element of the standard,[58] and were rated "deficient" for the overall standard.[59]

### Returning Property to Detainees

The standard requires facilities to have written procedures for returning property to detainees upon their transfer or release.[60] Although four facilities lacked such procedures,[61] two of these were rated "acceptable" for the standard.[62] Importantly, the violation of this element by any one facility may have ramifications for hundreds of detainees. Indeed, the failure of one facility to return more than $3,290 in detainee funds serves as a cautionary example of the significant loss that can occur in the absence of procedures guiding the return of detainee property.[63]

### Identifying and Managing Abandoned Property

The standard also contains provisions pertaining to property that is left behind by detainees following their release. When former detainees have left any items at SPCs or CDFs, ICE must contact them via a certified letter sent to their last known address to alert them about the items and inform them that they have 30 days in which to contact ICE about reclaiming their property.[64] To facilitate these efforts, the standard requires facilities, or district office staff in the case of IGSAs, to acquire forwarding addresses from all detainees arriving with personal property.[65] If a detainee does not respond to a notice or indicate a desire to reclaim the forgotten property, the property will be deemed abandoned, and the government will assume ownership of it.[66] CDFs and IGSAs must document and forward to ICE any abandoned property.[67] Pursuant to agency procedure, ICE may then use, destroy, or sell the property, but the standard does not contemplate donating the property to charity. However, ICE must dispose of clearly abandoned or broken property as well as property of insignificant value.[68]

Of the facilities reviewed by ICE, nine either had no written policies for returning left-behind property to ICE or failed to follow their own written policies.[69] Of these facilities, only four were rated "deficient" or "at-risk" for the FPP standard.[70] Two facilities failed to obtain the addresses of incoming detainees who brought property with them,[71] and one of these facilities nevertheless was rated "acceptable" for the standard.[72] Twenty facilities did not attempt to notify detainees regarding property left behind, as required by the standard;[73]only six of these facilities were rated "deficient" or "at-risk" for the standard as a whole.[74] These violations are particularly disturbing, as they suggest the unjust enrichment of facilities and staff at the expense of former detainees. Finally, fourteen facilities did not dispose of abandoned property in accordance with the guidelines outlined in the standard, or had no written policies for disposing of abandoned property.[75] Only five of these facilities received "deficient" or "at-risk" ratings for the standard.[76]

### Handling Claims of Lost or Damaged Property

Pursuant to the standard, all facilities must have written policies and procedures in place for addressing claims of missing or damaged property.[77] In SPCs and CDFs, officers must report claims of missing or damaged property to supervisory staff, who will investigate such claims and respond with any necessary remedial measures.[78] Moreover, staff must file with the facility's officer-in-charge a report of property that cannot be located or is found in a damaged state.[79] In SPCs, any resulting claims against the U.S. government must be documented on a form specified by the standard.[80] CDFs and IGSAs, on the other hand, must reimburse detainees for all property losses stemming from facility negligence.[81] The above procedures recognize both the limited choice that detainees have in surrendering their property to facilities and the importance of claims procedures in holding facilities accountable for any losses they cause.

Four facilities either lacked procedures for handling property claims or had procedures that were insufficiently similar to those of ICE.[82] At one SPC, staff did not regularly inform supervisors about property claims made by detainees.[83] Moreover, two facilities lacked or failed to complete forms documenting the loss of or damage to detainee property, as required by the standard.[84] Another facility did not complete the appropriate forms for property claims against the United States.[85]

## CONCLUSION

Noncompliance with the FPP standard renders the storage of property at many detention facilities a risky proposition for detainees. ICE reviews reveal, in addition to instances of theft and outright forfeiture of detainee funds and property, that several facilities failed to audit the contents of their property storage areas to even enable an assessment of whether property had gone missing. A surprising number of facilities also failed to account for lost or damaged property and to reach out to detainees about property they had left behind, probably resulting in other unwarranted deprivations of property. Equally troubling, two facilities deprived detainees of their right to retain small possessions, including photos, wedding rings, addresses, and legal documents, to the potential detriment of detainees' mental and emotional health as well as their legal cases. Still further, two facilities endangered the health of detainees by failing to separately process medications to ensure their timely transfer to medical staff. The incompleteness of IGSA monitoring forms strongly suggests that these violations are only a small percentage of those that actually occur at facilities housing ICE detainees.

# Admission and Release

## INTRODUCTION

The detention standard regarding admission and release is designed to protect the health, safety, and welfare of detainees by requiring detention facilities to implement admission procedures that help orient detainees who are new to a facility and release procedures that are supposed to ensure that the property of departing detainees is returned to them.

When a newly arrived detainee is admitted, facility staff must provide the detainee with an orientation and a handbook, medical screenings, proper classification, an opportunity to safeguard personal belongings, and information regarding pro bono legal services.[1] Upon arrival, detainees also undergo screening interviews, complete questionnaires, attend the facility's orientation program (which should involve viewing a video), and receive facility-issued personal hygiene items and clothing, towels, and bedding.[2] The orientation program is particularly important, as it informs newly arrived detainees of the facility's operations, programs and services, including prohibited activities and the associated sanctions.[3] During the release process, detainees return facility-issued clothing, bedding and other items, receive their personal property that had been stored for them, and fill out certain paperwork.[4]

The admission and release standard sets protocols to protect the health and safety of both the newly arrived detainees as well as detainees already living at the facility. These protocols also help inform newly arrived detainees of the legal resources available to them. Moreover, the classification protocols in this standard help ensure that detained individuals are properly classified and housed, to avoid any danger to their personal safety and to accommodate their medical needs.

## VIOLATIONS OF THE ADMISSION AND RELEASE STANDARD

### Orientation and Handbook Procedures

The standard requires facilities to provide newly arrived detainees an orientation to the facility.[5] For nonfederal facilities where individuals are detained under an "Intergovernmental Service Agreement" (IGSA) with U.S. Immigration and Customs Enforcement (ICE),[6] the local ICE office must approve orientation procedures.[7] At a minimum, orientation procedures at Service Processing Centers (SPCs) and Contract Detention Facilities (CDFs) must cover standards of conduct, disciplinary procedures, methods for contacting an ICE deportation officer, and the schedule of facility programs.[8] Several facilities for which ICE conducted reviews failed to properly orient newly arrived detainees and inform them of facility procedures and other crucial information.[9] As a result, detainees remained unaware of important facility procedures. In some cases, facilities failed to inform newly arrived detainees of available pro bono legal services, and one facility violated this requirement in consecutive years.[10]

Other facilities either failed to issue handbooks to all newly arrived detainees or the handbooks that were issued were not translated into Spanish or other languages spoken by detainees.[11] (See also the chapter in this report titled "Detainee Handbook.") Reviewers found that one facility did not complete the admissions forms properly,[12] another did not inform detainees of how to contact ICE deportation officers,[13] and another did not have adequate physical space to accommodate detainee traffic during admission.[14]

### Detainee Funds, Valuables, and Personal Property

Several facilities did not properly document every claim for missing or lost personal property made by a newly arriving detainee, as required by the standard.[15] Other facilities failed to have an adequate system for tracking and responding to such claims.[16]

### Classification, Medical Screenings, Searches, Contraband, Clothes, and Hygiene

The standard requires each newly arriving detainee to be strip-searched.[17] It also requires that an officer of the same sex as the detainee conduct the search in a part of the processing area that affords as much privacy as possible.[18] Facilities apply this provision inconsistently. Some facilities conduct strip searches of all new arriving detainees,[19] others conduct strip searches if a detainee arrives from a custodial setting,[20] others conduct strip searches if probable cause or reasonable suspicion exists to justify them,[21] and other facilities simply conduct visual searches of newly arriving detainees.[22] One facility applied state law in determining whether to strip-search new detainees.[23] At some facilities, reviewers noted that the facility did not conduct strip searches of all detainees but did not clarify what criteria were used to determine who would be strip-searched and who would not.[24]

The standard also requires prompt medical screening of all newly arriving detainees.[25] The screening is intended to protect the health of the detainee and others

in the facility by identifying medical conditions that require immediate or ongoing treatment.[26] To review compliance with the medical screening provision, ICE reviewers examined only whether medical screenings are conducted and, if they were, by what type of facility staff. One facility failed to conduct medical screenings at all.[27] Others completed medical screenings without any involvement by medical staff.[28] In some cases facilities had no medical staff at all on site.[29] One facility did not complete medical screenings in a timely fashion.[30]

Several facilities failed to comply with aspects of the standard relating to providing clothing, bedding, and personal hygiene items to detainees and then replenishing these basic necessities.[31] In some facilities, detainees either did not receive necessary personal hygiene items or were charged for them.[32] Other facilities charged detainees for replenishment hygiene items.[33] One facility failed to provide pillow cases or towels, and shampoo was not available.[34] One facility did not provide socks and underwear to detainees; these items had to be brought by visitors or purchased at the commissary.[35] Another facility placed detainees in temporary cots on the floor of the visitation waiting room and the basement holding room, where conditions were unsanitary.[36]

The standard requires facilities to provide new detainees with clothing of a particular color, depending on their security classification level, as well as color-coded wristbands, based on their housing and classification levels.[37] Many facilities did not follow these color-coding and classification policies.[38] Some simply had no security classification system in place at all.[39]

Facilities also had problems with properly classifying detainees at the time they were admitted. In many facilities, staff failed to classify detainees when they first arrived.[40] In other facilities, classification methods were inconsistent or based on inadequate information.[41]

### Release Procedures

The standard requires facilities to complete certain procedures at the time a detainee is released, including closing files, returning personal property, and reclaiming facility clothing and bedding.[42] Reviewers found that some facilities did not complete all of the required procedures.[43]

## CONCLUSION

When they fail to implement procedures required by the admission and release standard, facilities may place detainees at grave physical risk. Detainees who are not oriented properly may not understand how to conform their actions to facility rules and thus may be unjustly subjected to disciplinary action. Detainees who are classified improperly or who are not properly screened medically may suffer neglect of serious medical needs. Detainees may also lose valuable personal property because a facility does not have procedures in place to report and track claims for missing property. Given the serious consequences of not complying with the admission and release standard, ICE facilities must do more to adhere to its provisions.

### KEY FINDINGS

- **Several facilities failed to properly orient newly arrived detainees** and inform them of facility procedures and other crucial information.
- **Facilities applied the strip-search requirement inconsistently**:
  - Some facilities strip-searched all newly arriving detainees.
  - Others strip-searched only detainees arriving from a custodial setting.
  - Others strip-searched based on probable cause or reasonable suspicion.
  - Others conducted only visual searches of newly arriving detainees.
- **Facilities failed to provide adequate medical screening** of newly arriving detainees.
  - **No medical staff participated** in medical screenings, at some facilities.
  - Some facilities **had no medical staff** on site to conduct screenings.
- **Detainees either did not receive necessary personal hygiene items or were charged for them** at some facilities, in violation of the standard.
- **Many facilities did not follow required security classification policies.**
  - They **failed to issue clothing or wristbands of different colors** to detainees based on their security and housing classifications, as required by the standard.

# Recommendations

## INCREASE ACCOUNTABILITY FOR SYSTEM FAILURES

1. **Promulgate regulations that give U.S. Immigration and Customs Enforcement's (ICE's) national detention standards the force of law.**
   - Problem: No administrative or judicial means exists to enforce core components of ICE's national detention standards. Compliance is a low priority because there is no sanction.
   - Solution: ICE must promulgate regulations that transform core national detention standards from ICE policy into enforceable statutes or regulations. Making ICE subject to a legal mechanism by which the agency could be held accountable for the conditions at immigration detention facilities would be consistent with the agency's mission of ensuring the humane treatment of all immigration detainees.

     These regulations must also include provisions setting up a monitoring system to ensure compliance with the detention standards.

2. **Strengthen the current ICE national detention standards to ensure that they provide an appropriate level of protection for civil detainees.**
   - Problem: The current detention standards grew out of rules developed for criminal detainees. As such, they were designed for a higher-security population and may be overly restrictive for civil, immigration detainees. In addition, in some respects the protections provided for by the standards are too modest because they were designed for criminal detainees who enjoy greater procedural protections, such as the right to court-appointed counsel. For that reason, the standards regarding immigrants' access to legal materials and counsel are insufficient to protect civil detainees.
   - Solution: ICE must take a hard look at the existing standards and make necessary revisions to strengthen them so that they sufficiently protect detainees' rights in practice and not simply on paper. ICE must pay special attention to strengthening the standards related to detainees' access to the courts and counsel in light of the fact the immigration detainees do not enjoy court-appointed counsel and face tremendous obstacles to securing free or low-cost legal representation.

3. **Congress must codify key portions of the ICE national detention standards into statute.**
   - Problem: As noted above, the detention standards are not currently legally binding.
   - Solution: *Congress must make key portions of the detention standards binding through statute*. At a minimum, Congress should enact a law that includes mandatory protections to allow detainees to sue ICE when it violates core components of the detention standards that undermine detainees' due process rights or threaten detainees' health and safety. These provisions should be incorporated into Immigration and Nationality Act section 236.

4. **Create and enforce a graduated system of penalties for noncompliant facilities.**
   - Problem: Under the current system, facilities face no real penalties when they fail to comply with even the most fundamental detention standards. Nor, when they receive dismal ratings under the ICE annual review process, are they subject to any clear repercussions. In addition, there are no rules requiring that detainees be temporarily transferred out of a facility if it is in gross violation of the standards and no rules outlining when a facility should lose its contract with ICE for having repeatedly and seriously violated the standards.
   - Solution: *ICE must create a graduated system of penalties for noncompliant facilities.* At the most basic level, ICE should, in consultation with nonprofit stakeholders, identify core components of the detention standards that, if violated, require immediate ameliorative action, which may include: temporary transfer of detainees out of the facility; temporary takeover of the facility by ICE or by a receiver; temporary suspension of the facility contract; or termination of the facility contract. The ameliorative step warranted should take into account the severity of the violation at issue. At a minimum, when an ICE or independent agency review finds that facilities have violated key portions of the detention standards, the problems must be resolved

within five days. If the problem cannot be resolved within this time period, ICE should consider supervised release of detainees or transferring them out of the facility to another facility in the area.

In consultation with nonprofit stakeholders, ICE should set up a penalty scheme for facilities that have repeatedly violated the detention standards, even if the individual violations would not necessitate immediate ameliorative action. Facilities or private companies with a persistent record of noncompliance should have a more difficult time renewing their contracts with ICE or securing other federal contracts and, ultimately, should face early termination of their current ICE contract for noncompliance.

**5. Provide training on detention standards for all detention-related personnel in all immigration detention facilities.**

- Problem: Although the standards instituted in 2000 were in effect for over eight years, staff in detention facilities never gained sufficient familiarity with them. ICE does not provide training on detention standards either to contract detention center staff or to staff at state and county jails that hold immigration detainees, where the majority of immigration detainees are held. Staff at state and local jails, which primarily hold criminal detainees, often have little knowledge of the immigration system or of the ICE detention standards.
- Solution: All detention-related personnel involved in operations and oversight at any immigration facility must receive in-person training on the detention standards. The training should cover how to handle detainee grievances and how to ensure compliance with the standards. All detention-related personnel at each immigration detention facility must also receive a current copy of ICE's Detention Operations Manual, the policy manual in which the detention standards historically have been spelled out, as well as any updates to the manual.

**6. Increase ICE presence at state and local jails (IGSAs) and Contract Detention Facilities holding immigration detainees.**

- Problem: Staff at Intergovernmental Service Agreement facilities (IGSAs) and Contract Detention Facilities (CDFs) have little connection to or familiarity with ICE policies and procedures. Because IGSAs primarily house criminal pretrial and post-conviction detainees, these facilities are unaccustomed to dealing with the special needs presented by civil immigration detainees, including asylum-seekers who may be suffering from post-traumatic stress disorder. Staffs at IGSAs and CDFs are less likely to be aware of the detention standards, their requirements, and other issues of concern for civil immigration detainees. ICE personnel are not stationed at IGSAs or CDFs, impeding ongoing, effective oversight.
- Solution: An ICE detention officer trained in the requirements of the detention standards and tasked with oversight of detention conditions should be assigned to monitor detention conditions at every facility housing an average of 10 or more ICE detainees a day, including CDFs and IGSAs. Detainees should have the ability to place a free phone call to this officer at any point to report violations and other issues. In addition, this officer should make a minimum of two visits a month to the facility to meet privately with detainees and facility staff.

**7. Ensure advocates can report detention standards violations without facing retaliation from the agency.**

- Problem: Attorneys and advocates who observe violations of detention standards often are afraid to report these violations out of fear that they may face retaliation by the agency, including losing the ability to make legal rights presentations or facing additional barriers to visit their clients.
- Solution: ICE must ensure that attorneys and advocates who conduct legal rights presentations or visit detainees can report violations without fear of retaliation. ICE must adopt an explicit nonretaliation policy and provide training to all detention-related personnel on the policy. In addition, this policy must encourage, rather than discourage, the reporting of violations of the standards.

## UNIFORMITY ACROSS DETENTION FACILITIES

**8. Ensure that state and county jails holding ICE detainees under Intergovernmental Service Agreements (IGSAs) are held to the same standards as facilities owned and operated by ICE (Service Processing Centers, or SPCs) and privately owned facilities holding ICE detainees (Contract Detention Facilities, or CDFs).**

- Problem: Although the detention standards are supposed to apply to all detention facilities holding ICE detainees, critical portions of many of the detention standards are not strictly applicable to IGSAs, where a majority of ICE detainees are held. For example, the "Correspondence and Other Mail" standard makes clear that in SPCs and CDFs, incoming general correspondence must be opened or inspected in the presence of the detainee, and that usually outgoing general correspondence may be inspected only if the detainee is present. The standard, as currently written, fails to explicitly extend these protections for confidential correspondence to IGSAs.
- Solution: *ICE must require that all portions of the detention standards apply equally to IGSAs.* If these facilities have contracts to hold ICE detainees, they should be expected to meet the same standards as ICE-owned-and-operated facilities. The regulations that should be promulgated covering the detention standards should apply equally to all immigration facilities.

## INCREASE TRANSPARENCY OF THE SYSTEM

**9. Increase transparency regarding the detention system by making publicly available and regularly updating a map of facilities in use, with their precise locations and a system to locate detainees.**

- Problem: Immigration detainees are held in over 350 facilities scattered across the country. Many of these facilities are located in remote areas, far away from legal service providers. Due to space and transportation issues, detainees are often transferred from facility to facility across state lines. Detainees' relatives and even their attorneys often find it difficult to track the location of their loved ones and clients because no public list of all detention facilities is currently available.
- Solution: Require ICE to provide a map that identifies all the facilities it uses to house immigration detainees across the country and a public system to locate detainees. This map should be updated regularly and should provide information on the facility's location, phone number, and visiting hours and policies. In addition, this map should clearly state where complaints regarding detention issues at each facility should be directed. ICE should establish and maintain a current Internet-based database system into which attorneys and family members could enter a detainee's name and alien registration number, and thus determine at which facility the person was being held. Similar Internet-based systems already exist to help family members locate criminal detainees.

**10. Make public the reports of the American Bar Association (ABA) and the United Nations High Commissioner for Refugees (UNHCR), as well as the internal facility reviews and ratings done by ICE, to ensure that ICE is held publicly accountable for the conditions at its detention facilities.**

- Problem: Although substantial monitoring has been done of the conditions at immigration detention facilities, this information has been systematically kept out of the public eye. ICE has refused to release its own reports and has allowed the ABA and UNHCR to visit facilities only on condition that they not make their findings public.
- Solution: *ICE must make public the reports that it conducts each year as well as those conducted by the ABA and UNHCR.* These reports should be redacted only as necessary to protect detainee and staff names. In addition, ICE already maintains a database that tracks the overall and individual detention standard ratings assigned to facilities as a result of its own reviews. These ratings must be made public.

**11. Compile data about the most frequently violated standards and elements of standards to allow for additional training in problematic areas and a systematic and meaningful agency response to deficiencies. Make this information public and invite advocates to respond.**

- Problem: ICE has invested considerable resources in conducting annual reviews at immigration detention facilities, but little has been done with these reviews' product. The chief of the Detention Standards Compliance Unit (DSCU) admitted that although he reviewed each facility review, he did not keep track of problems that recurred across the country.
- Solution: *ICE must analyze annual reviews to identify which standards are the most frequently violated.* When these analyses reveal that particular standards are being systematically violated, ICE should convene a workgroup of agency staff and nongovernmental organization (NGO) experts

to make suggestions for additional training on these standards or system reform to ensure improved compliance. The workgroup should be convened annually to address any systematic problems identified from the last year's reviews. In determining whether systematic problems exist regarding compliance with a particular standard, ICE should consider the pervasiveness of the violations found across facilities, the number of detainees impacted by the violations, and the nature of the violations. At a minimum, if nine or more of the facilities across the country were deficient on any single standard, ICE should convene such a workgroup. In addition, if fewer than nine facilities were rated deficient on any single standard, but enough facilities were rated deficient to put 1,000 detainees at risk, a workgroup should be convened. Findings of deficiencies at facilities that put fewer than 1,000 detainees at risk may also require a workgroup to be convened, depending on the nature and severity of the violations identified. In addition, NGO experts on immigrant or civil detention should participate in any training on the detention standards monitoring.

12. **ICE should inform the public about its new monitoring plans under the Performance Based National Detention Standards (PBNDS) and seek feedback from NGO stakeholders about these plans.**
    - ♦ Problem: ICE not only has kept information on compliance with the detention standards secret, it also has failed to inform and consult NGO stakeholders and experts about its plans to revise the detention standards monitoring system under the recently issued PBNDS. Although ICE has announced its plans to use the private Nakamoto Group to conduct detention standards compliance reviews, it has failed to make public the scope of this work or how it would differ, if at all, from ICE's prior monitoring under the 2000 National Detention Standards. In addition, ICE has not sought input from NGO stakeholders and other experts on its current plans to monitor detention standards compliance across the hundreds of facilities housing immigration detainees. Such actions further detract from ICE's transparency with regard to the detention system.
    - ♦ Solution: *Plans for monitoring compliance with the PBNDS should not be finalized before NGO stakeholders are consulted.* The detention standards were originally designed in close consultation with NGO stakeholders. Given that the available evidence shows widespread noncompliance with the existing standards, ICE should not revise its compliance review system without seeking input from NGOs and other experts in a position to comment on the system's current deficiencies and strengths.

## UNIFORMITY IN THE REVIEW SYSTEM

13. **Clarify the standards and facility ratings criteria to reduce individual discretion by reviewing officers.**
    - ♦ Problem: According to ICE's *Detention Operations Manual,* each detention facility housing ICE detainees is to be reviewed annually for compliance with the detention standards. During this review, reviewers determine whether a facility's compliance with each detention standard is "acceptable," "deficient," or "at risk." In addition, reviewers must assign the facility an overall rating of either "superior," "good," "acceptable," or "at risk." But ICE has no written guidelines to instruct reviewers on rating facility compliance with individual detention standards. Moreover, reviewers historically have been provided only minimal guidance on how they should determine overall facility ratings. As a result, a facility could be out of compliance with several key aspects of a particular standard and still have that standard deemed "acceptable." And even if a facility's compliance with numerous standards were found to be "deficient," it could nevertheless receive an overall rating of "acceptable." It is no surprise, therefore, that different reviewers rated facilities in vastly different ways and that largely deficient facilities continued to operate as though their performance was acceptable. These anomalous results undermined the utility of the annual detention reviews.
    - ♦ Solution: *ICE must create a set of objective criteria for detention standards and overall facility ratings.* These criteria should consider the nature and severity of the violations observed, the number of violations, and whether there has been a pattern of noncompliance at the particular facility. A facility that has only one standard out of compliance may merit an overall facility rating of "deficient" due to the nature of the

violations found or their severity. For example, a facility that routinely subjects all detainees to unsafe food or that routinely has phones that do not work should be rated "deficient" overall. In the case of unsafe food, the health of the detainee population is put at risk, necessitating a low overall rating. Similarly, if problems with phones are pervasive, detainees with meritorious claims to relief will be unable to pursue their claims.

ICE should also establish numerical benchmarks for overall facility ratings. Facilities that have deficiencies in several detention standards should not receive positive ratings. At a minimum, no facility should be rated as "good" unless it receives "acceptable" ratings on at least 90 percent of the detention standards. No facility should be rated as "acceptable" unless it receives "acceptable" ratings on at least 85 percent of the detention standards.

Finally, ICE should require that if a *core component* of a standard is marked "deficient," the entire standard must be marked "deficient. What a core component of a detention standard is must be designated in consultation with experts on immigration and civil detention.

**14. Conduct annual audits of facility reviews to increase uniformity, identify training needs, and decrease reviewer variation.**

- Problem: As noted above, ICE reviews provide limited insight into facility compliance, given the lack of guidance on how individual reviewers should assign ratings. As a result, similar problems observed at different facilities may be rated in radically different ways.
- Solution: Staff in the Detention Standards Compliance Unit at ICE should conduct annual audits of the ICE reviews to identify common mistakes made by reviewers, systematic problems with compliance, and training needs. In addition, these audits should ensure that benchmarks for ratings are being observed and determine whether reviewers are generally applying the same criteria to rate facilities. A facility's overall rating or ratings for individual standards should not vary significantly depending on the particular reviewer conducting the review.

## IMPROVE THE ICE INTERNAL REVIEW PROCESS

**15. Revise the ICE policy to require unannounced inspections of all facilities.**

- Problem: ICE's current policy of notifying facilities of pending inspections at least 30 days in advance undermines its ability to obtain an accurate picture of actual conditions experienced by detainees in those facilities.
- Solution: Revise the ICE policy to require unannounced inspections, in order to ensure that reviews are based on observing actual conditions rather than temporary fixes that conceal chronic deficiencies.

**16. Clarify and enforce the requirement that facility reviewers must conduct confidential interviews with detainees as part of the review process and require that interpreters be made available to facilitate these interviews.**

- Problem: Though ICE's current stated policy is that reviewers are encouraged to interview detainees as part of the annual review process, the form historically used to conduct the annual review provides no space in which to record information from detainees. In addition, neither are reviewers required to interview a minimum number of detainees, nor is any provision made to ensure that they have the language capacity or interpreters necessary to communicate with detainees who do not speak English. As a practical matter, therefore, despite the stated policy, the actual one is to discourage reviewers from interviewing detainees, and such interviews have been rare.
- Solution: Require that a minimum of 10 detainees be interviewed per inspection at each facility that houses at least 100 detainees on a regular basis. For facilities that house fewer detainees, a minimum of 3 to 7 detainees should be interviewed per inspection. For larger facilities, more interviews may be required to ensure adequate representation of detainees' concerns. In addition, ICE should provide interpreters to ensure that non–English speaking detainees have the ability to communicate with the ICE reviewers. And the detainees interviewed should be from various parts of the facility, to increase the chance that issues specific to those different areas are identified.

The annual review form also should be revised to systematically include information

gained via detainee interviews. Also, a space should be provided on the form to document the number of facility staff interviewed or consulted during the review as well as the number of detainees interviewed. And personnel conducting reviews for ICE should be trained in how to conduct interviews with detainees in a confidential and nonconfrontational way. The interviews should be conducted in a location that is private, where they cannot be overheard by detention center staff or other detainees.

**17. Strengthen detention standards review training and require all compliance review staff to take an annual "refresher" training.**

- Problem: Under the monitoring system used through 2008, ICE annual reviewers were trained only one time. Most reviewers were deportation officers, transportation officers, and others who had no background in corrections oversight. For most of these reviewers, facility reviews were a small portion of their job, nor did they spend time throughout the year working on detention conditions issues. With the release of the PBNDS in September 2008, ICE announced that compliance reviews will be conducted by reviewers of the Nakamoto Group, a private contractor. However, ICE has not made public any information regarding its plans for initial and ongoing training of these contracted compliance monitors.
- Solution: *Require a yearly training session to be provided in local offices for all review staff.* This yearly training session should be run by DSCU staff and should include NGO civil detention and immigration experts. The training should discuss any changes to the detention review process over the past year as well as common mistakes and the most violated standards from the prior year. In addition, before a reviewer conducts an annual review of a facility, he or she should speak with the reviewer-in-charge who conducted the facility's review the previous year. In addition, each reviewer should read any available independent agency report about the detention facility that he or she will be reviewing.

  The initial training for new annual reviewers also should be conducted by DSCU staff in conjunction with NGO experts. The training should, among other things, stress the importance of (and methods for) conducting the review as objectively and impartially as possible.

**18. Ensure that all facilities housing immigration detainees are inspected by reviewers whose full-time job is to monitor detention standards compliance.**

- Problem: Historically, staff from the Detention Standards Compliance Unit (DSCU) conducted the reviews only for the seven ICE-owned-and-operated Service Processing Centers (SPCs) and the seven privately owned and operated Contract Detention Facilities (CDFs).[1] The over 300 state and county jails that routinely house immigration detainees were reviewed by ICE personnel (such as deportation officers) who had other full-time positions and conducted such reviews as an additional task.
- Solution: Either have reviews of all immigration facilities conducted by Nakamoto Group contractors whose full-time job is to conduct such reviews or increase DSCU staffing to ensure that at least one DSCU staff member is a part of each annual review team. ICE's decision to engage an independent firm to conduct some detention compliance reviews is a positive and important step to ensuring meaningful compliance with detention standards. However, ICE must also ensure that the individuals who conduct these reviews are sufficiently familiar with the detention standards and compliance issues that the reviews they conduct are thorough and meaningful. One option is for ICE to contract with the Nakamoto Group to conduct all the required detention reviews and to ensure that this is the full-time job of the individuals conducting these reviews. Alternatively, ICE could increase DSCU staffing to ensure that at least one DSCU staff member is a part of each annual review team. A full-time staff of 32 would be sufficient — allowing each staff member to participate in 10 trips a year to cover the approximately 320 facilities.

[1] "Office of Detention and Removal (DRO)" (U.S. Immigration and Customs Enforcement, last updated Jan. 9, 2009), www.ice.gov/pi/dro/index.htm (last visited Feb. 2, 2009). ICE currently operates the following SPCs: Aguadilla Service Processing Center (Puerto Rico); Buffalo Federal Detention Center (New York); El Centro Service Processing Center (California); El Paso Service Processing Center (Texas); Florence Service Processing Center (Arizona); Port Isabel Service Processing Center (Texas); Krome Service Processing Center (Florida); and San Pedro Service Processing Center (California); however, the San Pedro SPC has been closed for repair and renovation since October 2007.

Ensuring DSCU involvement in every annual review would increase uniformity in review standards and methods as well as DSCU understanding of the degree to which detention standards are, or are not, being met nationwide.

**19. Revise facility review forms to require the reviewer to write a detailed narrative that in subsequent years will provide a context for facility evaluations and recommendations regarding deficiencies.**

- Problem: To conduct an annual facility review, historically the ICE reviewer has marked items and written comments on checklists that correspond to each detention standard. Each checklist poses specific questions designed to assist the reviewer in determining whether the facility is complying with particular elements of the detention standard. Each checklist also provides a small space in which the reviewer can write comments, but reviewers rarely have made use of this space. The rare comments written in these spaces, however, can identify important violations. For example, at one facility the reviewer noted that the position of the detainee telephones was inappropriate, such that detainees could not stand or sit while making their phone calls — they had to squat. Overall, the facility review form has discouraged reviewers from recording qualitative information relating to the detention conditions they observed. In addition, the form provides little room for reviewers to identify or describe novel problems they have observed.
- Solution: Revise ICE review forms to require and encourage reviewers to record more contextual information relating to detention conditions. Require each reviewer to complete a narrative section that includes overall impressions of problems at facilities, information on the time spent at each facility, the individuals spoken to, and other supporting information that was reviewed.

**20. Detainee grievances for each facility must be reviewed before ICE annual inspections or independent evaluations.**

- Problem: The detention standard for detainee grievances sets out a process for individual detainees to make complaints about detention conditions or their treatment at immigration detention facilities. This information could provide critical insight into facilities' compliance with the detention standards, but it is not systematically used in ICE or independent agency reviews.
- Solution: *Make detainee grievances for each facility available to ICE and independent agency reviewers before each facility review*. When an independent agency or ICE (or ICE contractor) reviews a facility, the reviewer should receive advance copies of all detainee grievances over the previous year to incorporate into his or her report. These grievances should be redacted only as necessary to protect detainee and staff names.

**21. To preclude cronyism and the potential for superficial reviews, require that inspection officers be truly independent from facilities.**

- Problem: Historically, ICE reviews of IGSAs generally were conducted by detention officers whose regular duties require the cooperation and good will of the IGSA staff. This situation creates an inherent conflict of interest.
- Solution: In assigning inspection officers to review facilities, ensure that the reviewer-in-charge has no connection to the facility being reviewed. However, because the review team may benefit from having a member who is familiar with the facility being reviewed, it would be helpful if one member of the review team had a connection to the facility under review. However, that member should be committed to completing his or her tasks objectively.

## INCREASE INDEPENDENT REVIEW OF THE DETENTION SYSTEM

**22. Appoint an independent auditor to monitor detention conditions, report to Congress, and suggest changes to the detention monitoring system.**

- Problem: ICE reviews often have failed to find violations of detention standards identified by independent monitoring agencies. Independent agencies have repeatedly found serious violations of basic detention conditions at facilities across the country. These reports have been a pivotal force in exposing the dire conditions immigrants in detention face.
- Solution: *Congress should create an independent office to monitor conditions at immigration detention facilities on an ongoing basis.* Adequate funds must be appropriated to ensure that the office has sufficient staff to

monitor facilities and prepare a yearly report to Congress on detention conditions. This report should be made public. Based on the findings in this report, the office should have the authority to identify necessary revisions to the ICE monitoring system and the detention standards themselves. In its monitoring, the office should pay particular attention to observed variations between how IGSA facilities comply with the standards and how ICE-owned-and-operated SPCs or contract detention facilities, where the standards apply more strictly, comply with them.

## STOP THE EXPANSION OF IMMIGRATION DETENTION AND PROMOTE DETAINEE RIGHTS AND ALTERNATIVES TO DETENTION

**23. Congress must halt the expansion of the immigration detention system and provide for more alternatives to detention.**

- Problem: The immigration detention system is both woefully under-regulated and characterized by severe and pervasive violations of the government's own detention standards. Nevertheless, over the last decade the federal government has dramatically expanded the system, notwithstanding such evidence and even though detention is significantly more costly than nondetention alternatives — and despite the fact that alternatives to detention are effective in ensuring that individuals do not flee while their immigration proceedings are pending. Given these facts, it is inhumane and overly punitive to continue to lock up more than a quarter of a million immigration detainees annually and to continue to appropriate more funds to build more immigration detention facilities. Current detention conditions often have the effect of coercing immigrants to give up meritorious claims to remain in the U.S. rather than remaining locked up while their cases wind through the system.
- Solution: A moratorium must be placed on expanding bed space in the immigration detention system until conditions in immigration detention are dramatically improved and the changes outlined above are implemented. In addition, ICE must seriously consider alternatives to detention, including supervised release, as it is irresponsible to hold over a quarter of a million civil detainees annually in deplorable conditions. ICE must promulgate regulations establishing criteria for supervised release and other alternatives to detention. For those immigrants who remain detained, legal orientation programming and other educational programming should be available at every facility.

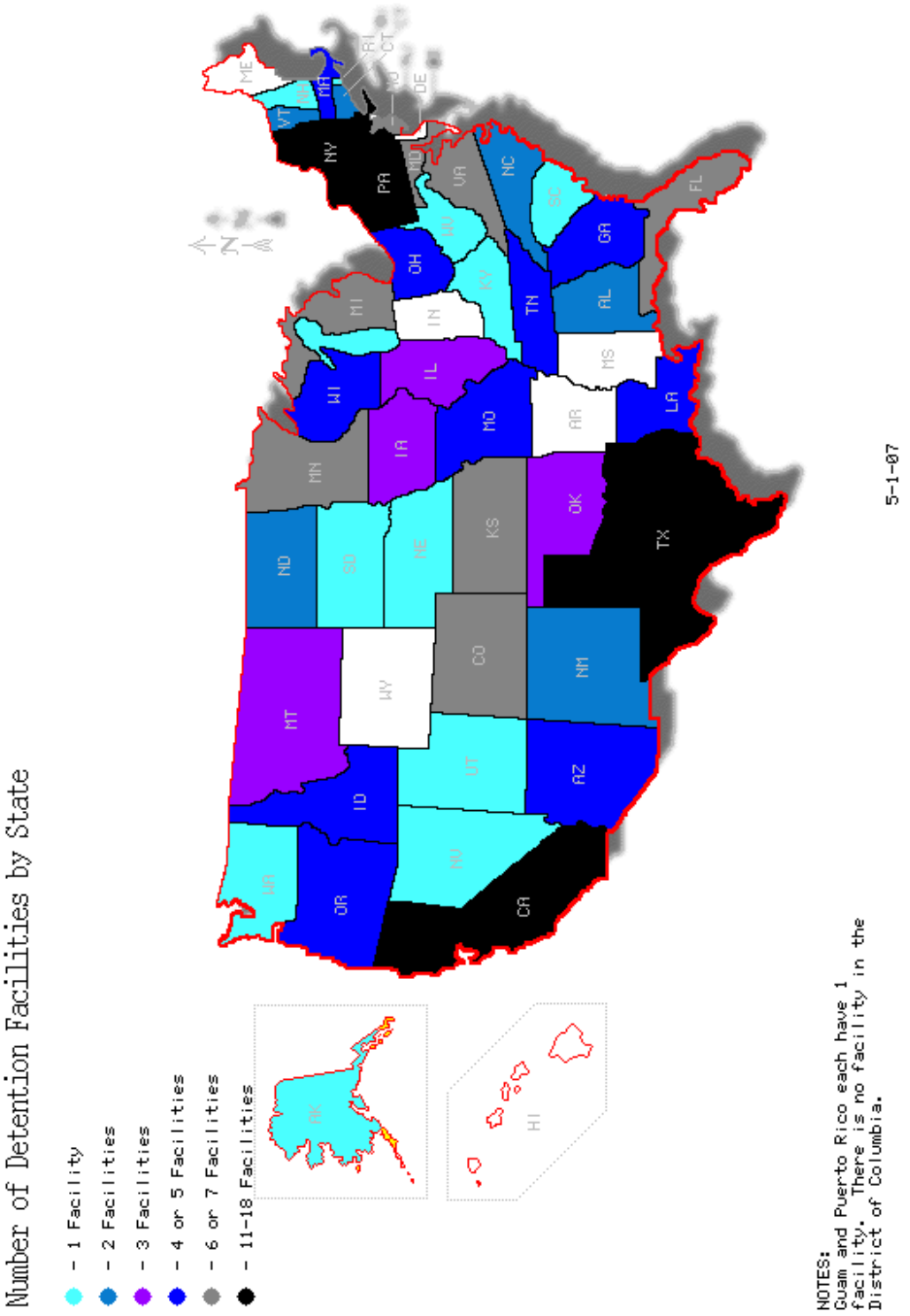
**24. Expand legal rights and other programming in immigration detention.**

- Problem: Many of the immigration detention facilities ICE uses are located in remote areas, far away from cities that have low-cost legal service providers. In addition, the evidence in this report reveals pervasive violations of the detention standards governing telephone access, visitation, and access to legal materials, all of which violations further undermine immigrants' ability to secure counsel or to pursue their own cases.
- Solution: Given immigrants' impaired abilities to secure counsel or pursue their own cases, ICE must expand legal rights presentations at detention facilities. Additional funds should be appropriated to ensure regular legal rights presentations at all facilities.

**25. Establish and fund a pilot program to provide court-appointed legal counsel to detained immigrants.**

- Problem: Represented immigrants are far more likely to win the right to remain in the U.S, but detainees' ability to find and secure low-cost legal assistance is severely impeded by widespread violations of the detention standards, including standards relating to access to telephones, law libraries, and visitation. In addition, given the current immigration detention conditions, the dividing line between *criminal* detention, where detainees are entitled to court-appointed counsel, and *immigration* detention, where they are not, is murky at best.
- Solution: Given immigrants' impaired abilities to secure counsel or pursue their own cases, Congress must authorize and fund a pilot program to provide court-appointed counsel to detained immigrants in select locations across the country.

**Figure 1: Number of Detention Facilities by State**




(A color PDF of this figure is available at http://www.nilc.org/immlawpolicy/arrestdet/Figure-1-detention-facilities-by-state.pdf.)

## Table 3: Detention Facilities, Reviews of Which Are Analyzed in This Report (BY STATE & FACILITY TYPE)

| STATE | FACILITY NAME | TYPE |
|---|---|---|
| Alabama | Etowah County Detention Center | IGSA |
| Alaska | Anchorage Jail Complex | IGSA |
| Arizona | Central Arizona Detention Center (Flagstaff) | IGSA |
| | Central Arizona Detention Center (Florence) | IGSA |
| | Eloy Detention Center | IGSA |
| | Florence Service Processing Center | SPC |
| | La Paz County Jail | IGSA |
| | Santa Cruz County Jail | IGSA |
| | Yavapai County Detention Center | IGSA |
| Arkansas | Miller County Correctional Facility | IGSA |
| California | El Centro Service Processing Center | SPC |
| | Kern County Jail (Lerdo Pre-Trial Facility) | IGSA |
| | Mira Loma Detention Center | IGSA |
| | Monterey Park City Jail | IGSA |
| | Oakland City Jail | IGSA |
| | Otay Mesa Adult Detention Center | CDF |
| | Pomona City Jail | IGSA |
| | Sacramento County Jail | IGSA |
| | San Diego Correctional Facility | IGSA |
| | San Pedro Service Processing Center | SPC |
| | Santa Ana City Jail | IGSA |
| | Santa Clara Main Jail Complex | IGSA |
| | Yuba County Jail | IGSA |
| Colorado | Aurora Contract Detention Facility | CDF |
| | Garfield County Detention Center | IGSA |
| | Jefferson County Jail | IGSA |
| | Las Animas County Jail | IGSA |
| | Park County Jail | IGSA |
| | Pueblo County Detention Center | IGSA |
| | Southern Ute Detention Center | IGSA |
| Connecticut | Hartford Community Correctional Center | IGSA |
| | Osborn Correctional Institution | IGSA |
| | York Correctional Institution | IGSA |
| Florida | Broward County Detention Center | IGSA |
| | Broward Transition Center | CDF |
| | Citrus County Jail | IGSA |
| | Clay County Jail | IGSA |
| | Comfort Suites Hotel | Private Hotel |
| | Krome Service Processing Center | SPC |
| | Manatee County Detention Facility (Annex) | IGSA |
| | Manatee County Detention Facility (Central) | IGSA |
| | Manatee County Jail | IGSA |
| | Monroe County Jail | IGSA |
| | Osceola County Jail | IGSA |
| | Palm Beach County Jail | IGSA |
| | Turner Guilford Knight Correctional Center | IGSA |
| | Wakulla County Sheriff's Office | IGSA |
| Georgia | Atlanta Airport | IGSA |
| | Atlanta City Detention Center | IGSA |
| | Chatham County Detention Center | IGSA |
| | Colquitt County Jail | IGSA |
| | Harris County Jail | IGSA |
| Guam | Department of Corrections (DEPCOR) | IGSA |
| Idaho | Bannock County Jail | IGSA |
| | Bingham County Jail | IGSA |
| | Bonneville County Jail | IGSA |
| | Canyon County Jail | IGSA |
| | Dale G. Haile Detention Center | IGSA |
| | Mini-Cassia County Jail | IGSA |
| | Twin Falls Criminal Justice Facility | IGSA |
| Illinois | Broadview Service Staging Area | IGSA |

| STATE | FACILITY NAME | TYPE |
|---|---|---|
| | Dupage County Jail | IGSA |
| | Jefferson County Detention Facility | IGSA |
| | McHenry County Jail | IGSA |
| | Tri-County Detention Center | IGSA |
| Iowa | Hardin County Correctional Center | IGSA |
| | Linn County Correctional Center (Linn County Jail) | IGSA |
| | Polk County Jail | IGSA |
| | Pottawattame County Jail | IGSA |
| Kansas | Butler County Jail | IGSA |
| | Chase County Jail | IGSA |
| | Finney County Jail | IGSA |
| | Jefferson County Law Enforcement Center | IGSA |
| | Reno County Jail | IGSA |
| | Saline County Jail | IGSA |
| | Sedgwick County Jail | IGSA |
| | Shawnee County Detention Center | IGSA |
| Kentucky | Boone County Detention Center | IGSA |
| | Grayson County Detention Center | IGSA |
| | Warren County Regional Jail | IGSA |
| Louisiana | Avoyelles Parish Jail | IGSA |
| | Avoyelles Women's Correctional Center | IGSA |
| | Calcaseau Parish Correctional Center | IGSA |
| | Oakdale Federal Detention Center | IGSA |
| | Orleans Parish (Community Corrections Center) | IGSA |
| | Orleans Parish Prison Women's Facility | IGSA |
| | Pine Prairie Correctional Center | IGSA |
| | Plaquemines Parish Detention Center | IGSA |
| | Pointe Coupee Parish Detention Center | IGSA |
| | St. Martin Parish Correctional Center (St. Martin Parish Jail) | IGSA |
| | Tangipahoa Parish Prison | IGSA |
| | Tensas Detention Center | IGSA |
| | West Carroll Detention Center | IGSA |
| Maine | Penobscot County Jail | IGSA |
| | Piscataquis County Jail | IGSA |
| Maryland | Carroll County Detention Center | IGSA |
| | Dorchester County Detention Center | IGSA |
| | Howard County Detention Center | IGSA |
| | St. Mary's County Detention Center | IGSA |
| | Wicomico County Detention Center (Wicomico County Jail) | IGSA |
| | Worcester County Jail | IGSA |
| Massachusetts | Berkshire County Jail and House of Corrections | IGSA |
| | Bristol County House of Correction (Bristol County Jail) | IGSA |
| | Franklin County Jail and House of Corrections | IGSA |
| | Plymouth County Correctional Facility | IGSA |
| | Suffolk County House of Correction | IGSA |
| Michigan | Calhoun County Jail | IGSA |
| | Crawford County Sheriff's Department (Crawford County Jail) | IGSA |
| | Kent County Jail | IGSA |
| | Macomb County Jail | IGSA |
| | Monroe County Jail | IGSA |
| | Wayne County Sheriff's Department (Detroit) | IGSA |
| | Wayne County Sheriff's Department (Hamtramack) | IGSA |
| Minnesota | Carver County Jail | IGSA |
| | Minnesota Correctional Facility | IGSA |
| | Morrison County Jail | IGSA |
| | Nobles County Jail | IGSA |
| | Ramsey Adult Detention Center | IGSA |
| | Sherburne County Jail | IGSA |
| | Washington County Jail | IGSA |
| Missouri | Audrain County Jail | IGSA |
| | Caldwell County Detention Center | IGSA |
| | Christian County Jail | IGSA |
| | Green County Jail | IGSA |
| | Jennings Correctional Facility | IGSA |

| STATE | FACILITY NAME | TYPE |
|---|---|---|
| | Lincoln County Detention Center (Lincoln County Jail) | IGSA |
| | Miller County Adult Detention Center | IGSA |
| | Mississippi County Detention Center | IGSA |
| | Montgomery County Jail | IGSA |
| | Morgan County Adult Detention Center | IGSA |
| | Pettis County Detention Center | IGSA |
| | Platte County Detention Center | IGSA |
| | St. Francois County Detention Center | IGSA |
| Montana | Hill County Detention Center | IGSA |
| | Missoula County Detention Facility | IGSA |
| | Yellowstone County Detention Facility | IGSA |
| Nebraska | Cass County Jail | IGSA |
| | Douglas County Department of Corrections | IGSA |
| | Hastings Correctional Center | IGSA |
| | Madison County Jail | IGSA |
| | Phelps County Jail | IGSA |
| | Scottsbluff County Jail | IGSA |
| Nevada | City of Las Vegas Detention Center | IGSA |
| | North Las Vegas Detention Center | IGSA |
| New Hampshire | Rockingham County Department of Correction (Rockingham County Jail) | IGSA |
| New Jersey | Bergen County Jail | IGSA |
| | Elizabeth Contract Detention Center | CDF |
| | Hudson County Department of Corrections | IGSA |
| | Keogh-Dwyer Correctional Facility (Sussex County Jail) | IGSA |
| | Middlesex County Department of Corrections (Middlesex County Jail) | IGSA |
| | Monmouth County Jail | IGSA |
| | Passaic County Jail | IGSA |
| | Union County Correctional Center | IGSA |
| New Mexico | Cibola County Detention Center | IGSA |
| | Otero County Prison Facility | IGSA |
| | Regional Correctional Center | IGSA |
| | Torrance County Detention Center | IGSA |
| New York | Batavia Federal Detention Facility (Batavia Service Processing Center) | SPC |
| | Cayuga County Jail | IGSA |
| | Chautauqua County Jail | IGSA |
| | Clinton County Jail | IGSA |
| | Erie County Holding Center | IGSA |
| | Franklin County Jail | IGSA |
| | Genesee County Jail | IGSA |
| | Madison County Jail | IGSA |
| | Monroe County Jail | IGSA |
| | Niagara County Jail | IGSA |
| | Onondaga County Jail | IGSA |
| | Orleans County Jail | IGSA |
| | Queens Contract Detention Facility | IGSA |
| | Wayne County Jail | IGSA |
| | Wyoming County Jail | IGSA |
| North Carolina | Forsyth County Law Enforcement and Detention Center | IGSA |
| | Mecklenburg County Jail (Central) | IGSA |
| | Mecklenburg County Jail (North) | IGSA |
| North Dakota | Grand Forks County Correctional Center | IGSA |
| Ohio | Bedford Heights City Jail | IGSA |
| | Maple Heights City Jail | IGSA |
| | Pickaway County Jail | IGSA |
| | Seneca County Jail | IGSA |
| | Solon County Jail | IGSA |
| | Trumbull County Jail | IGSA |
| Oklahoma | Canadian County Jail | IGSA |
| | Carter County Detention Center | IGSA |
| | Garvin County Detention Center (Garvin County Jail) | IGSA |
| | Oklahoma County Detention Center | IGSA |
| Oregon | Columbia County Jail | IGSA |
| | Grant County Jail | IGSA |
| | Josephine County Jail | IGSA |
| | Northern Oregon Correctional Center (NORCOR) | IGSA |
| Pennsylvania | Allegheny County Jail | IGSA |
| | Bedford County Jail | IGSA |

| STATE | FACILITY NAME | TYPE |
|---|---|---|
| | Berks County Prison | IGSA |
| | Cambria County Prison | IGSA |
| | Carbon County Correctional Facility | IGSA |
| | Clinton County Correctional Facility (Clinton County Jail) | IGSA |
| | Erie County Prison | IGSA |
| | Lackawanna County Prison | IGSA |
| | Montgomery County Correctional Facility | IGSA |
| | Pike County Correctional Facility | IGSA |
| | Snyder County Jail | IGSA |
| | York County Prison | IGSA |
| Puerto Rico | Aguadilla Service Processing Center | SPC |
| | Guaynaba Metropolitan Detention Center | IGSA |
| Rhode Island | ACI-Cranston Intake Service Center | IGSA |
| | Donald W. Wyatt Detention Center | IGSA |
| South Carolina | Charleston County Detention Center | IGSA |
| South Dakota | Minnehaha County Jai | IGSA |
| | Pennington County Jail | IGSA |
| Tennessee | Blount County Jail | IGSA |
| | CCA Silverdale | IGSA |
| | Hamilton County Jail | IGSA |
| | West Tennessee Detention Facility | IGSA |
| | Williamson County Jail | IGSA |
| Texas | Angelina County Correctional Facility (Lufkin Detention Facility) | IGSA |
| | Bexar County GEO (Central Texas Parole Violators Facility) | IGSA |
| | Brewster County Jail | IGSA |
| | Brooks County Detention Center | IGSA |
| | Cameron County Jail | IGSA |
| | Comal County Jail | IGSA |
| | Culberson County Jail | IGSA |
| | Dallas County Jail System Facility | IGSA |
| | Dallas-Fort Worth International Airport | IGSA |
| | Denton County Detention Center | IGSA |
| | Dickens County Correctional Center | IGSA |
| | Ector County Correctional Center | IGSA |
| | El Paso Service Processing Center | SPC |
| | Frio County Jail | IGSA |
| | George Allen Jail | IGSA |
| | Grayson County Jail | IGSA |
| | Grimes County Jail | IGSA |
| | Guadalupe County Adult Detention Center | IGSA |
| | Harlington Sub Processing Office | IGSA |
| | Houston Contract Detention Facility (CCA) | CDF |
| | Jefferson County Jail | IGSA |
| | Karnes County Correctional Center | IGSA |
| | Laredo Contract Detention Facility | CDF |
| | La Salle County Regional Detention Center | IGSA |
| | Limestone County Detention Center | IGSA |
| | McLennan County Detention Center | IGSA |
| | Navarro County Detention Center | IGSA |
| | Newton County Correctional Center | IGSA |
| | Odessa Detention Center | IGSA |
| | Port Isabel Service Processing Center | SPC |
| | Rolling Plains Regional Detention Center | IGSA |
| | Smith County Jail | IGSA |
| | South Texas Detention Center | SPC |
| | Suzanne L. Kays Detention Facility (Dallas County Jail) | IGSA |
| | Val Verde County Detention Center | IGSA |
| | Victoria County Jail | IGSA |
| | West Texas Detention Facility | IGSA |
| | Williamson County Jail | IGSA |
| Utah | Salt Lake County Adult Detention Complex | IGSA |
| | Summit County Jail | IGSA |
| | Tooele County Detention Center | IGSA |
| | Utah County Jail | IGSA |
| | Wasatch County Jail | IGSA |

| STATE | FACILITY NAME | TYPE |
|---|---|---|
| | Washington County Purgatory Detention Facility | IGSA |
| | Weber County Jail | IGSA |
| Vermont | Vermont Department of Corrections/Northern State Correctional Facility | IGSA |
| U.S. Virgin Islands | Golden Grove Adult Detention Center | IGSA |
| Virginia | Arlington Adult Detention Facility (Arlington County Jail) | IGSA |
| | Clarke, Fauquier, Frederick and Winchester Regional Adult Detention Center | IGSA |
| | Hampton Roads Regional Jail | IGSA |
| | Pamunkey Regional Jail | IGSA |
| | Piedmont Regional Jail | IGSA |
| | Rappahannock Regional Jail | IGSA |
| | Riverside Regional Jail | IGSA |
| | Rockingham Roads Regional Jail | IGSA |
| | Virginia Beach Correctional Facility | IGSA |
| Washington | Northwest Detention Center | CDF |
| | Yakima County Jail | IGSA |
| West Virginia | South Central Regional Jail | IGSA |
| Wisconsin | Dodge County Detention Facility (Dodge County Jail) | IGSA |
| | Douglas County Jail | IGSA |
| | Kenosha County Detention Center | IGSA |
| | Ozaukee County Jail | IGSA |
| | Racine County Jail | IGSA |
| Wyoming | Laramie County Detention Center | IGSA |
| | Platte County Detention Center | IGSA |

## Table 4: Detention Facility Reviews Analyzed in This Report (BY REVIEWING ENTITY)

**AMERICAN BAR ASSOCIATION**

ACI-Cranston Intake Service Center, Cranston, RI (May 2002)

Aurora Contract Detention Facility, Aurora, CO (Sept. 2004)

Bergen County Jail, Hackensack, NJ (Aug. 2003)

Berks County Prison, Leesport, PA (July 2004)

Bristol County Jail, North Dartmouth, MA (Aug. 2004)

Clay County Jail, Green Cove Springs, FL (Aug. 2003)

Colquitt County Jail, Moultrie, GA (Mar. 2005)

Corrections Corporation of America, Houston, TX (Jan. 2003)

CSC Detention Facility, Seattle, WA (May 2002)

Dallas County Jail System Facility, Dallas, TX (Mar. 2002)

Dodge County Detention Facility, Juneau, WI (June 2004)

Dorchester Detention Center, Cambridge, MD (July 2004)

DuPage County Jail, Wheaton, IL (July 2003)

El Centro Service Processing Center, El Centro, CA (Jan. 2003)

El Paso Service Processing Center, El Paso, TX (July 2003)

Elizabeth CCA Facility, Elizabeth, NJ (July 2001)

Elizabeth CCA Facility, Elizabeth, NJ (Oct. 2003)

Franklin County Jail and House of Corrections, Greenfield, MA (Jan. 2002)

Hudson County Jail, Kearny, NJ (Aug. 2003)

INS Processing Center, San Pedro, CA (Mar. 2002)

Kenosha County Detention Facility, Kenosha, WI (July 2004)

Kenosha County Detention Facility, Kenosha, WI (Sept. 2005)

Keogh Dwyer Correctional Facility (Sussex County Jail), Newton, NJ (July 2004)

Kern County Jail (Lerdo Pretrial Facility), Bakersfield, CA (Aug. 2002)

Krome Service Processing Center, Miami, FL (Apr. 2004)

Middlesex County Jail, Middlesex, NJ (July 2003)

Mira Loma Detention Center, Lancaster, CA (June 2002)

Mira Loma Detention Center, Lancaster, CA (July 2004)

Monmouth County Correctional Institute, Freehold, NJ (July 2003)

Montgomery County Correctional Facility, Norristown, PA (July 2004)

Oakland City Jail, Oakland, CA(July 2003)

Osborn Correctional Institution, Somers, CT (July 2004)

Ozaukee County Jail, Port Washington, WI (July 2004)

Pamunkey Regional Jail, Hanover, VA (Aug. 2004)

Passaic County Jail, Paterson, NJ (July 2004)

Passaic County Jail, Paterson, NJ (Aug. 2005)

Plymouth County Correctional Facility, Plymouth, MA (June 2003)

Queens Detention Center, Jamaica (Queens), NY (Mar. 2004)

San Pedro Service Processing Center, San Pedro, CA (July 2003)

San Pedro Service Processing Center, San Pedro, CA (Aug. 2005)

Santa Ana Detention Facility, Santa Ana, CA (Oct. 2002)

Santa Ana Detention Facility, Santa Ana, CA (July 2004)

St. Mary's County Detention Center, Leonardtown, MD (June 2003)

Turner Guilford Knight Correctional Center, Miami, FL (Apr. 2001)

Wackenhut Corrections Corporation, Aurora, CO (Apr. 2002)

York Correctional Institution, Niantic, CT (Nov. 2003)

York County Prison, York, PA (July 2004)

Yuba County Jail, Marysville, CA (Dec. 2003)

**U.N. HIGH COMMISSIONER FOR REFUGEES**

Aguadilla Service Processing Center, Aguadilla, Puerto Rico (May 2005)

Avoyelles Parish Jail, Marksville, LA (Apr. 2001)

Avoyelles Parish Women's Correctional Center, Cottonport, LA (Apr. 2001)

Avoyelles Parish Women's Correctional Center, Cottonport, LA (May 2004)

Broadview Service Staging Area, Broadview, IL (Sept. 2003)

Broward County Detention Center, Miami, FL (Dec. 2002)

Clinton County Jail, Plattsburgh, NY (Mar. 2005)

Comfort Suites Hotel, Miami, FL (Dec. 2002)

Dallas-Fort Worth International Airport, Dallas, TX (Nov. 2003)

Denton County Detention Center, Denton, TX (Oct. 2001)

Dodge County Detention Facility, Juneau, WI (Sept. 2003)

Elizabeth Detention Facility, Elizabeth NY, (June 2002)

Franklin County Jail, St. Albans, VT (Mar. 2005)

George Allen Jail, Dallas, TX (Oct. 2001)

Grayson County Jail, Sherman, TX (Oct. 2001)

Kenosha County Detention Center, Kenosha, WI (Sept. 2003)

Krome Detention Center, Miami, FL (Apr. 2001)

Laredo Detention Facility, Laredo, TX (Dec. 2004)

McHenry County Jail, Woodstock, IL (Aug. 2001)

McHenry County Jail, Woodstock, IL (Sept. 2003)

Metropolitan Detention Center, Guaynaba, Puerto Rico (May 2005)

Monroe County Jail, Monroe, MI (Apr. 2003)

Navarro County Detention Center, Corsicana, TX (Oct. 2001)

Oakdale Federal Detention Center, Oakdale, LA (Apr. 2001)

Orleans Parish Prison Women's Facility, New Orleans, LA (May 2004)

Otay Mesa Adult Detention Center, San Diego, CA (Feb. 2001)

Otay Mesa Adult Detention Center, San Diego, CA (Oct. 2002)

Ozaukee County Justice Center, Port Washington, WI (Sept. 2003)

Pamunkey Regional Jail, Hanover, VA (Aug. 2005)

Piedmont Regional Jail, Farmville, VA (July 2001)

Pine Prairie Correctional Center, Pine Prairie, LA (Apr. 2001)

Racine County Jail, Racine, WI (Aug. 2001)

Rolling Plains Regional Detention Center, Haskell, TX (Nov. 2003)

Suzanne L. Kays Detention Facility, Dallas, TX (Nov. 2003)

Tangipahoa Parish Jail, Amite, LA (Apr. 2001)

Tangipahoa Parish Jail, Amite, LA (May 2004)

Tensas Detention Center, Waterproof, LA (May 2004)

Tri-County Detention Center, Ullin, IL (Aug. 2001)

Turner Guilford Knight Correctional Center, Miami, FL (Apr. 2001)

Wackenhut Detention Facility, Jamaica (Queens), New York (June 2002)

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

Aguadilla Service Processing Center, Aguadilla, Puerto Rico (Mar. 2005)

Aguadilla Service Processing Center, Aguadilla, Puerto Rico (July 2005)

Aguadilla Service Processing Center, Aguadilla, Puerto Rico (Nov. 2005)

Allegheny County Jail, Pittsburgh, PA (Oct. 2004)

Anchorage Jail Complex, Anchorage, AK (Dec. 2004)

Angelina County Correctional Facility, Lufkin, TX (Feb. 2004)

Angelina County Correctional Facility, Lufkin, TX (Sept. 2004)

Arlington Adult Detention Facility, Arlington, VA (May 2005)

Atlanta City Detention Center, Atlanta, GA (Feb. 2004)

Atlanta City Detention Center, Atlanta, GA (May 2004)

Atlanta City Detention Center, Atlanta, GA (May 2005)

Audrain County Detention Center, Mexico, MO (May 2004)

Bannock County Jail, Pocatello, ID (June 2004)

Bedford County Jail, Bedford, PA (Nov. 2004)

Bedford Heights City Jail, Bedford Heights, OH (June 2005)

Bergen County Jail, Hackensack, NJ (Aug. 2004)

Berks County Prison, Leesport, PA (July 2004)

Berks County Prison, Leesport, PA (Sept. 2004)

Berks County Prison, Leesport, PA (July 2005)

Berkshire County Jail and House of Corrections, Pittsfield, MA (Dec. 2005)

Bexar County GEO Detention Center, San Antonio, TX(June 2004)

Bexar County GEO Detention Center, San Antonio, TX (July 2005)

Bingham County Jail, Blackfoot, ID (May 2005)

Blount County Jail, Maryville, TN (July 2004)

Bonneville County Jail, Idaho Falls, ID (June 2004)

Bonneville County Jail, Idaho Falls, ID (May 2005)

Boone County Detention Center, Burlington, KY (Dec. 2004)

Boone County Detention Center, Burlington, KY (Oct. 2005)

Brewster County Jail, Alpine, TX (Oct. 2004)

Bristol County Jail, North Dartmouth, MA (June 2005)

Bristol County Sheriff's Department, North Dartmouth, MA (Apr. 2004)

Brooks County Detention Center, Falfurrias, TX (Jan. 2006)

Broward Transitional Center, Pompano Beach, FL (Mar. 2003)

Broward Transitional Center, Pompano Beach, FL (Oct. 2004)

Buffalo Federal Detention Center, Batavia, NY (Aug. 2002)

Buffalo Federal Detention Center, Batavia, NY (May 2003)

Buffalo Federal Detention Center, Batavia, NY (May 2004)

Buffalo Federal Detention Center, Batavia, NY (May 2005)

Buffalo Federal Detention Center, Batavia, NY (Mar. 2006)

Butler County Jail, El Dorado, KS (Mar. 2004)

Butler County Jail, El Dorado, KS (Apr. 2005)

Butler County Jail, El Dorado, KS (Mar. 2006)

Calcasieu Parish Correctional Center, Lake Charles, LA (June 2004)

Calcasieu Parish Correctional Center, Lake Charles, LA (Oct.-Nov. 2005)

Caldwell County Detention Center, Kingston, MO (Nov. 2004)

Caldwell County Detention Center, Kingston, MO (July 2005)

Calhoun County Jail, Battle Creek, MI (Feb. 2005)

Cambria County Prison, Ebensburg, PA (Oct. 2004)

Cambria County Prison, Ebensburg, PA (Oct. 2005)

Cameron County Jail, Olmito, TX (Apr. 2004)

Canadian County Jail, El Reno, OK (Jan. 2005)

Canyon County Jail, Caldwell, ID (Sept. 2004)

Carbon County Correctional Facility, Nesquehoning, PA (May 2004)

Carbon County Correctional Facility, Nesquehoning, PA (May 2005)

Carroll County Detention Center, Westminster, MD (June 2004)

Carter County Detention Center, Ardmore, OK (Nov. 2004)

Carver County Jail, Chaska, MN (Oct. 2004)

Carver County Jail, Chaska, MN (Nov. 2005)

Cass County Jail, Plattsmouth, NE (Jan. 2004)

Cass County Jail, Plattsmouth, NE (June 2005)

Catahoula Parish Correctional Center, Harrisonburg, LA (Aug. 2004)

Cayuga County Jail, Auburn, NY (Sept. 2005)

Cayuga County Jail, Auburn, NY (Aug. 2004)

CCA Laredo Texas, Laredo, TX (July 2005)

CCA Silverdale Correctional Facility, Chattanooga, TN (Dec. 2004)

CCA Silverdale Correctional Facility, Chattanooga, TN (Mar. 2006)

Central Arizona Detention Center, Florence, AZ (Aug. 2005)

Charleston County Detention Center, North Charleston, SC (May 2004)

Charleston County Detention Center, North Charleston, SC (May 2005)

Chase County Jail, Cottonwood Falls, KS (July 2004)

Chase County Jail, Cottonwood Falls, KS (Sept. 2005)

Chatham County Detention Center, Savannah, GA (July 2004)

Chatham County Detention Center, Savannah, GA (Aug. 2005)

Chautauqua County Jail, Mayville, NY (Apr. 2004)

Chautauqua County Jail, Mayville, NY (Apr. 2005)

Christian County Jail, Ozark, MO (Sept. 2004)

Christian County Jail, Ozark, MO (Sept. 2005)

Cibola County Detention Center, Grants, NM (May 2004)

Citrus County Detention Facility, Lecanto, FL (Nov. 2005)

City of Las Vegas Detention Center, Las Vegas, NV (Sept. 2004)

Clark, Fauquier, Frederick and Winchester Regional Adult Detention Center, Winchester, VA (Apr. 2004)

Clay County Jail, Green Cove Springs, FL (Sept. 2004)

Clay County Jail, Green Cove Springs, FL (Jan. 2006)

Clinton County Correctional Facility, McElhattan, PA (Dec. 2004)

Clinton County Jail, Plattsburgh, NY (Aug. 2004)

Clinton County Jail, Plattsburgh, NY (Aug. 2005)

Cococino County Detention Facility, Flagstaff, AZ (Feb. 2004)

Colquitt County Jail, Moultrie, GA (Mar. 2004)

Colquitt County Jail, Moultrie, GA (Mar. 2005)

Colquitt County Jail, Moultrie, GA (Mar. 2006)

Columbia County Jail, St. Helens, OR (Jan. 2004)

Columbia County Jail, St. Helens, OR (Jan. 2005)

Comal County Jail, New Braunfels, TX (Oct. 2004)

Crawford County Jail, Grayling, MI (Mar. 2005)

Culberson County Jail, Van Horn, TX (Dec. 2004)

Dale G. Haile Detention Center, Caldwell, ID (Sept. 2004)

Dale G. Haile Detention Center, Caldwell, ID (Sept. 2005)

Denver Contract Detention Facility, Aurora, CO (Oct. 2002)

Denver Contract Detention Facility, Aurora, CO (Aug. 2003)

Denver Contract Detention Facility, Aurora, CO (Aug. 2004)

Denver Contract Detention Facility, Aurora, CO (Nov. 2005)

Department of Corrections (DEPCOR), Hagatna, Guam (Aug. 2004)

Department of Corrections (DEPCOR), Hagatna, Guam (July 2005)

Dickens County Correctional Center, Spur, TX (June 2004)

Dickens County Correctional Center, Spur, TX (June 2005)

Dodge County Detention Facility, Juneau, WI (June 2004)

Dodge County Detention Facility, Juneau, WI (June 2003)

Dodge County Detention Facility, Juneau, WI (May 2005)

Donald Wyatt Detention Center, Central Falls, RI (Dec. 2004-Jan. 2005)

Donald Wyatt Detention Center, Central Falls, RI (Jan. 2006)

Dorchester County Detention Center, Cambridge, MD (Sept. 2004)

Dorchester County Detention Center, Cambridge, MD (Sept. 2005)

Douglas County Department of Corrections, Omaha, NE (Sept. 2005)

Douglas County Jail, Superior, WI (Dec. 2004)

Douglas County Jail, Superior, WI (Aug. 2005)

Ector County Correctional Center, Odessa, TX (Nov. 2004)

El Centro Service Processing Center, El Centro, CA (Jan. 2004)

El Centro Service Processing Center, El Centro, CA (July 2004)

El Centro Service Processing Center, El Centro, CA (July 2005)

El Paso Service Processing Center, El Paso, TX (June 2002)

El Paso Service Processing Center, El Paso, TX (Mar. 2004)

El Paso Service Processing Center, El Paso, TX (Mar. 2005)

El Paso Service Processing Center, El Paso, TX (Mar. 2006)

Elizabeth Contract Detention Facility, Elizabeth, NJ (Dec. 2002)

Elizabeth Contract Detention Facility, Elizabeth, NJ (Sept. 2003)

Elizabeth Contract Detention Facility, Elizabeth, NJ (Sept.-Oct. 2004)

Eloy Detention Center, Eloy, AZ (Mar. 2006)

Erie County Holding Center, Buffalo, NY (Nov. 2004)

Erie County Prison, Erie, PA (Mar. 2005)

Erie County Prison, Erie, PA (Mar. 2006)

Etowah County Detention Center, Gadsden, AZ (June 2004)

Etowah County Detention Center, Gadsden, AZ (June 2004)

Etowah County Detention Center, Gadsden, AZ (June 2005)

Finney County Jail, Garden City, KS (May 2004)

Finney County Jail, Garden City, KS (June 2005)

Florence Service Processing Center, Florence, AZ (Mar. 2004)

Florence Service Processing Center, Florence, AZ (May 2004)

Florence Service Processing Center, Florence, AZ (May 2005)

Forsyth County Law Enforcement Center, Winston-Salem, NC (June 2004)

Forsyth County Law Enforcement Center, Winston-Salem, NC (June 2005)

Franklin County Jail, Malone, NY (Aug. 2004)

Frio County Jail, Pearsall, TX (Sept. 2004)

Garfield County Detention Center, Glenwood Springs, CO (June 2005)

Garvin County Detention Center, Paul's Valley, OK (Dec. 2004)

Genesee County Jail, Batavia, NY (Nov. 2004)

Golden Grove Adult Detention Center, St. Croix, U.S. Virgin Islands (Aug. 2005)

Grand Forks County Correctional Center, Grand Forks, ND (Dec. 2004)

Grand Forks County Correctional Center, Grand Forks, ND (Dec. 2005)

Grant County Jail, Canyon City, OR (Feb. 2005)

Grant County Jail, Canyon City, OR (Jan. 2006)

Grayson County Detention Center, Leitchfield, KY (Feb. [year not shown])

Greene County Jail, Springfield, MO (Sept. 2004)

Greene County Jail, Springfield, MO (Sept. 2005)

Grimes County Jail, Anderson, TX (Feb. 2004)

Guadalupe County Adult Detention Center, Seguin, TX (July 2004)

Hamilton County Jail, Chattanooga, TN (Nov.-Dec. 2004)

Hampton Roads Regional Jail, Portsmouth, VA (Jan. 2005)

Hardin County Correctional Center, Eldora, IA (Apr. 2004)

Hardin County Correctional Center, Eldora, IA (Oct. 2004)

Hardin County Correctional Center, Eldora, IA (Oct. 2005)

Harris County Jail, Hamilton, GA (Mar.-Apr. 2004)

Harris County Jail, Hamilton, GA (Mar. 2005)

Harris County Jail, Hamilton, GA (Mar. 2006)

Hartford Community Correctional Center, Hartford, CT (Mar. 2006)

Hastings Correctional Center, Hastings, NE (Dec. 2004)

Hill County Detention Center, Havre, MT (Oct. 2004)

Hill County Detention Center, Havre, MT (Sept. 2005)

Houston Contract Detention Facility, Houston, TX (July 2003)

Houston Contract Detention Facility, Houston, TX (Oct. 2003)

Houston Contract Detention Facility, Houston, TX (Feb. 2004 – Monthly Report)

Houston Contract Detention Facility, Houston, TX (Mar. 2004 – Monthly Report)

Houston Contract Detention Facility, Houston, TX (Apr. 2004 – Monthly Report)

Houston Contract Detention Facility, Houston, TX (May 2004 – Monthly Report)

Houston Contract Detention Facility, Houston, TX (Aug. 2004)

Houston Processing Center, Houston, TX (Mar. 2005)

Houston Processing Center, Houston, TX (Aug. 2005)

Houston Processing Center, Houston, TX (Feb. 2006)

Howard County Detention Center, Jessup, MD (June 2004)

Howard County Detention Center, Jessup, MD (July 2005)

Hudson County Department of Corrections, Kearny, NJ (Apr. 2005)

Jefferson County Jail, Golden, CO (Jan. 2006)

Jefferson County Jail, Mt. Vernon, IL (Oct. 2004)

Jefferson County Jail, Mt. Vernon, IL (Dec. 2004)

Jefferson County Jail, Mt. Vernon, IL (Oct. 2005)

Jefferson County Jail, Beaumont, TX (Feb. 2004)

Jefferson County Jail, Beaumont, TX (Feb. 2005)

Jefferson County Law Enforcement Center, Oskaloosa, KS (Oct. 2004)

Josephine County Jail, Grants Pass, OR (Apr. 2004)

Josephine County Jail, Grants Pass, OR (May 2005)

Karnes County Correctional Center, Karnes City, TX (Feb. 2005)

Kenosha County Detention Center, Kenosha, WI (May 2003)

Kenosha County Detention Center, Kenosha, WI (May 2004)

Kenosha County Detention Center, Kenosha, WI (June 2005)

Kenosha County Pre Trial Detention Center, Kenosha, WI (June 2004)

Kenosha County Pre Trial Detention Center, Kenosha, WI (June 2005)

Kenosha County Sheriff's Department Corrections, Kenosha, WI (July 2002)

Kent County Jail, Grand Rapids, MI (Feb. 2005)

Keogh Dwyer Correctional Facility (Sussex County Jail), Newton, NJ (Aug. 2004)

Keogh Dwyer Correctional Facility (Sussex County Jail), Newton, NJ (Dec. 2005)

Keogh Dwyer Correctional Facility (Sussex County Jail), Newton, NJ (Aug. 2006)

Kern County Jail (Lerdo Pretrial Facility), Bakersfield, CA (Dec. 2004)

Krome Service Processing Center, Miami, FL (Feb. 2004)

Krome Service Processing Center, Miami, FL (Feb. 2005)

Krome Service Processing Center, Miami, FL (June 2005)

La Paz County Jail, Parker, AZ (Apr. 2005)

La Salle County Regional Detention Center, Encinal, TX (Dec. 2004)

Lackawanna County Prison, Scranton, PA (Oct. 2004)

Lackawanna County Prison, Scranton, PA (Mar. 2006)

Laramie County Detention Center, Cheyenne, WY (May 2004)

Laredo Contract Detention Facility, Laredo, TX (Sept. 2003)

Laredo Contract Detention Facility, Laredo, TX (Oct. 2004)

Las Animas County Jail Center, Trinidad, CO (Dec. 2004)

Las Animas County Jail Center, Trinidad, CO (Apr. 2005)

Limestone County Detention Center, Groesbeck, TX (May 2004)

Limestone County Detention Center, Groesbeck, TX (May 2005)

Lincoln County Jail, Troy, MO (Oct. 2004)

Lincoln County Jail, Troy, MO (June 2005)

Linn County Jail, Cedar Rapids, IA (May 2005)

Linn County Jail, Cedar Rapids, IA (Aug. 2005)

Macomb County Jail, Mt. Clemens, MI (Mar. 2004)

Macomb County Jail, Mt. Clemens, MI (May 2005)

Madison County Jail, Madison, NE (June 2004)

Madison County Jail, Madison, NE (July 2004)

Madison County Jail, Madison, NE (July (year unknown))

Madison County Jail, Wampsville, NY (Aug. 2004)

Madison County Jail, Wampsville, NY (Sept. 2005)

Manatee County Detention Facility (Annex), Palmetto, FL (June 2004)

Manatee County Jail, Bradenton, FL (July 2005)

Maple Heights City Jail, Maple Heights, OH (June 2005)

McHenry County Jail, Woodstock, IL (July 2004)

McHenry County Jail, Woodstock, IL (Nov. 2005)

McLennan County Detention Center, Waco, TX (Nov. 2004)

Mecklenburg County Jail (Central), Charlotte, NC (Apr. 2004)

Mecklenburg County Jail (Central), Charlotte, NC (Apr. 2005)

Mecklenburg County Jail (North), Charlotte, NC (Apr. 2005)

Middlesex County Department of Corrections, North Brunswick, NJ (Oct. 2004)

Middlesex County Department of Corrections, North Brunswick, NJ (Dec. 2005)

Miller County Adult Detention Center, Tuscumbia, MO (May 2004)

Miller County Correctional Facility, Texarkana, AR (July 2004)

Mini-Cassia Criminal Justice Center, Burley, ID (June 2004)

Mini-Cassia Criminal Justice Center, Burley, ID (Aug. 2005)

Minnehaha County Jail, Sioux Falls, SD (May 2004)

Minnehaha County Jail, Sioux Falls, SD (June 2005)

Minnesota Correctional Facility, Rush City, MN (Oct. 2004)

Mira Loma Detention Center, Lancaster, CA (July 2004)

Mira Loma Detention Center, Lancaster, CA (Aug. 2005)

Mississippi County Detention Center, Charleston, MO (Aug. 2004)

Mississippi County Detention Center, Charleston, MO (Aug. 2005)

Missoula County Detention Facility, Missoula, MT (July 2005)

Monmouth County Jail, Freehold, NJ (Nov. 2004)

Monroe County Jail, Key West, FL (Aug. 2004)

Monroe County Jail, Key West, FL (July 2005)

Monroe County Jail (Dormitory), Monroe, MI (May 2005)

Monroe County Jail (Main), Monroe, MI (May 2005)

Monroe County Jail, Rochester, NY (July 2004)

Monterey Park City Jail, Monterey Park, CA (Aug. 2004)

Montgomery County Jail, Montgomery, MO (Oct. 2004)

Montgomery County Jail, Montgomery, MO (Oct. 2005)

Morgan County Adult Detention Center, Versailles, MO (May 2004)

Morgan County Adult Detention Center, Versailles, MO (May 2005)

Morrison County Jail, Little Falls, MN (Sept. 2004)

Newton County Correctional Center, Newton, TX (Apr. 2004)

Newton County Correctional Center, Newton, TX (Feb. 2005)

Niagara County Jail, Lockport, NY (Aug. 2003)

Niagara County Jail, Lockport, NY (Oct. 2004)

Niagara County Jail, Lockport, NY (Dec. 2005)

Nobles County Jail, Worthington, MN (May 2005)

North Las Vegas Detention Center, North Las Vegas, NV (July 2004)

North Las Vegas Detention Center, North Las Vegas, NV (Aug. 2005)

Northern Oregon Correctional Institute (NORCOR), The Dalles, OR (June 2005)

Northwest Detention Center, Tacoma, WA (July 2004)

Northwest Detention Center, Tacoma, WA (July 2005)

Oakland City Jail, Oakland, CA (Jan. 2004)

Oakland City Jail, Oakland, CA (Mar. 2005)

Odessa Detention Center, Odessa, TX (Nov. 2004)

Oklahoma County Detention Center, Oklahoma City, OK (Dec. 2004)

Onondaga County Jail, Syracuse, NY (Dec. 2003)

Onondaga County Jail, Syracuse, NY (Dec. 2004)

Orleans County Jail, Albion, NY (June 2004)

Orleans County Jail, Albion, NY (June 2005)

Orleans Parish (Community Corrections Center), New Orleans, LA (Sept. 2004)

Osceola County Jail, Kissimmee, FL (unknown)

Otero County Prison Facility, Chaparral, NM (Jan. 2004)

Otero County Prison Facility, Chaparral, NM (Nov. 2005)

Ozaukee County Jail, Port Washington, WI (Oct. 2004)

Palm Beach County Jail, West Palm Beach, FL (Oct. 2004)

Pamunkey Regional Jail, Hanover, PA (Aug. 2002)

Pamunkey Regional Jail, Hanover, PA (Aug. 2003)

Pamunkey Regional Jail, Hanover, PA (Aug. 2004)

Pamunkey Regional Jail, Hanover, PA (Oct. 2005)

Park County Detention Center (Park County Jail), Fairplay, CO (May 2005)

Passaic County Jail, Paterson, NJ (Mar. 2004)

Passaic County Jail, Paterson, NJ (Nov. 2004)

Passaic County Jail, Paterson, NJ (June 2005)

Pennington County Jail, Rapid City, SD (June 2004)

Pennington County Jail, Rapid City, SD (Aug.-Sept. 2005)

Penobscot County Jail, Bangor, ME (Mar. 2004)

Pettis County Detention Center, Sedalia, MO (July 2004)

Phelps County Jail, Holdrege, NE (Apr. 2004)

Phelps County Jail, Holdrege, NE (May 2005)

Pickaway County Jail, Circleville, OH (Oct. 2005)

Piedmont Regional Jail, Farmville, VA (Apr. 2004)

Piedmont Regional Jail, Farmville, VA (Apr. 2005)

Pike County Correctional Facility, Lords Valley, PA (Dec. 2002)

Pike County Correctional Facility, Lords Valley, PA (Dec. 2003)

Pike County Correctional Facility, Lords Valley, PA (Jan. 2005)

Pine Prairie Correctional Center, Pine Prairie, LA (Nov. 2004)

Pine Prairie Correctional Center, Pine Prairie, LA (Nov. 2005)

Piscataquis County Jail, Dover-Foxcroft, ME (June 2004)

Plaquemines Parish Detention Center, Braithwaite, LA (Mar. 2004)

Plaquemines Parish Detention Center, Braithwaite, LA (Aug. 2004)

Plaquemines Parish Detention Center, Braithwaite, LA (Apr. 2005)

Platte County Detention Center, Wheatland, WY (Apr. 2004)

Platte County Detention Center, Wheatland, WY (Sept. 2004)

Plymouth County House of Correction, Plymouth, MA (Apr. 2004)

Plymouth County House of Correction, Plymouth, MA (June 2005)

Point Coupee Parish Detention Center, New Roads, LA (May 2004)

Polk County Jail, Des Moines, IA (Mar. 2004)

Polk County Jail, Des Moines, IA (May 2005)

Pomona City Jail, Pomona, CA (June 2005)

Port Isabel Service Processing Center, Los Fresnos, TX (Feb. 2004)

Port Isabel Service Processing Center, Los Fresnos, TX (Feb. 2005)

Port Isabel Service Processing Center, Los Fresnos, TX (unknown)

Pottawattamie County Jail, Council Bluff, IA (May 2004)

Pottawattamie County Jail, Council Bluff, IA (July 2004)

Pottawattamie County Jail, Council Bluff, IA (July 2005)

Pueblo County Detention Center, Pueblo, CO (Mar. 2004)

Queens Contract Detention Facility, Jamaica (Queens), NY (Oct. 2003)

Queens Contract Detention Facility, Jamaica (Queens), NY (Oct. 2004)

Ramsey County Adult Detention Center, St. Paul, MN (Nov. 2004)

Ramsey County Adult Detention Center, St. Paul, MN (Nov. 2005)

Rappahannock Regional Jail, Stafford, VA (Jan. 2005)

Regional Correctional Facility, Albuquerque, NM (Aug. 2004)

Regional Correctional Facility, Albuquerque, NM (Oct. 2005)

Reno County Jail, Hutchinson, KS (Sept. 2004)

Reno County Jail, Hutchinson, KS (Sept. 2005)

Riverside Regional Jail, Hopewell, VA (May 2005)

Rockingham County Department of Corrections, Brentwood, NY (May 2004)

Rockingham County Department of Corrections, Brentwood, NY (June 2005)

Rockingham Roads Regional Jail, Harrisonburg, VA (Aug. 2002)

Rockingham Roads Regional Jail, Harrisonburg, VA (Aug. 2003)

Rolling Plains Regional Detention Center, Haskell, TX (Feb. 2004)

Rolling Plains Regional Detention Center, Haskell, TX (Mar. 2004)

Rolling Plains Regional Detention Center, Haskell, TX (Feb. 2005)

Rolling Plains Regional Detention Center, Haskell, TX (Mar. 2006)

Sacramento County Jail, Sacramento, CA (Aug. 2004)

Sacramento County Jail, Sacramento, CA (June 2005)

Sacramento County Jail, Sacramento, CA (Nov. 2005)

Saline County Jail, Saline, KS (Aug. 2004)

Salt Lake County Adult Detention Complex, Salt Lake City, UT (Sept. 2004)

Correctional Facility, San Diego, CA (Aug. 2003)

San Diego Correctional Facility, San Diego, CA (Aug.-Sept. 2004)

San Diego Correctional Facility, San Diego, CA (Oct. 2005)

San Pedro Service Processing Center, San Pedro, CA (May 2002)

San Pedro Service Processing Center, San Pedro, CA (Jan. 2003)

San Pedro Service Processing Center, San Pedro, CA (Nov. 2003)

San Pedro Service Processing Center, San Pedro, CA (July 2004)

San Pedro Service Processing Center, San Pedro, CA (Aug. 2005)

Santa Ana City Jail, Santa Ana, CA (Aug. 2004)

Santa Ana City Jail, Santa Ana, CA (Aug. 2005)

Santa Clara County Main Jail Complex, San Jose, CA (Oct. 2004)

Santa Cruz County Jail, Nogales, AZ (Sept. 2005)

Scottsbluff County Jail, Gering, NE (Apr.-May 2005)

Seattle Contract Detention Center, Seattle, WA (Sept. 2002)

Seattle Contract Detention Center, Seattle, WA (July 2003)

Sedgwick County Jail, Wichita, KS (June 2004)

Seneca County Jail, Tiffin, OH (Sept. 2004)

Shawnee County Detention Center, Topeka, KS (Nov. 2003)

Shawnee County Detention Center, Topeka, KS (Dec. 2004)

Sherburne County Jail, Elk River, MN (Oct. 2004)

Sherburne County Jail, Elk River, MN (Nov. 2005)

Smith County Jail, Tyler, TX (June 2004)

Snyder County Jail, Selinsgrove, PA (Sept. 2004)

Solon City Jail, Solon, OH (July 2005)

South Central Regional Jail, Charleston, WV (Nov. 2004)

South Central Regional Jail, Charleston, WV (Nov. 2005)

South Texas Detention Center, Pearsall, TX (Oct. 2005)

Southern Ute Detention Center, Ignacio, CO (Oct. 2004)

Southern Ute Detention Center, Ignacio, CO (Dec. 2005)

St. Francois County Detention Center, Farmington, MO (June 2004)

St. Francois County Detention Center, Farmington, MO (May 2005)

St. Martin Parish Correction Center, St. Martinville, LA (Aug.-Sept. 2004)

St. Mary's County Detention Center, Leonardtown, MD (July 2004)

St. Mary's County Detention Center, Leonardtown, MD (July 2005)

Suffolk County House of Correction, Boston, MA (May 2005)

Summit County Jail, Park City, UT (Nov. 2004)

Suzanne L. Kays Detention Facility, Dallas, TX (Apr. 2004)

Tangipahoa Parish Jail, Amite, LA (June 2004)

Tensas Parish Detention Center, Waterproof, LA (Aug.-Sept. 2002)

Tensas Parish Detention Center, Waterproof, LA (Aug. 2003)

Tensas Parish Detention Center, Waterproof, LA (Aug. 2004)

Tensas Parish Detention Center, Waterproof, LA (Aug. 2005)

Tooele County Detention Center, Tooele, UT (Nov. 2004)

Torrance County Detention Center, Estancia, NM (June 2002)

Torrance County Detention Center, Estancia, NM (July-Aug. 2003)

Torrance County Detention Center, Estancia, NM (June 2004)

Torrance County Detention Center, Estancia, NM (June 2005)

Tri-County Detention Center, Ullin, IL (Mar. 2004)

Tri-County Detention Center, Ullin, IL (Mar. 2005)

Trumbull County Jail, Warren, OH (May 2004)

Turner Guilford Knight Correctional Center, Miami, FL (Mar. 2004)

Twin Falls Criminal Justice Facility, Twin Falls, ID (Aug. 2005)

Union County Correctional Center, Elizabeth, NJ (Mar. 2004)

Union County Correctional Center, Elizabeth, NJ (Aug. 2005)

Utah County Jail, Spanish Fork, UT (Oct.-Nov. 2005)

Val Verde County Detention Center, Del Rio, TX (June 2004)

Val Verde County Detention Center, Del Rio, TX (July 2004)

Vermont Department of Corrections/Northern State Correctional Facility, Newport, VT (May 2005)

Victoria County Jail, Victoria, TX (Mar. 2004)

Wakulla County Jail, Crawfordville, FL (Sept. 2004)

Wakulla County Jail, Crawfordville, FL (Nov. 2005)

Warren County Regional Jail, Bowling Green, KY (Feb. 2004)

Wasatch County Jail, Heber City, UT (Aug. 2004)

Washington County Jail, Stillwater, MN (Oct. 2004)

Washington County Jail, Stillwater, MN (Nov. 2005)

Washington County Purgatory Detention Facility, Hurricane, UT (Nov. 2004)

Wayne County Jail, Lyons, NY (Jan.-Feb. 2006)

Wayne County Sheriff's Department, Detroit, MI (Feb. 2004)

Wayne County Sheriff's Department, Detroit, MI (Mar. 2006)

Weber County Jail Facility, Ogden, UT (Nov. 2004)

Weber County Jail Facility, Ogden, UT (Nov. 2005)

West Carroll Detention Center, Epps, LA (Sept. 2004)

West Carroll Detention Center, Epps, LA (Nov. 2005)

West Tennessee Detention Facility, Mason, TN (Oct. 2004)

West Texas Detention Facility, Sierra Blanca, TX (Jan. 2005)

West Texas Detention Facility, Sierra Blanca, TX (Oct. 2005)

Wicomico County Jail, Salisbury, MD (July 2004)

Wicomico County Jail, Salisbury, MD (June 2005)

Wicomico County Jail, Salisbury, MD (Apr. 2006)

Williamson County Jail, Franklin, TN (Aug. 2004)

Williamson County Jail, Georgetown, TX (Aug. 2004)

Worcester County Jail, Snow Hill, MD (Nov.-Dec. 2004)

Worcester County Jail, Snow Hill, MD (Nov. 2005)

Wyoming County Jail, Warsaw, NY (Aug. 2004)

Yakima County Department of Correction, Yakima, WA (Dec. 2004)

Yavapai County Detention Center, Camp Verde, AZ (June 2005)

Yavapai County Detention Center, Camp Verde, AZ (Nov. 2005)

Yellowstone County Detention Facility, Billings, MT (Oct. 2004)

Yellowstone County Detention Facility, Billings, MT (Oct. 2005)

York County Prison, York, PA (Dec. 2004)

Yuba County Jail, Marysville, CA (Aug. 2004)

Yuba County Jail, Marysville, CA (Nov. 2005)

# Notes

## EXECUTIVE SUMMARY

[1] "Detention Management," U.S. Immigration and Customs Enforcement, Nov. 20, 2008, www.ice.gov/pi/news/factsheets/detention_mgmt.htm (last visited Feb. 2, 2009) (hereinafter "Detention Management").

[2] Deposition of Walter LeRoy (hereinafter "LeRoy Dep.") at 54; *Immigration Control: Immigration Policies Affect INS Detention Efforts*, GAO/GGD-92-85 (U.S. Government Accountability Office, June 1992), http://archive.gao.gov/d33t10/147090.pdf.

[3] *See* "Detention Management."

[4] "Office of Detention and Removal (DRO)" (U.S. Immigration and Customs Enforcement, last updated Jan. 9, 2009), www.ice.gov/pi/dro/index.htm (last visited Feb. 2, 2009); *see also* "Detention Management."

[5] LeRoy Dep. at 53.

[6] *Orantes* is a lawsuit originally brought in 1982 to challenge coercive practices by immigration agents, including practices at immigrant detention facilities, that pressured nationals of El Salvador fleeing their country's civil war to forfeit meritorious claims to asylum.

[7] Nearly 20,000 pages of documents regarding detention standards compliance were produced through discovery, with each page separately paginated with a Bates stamp. Throughout this report these materials are cited by the Bates number of the page being referenced. The documents produced through discovery and the depositions cited herein may be obtained from NILC.

[8] The "DMCP manual" is a detailed and comprehensive set of instructions for the operation of the ICE Detention Management Compliance Program. The DMCP was produced in discovery for the *Orantes* case. It should not be confused with the *Detention Operations Manual* that contains the actual national detention standards.

[9] These 15 detention standards comprise a subset of the 38 original standards promulgated by immigration authorities between 2000 and 2008.

[10] LeRoy Dep. at 72; *see also* DMCP manual (Bates 8842).

[11] LeRoy Dep. at 67–69.

[12] *Id.* at 48

[13] *Id.* at 70, 72; *see also* Bates 8848. The DMCP manual states that field office directors, in their discretion, select the examiners for the review teams, subject to approval by the reviewing authority — the director for the Office of Detention and Removal (DRO). *See* DMCP manual, Bates 8843, 8848.

[14] LeRoy Dep. at 79–80 (the unit never intentionally conducted an inspection without this advance notice, though there may have been cases where notice accidentally was not given).

[15] One section, "Administrative and Disciplinary Segregation," discusses two related standards.

## INTRODUCTION

[1] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

This figure (320,000) comes from testimony of Gary Mead, deputy director, Office of Detention and Removal Operations, ICE, before the U.S. House of Representatives Judiciary Committee, Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law, Feb. 13, 2008, http://judiciary.house.gov/hearings/pdf/Mead080213.pdf, p. 2.

[2] For all the reviews it produced for discovery in the *Orantes* case, ICE was required to provide information about only 18 (out of 38) standards. ICE was required to produce this information for *all* the reviews it conducted in 2004 and 2005, but only for a limited number of reviews it conducted in 2002 and 2003. However, ICE did not provide the required information for all the reviews it was ordered to produce, nor did it produce reviews for all the facilities it evaluated in 2004 and 2005. We considered that ICE had produced a full review of a facility for a particular year only if ICE provided information from the review dealing with at least half (10 of 18) of the detention standards.

## THE ICE DETENTION STANDARDS MONITORING SYSTEM

[1] "Detention Management," U.S. Immigration and Customs Enforcement, Nov. 20, 2008, www.ice.gov/pi/news/factsheets/detention_mgmt.htm (last visited Feb. 2, 2009) (hereinafter "Detention Management").

[2] Deposition of Walter LeRoy (hereinafter "LeRoy Dep.") at 54; *Immigration Control: Immigration Policies Affect INS Detention Efforts*, GAO/GGD-92-85 (U.S. Government Accountability Office, June 1992), http://archive.gao.gov/d33t10/147090.pdf.

[3] *See* "Detention Management."

[4] "Office of Detention and Removal (DRO)" (U.S. Immigration and Customs Enforcement, last updated Jan. 9, 2009), www.ice.gov/pi/dro/index.htm (last visited Feb. 2, 2009). ICE currently operates the following SPCs: Aguadilla Service Processing Center (Puerto Rico); Buffalo Federal Detention Center (New York); El Centro Service Processing Center (California); El Paso Service Processing Center (Texas); Florence Service Processing Center (Arizona); Port Isabel Service Processing Center (Texas); Krome Service Processing Center (Florida); and San Pedro Service Processing Center (California); however, the San Pedro SPC has been closed for repair and renovation since October 2007.

[5] *Id.; see also* "Detention Management." ICE currently uses the following seven CDFs: Aurora Contract Detention Facility (Colorado); Elizabeth Contract Detention Facility (New Jersey); Houston Contract Detention Facility (Texas); Laredo Contract Detention Facility (Texas); Otay Detention Facility (California); Tacoma Contract Detention Facility (Washington); and Varrick Federal Detention Facility (New York).

[6] "Detention Management."

[7] *See* LeRoy Dep. at 56 (stating that the approved facilities list changes throughout each year as new facilities are added and others are removed).

[8] *See* "Detention Management"; LeRoy Dep. at 52; 56; 96–102.

[9] LeRoy Dep. at 53.

[10] *Id.* ICE also makes use of joint federal facilities, including the Federal Detention Center (Oakdale, Louisiana) and the Eloy Contract Detention Facility (Arizona), which is owned and operated by a contractor through the Bureau of Prisons. "Office of Detention and Removal (DRO)" (U.S. Immigration and Customs Enforcement, last updated Jan. 9, 2009), www.ice.gov/pi/dro/index.htm (last visited Feb. 2, 2009).

[11] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[12] *See* American Bar Association, *The INS Detention Standards Implementation Initiative: A Training Manual for Advocates* (American Bar Association, 2001) (hereinafter "ABA Manual"), "Overview," p. 1. The standards grew out of a 1996 meeting of the Deputy Attorney General with ABA leaders. *See also* Michael Wishnie, National Immigration Project of the National Lawyers Guild, et al., Petition for Proposed Rulemaking, Jan. 25, 2007 (hereinafter "Wishnie"), at 5 (describing the history of the detention standards and the circumstances and conditions giving rise to them).

[13] *See* ABA Manual, "Overview," at 1.

[14] *See* Wishnie at 5.

[15] ABA Manual, "Overview," at 1.

[16] *Id.* at 1–2; *see also* "INS to Adopt New Detention Standards," INS news release, Nov. 13, 2000; *see also* DHS Office of Inspector General, *Treatment of Immigration Detainees at Immigration and Customs Enforcement Facilities* (OIG-07-01, Department of Homeland Security Office of Inspector General, Dec. 2006) (hereinafter "OIG Report") at 2.

[17] *See* OIG Report at 2; and "2000 Detention Standards," www.ice.gov/pi/dro/opsmanual/index.htm (U.S. Immigration and Customs Enforcement, last visited Mar. 12, 2009).

[18] *See* OIG Report at 2.

[19] *See* "INS to Adopt New Detention Standards," INS news release, Nov. 13, 2000; Wishnie at 6.

[20] ABA Manual, "Overview," at 4. The ABA explains: "Unlike regulations, the standards are subject to agency discretion, and there is no legal remedy for their violation. However, in litigation over conditions issues, courts might take into account lack of compliance under the standards as relevant evidence to bolster a cause of action under tort or civil rights law." *Id.*

[21] ABA Manual, "Overview," at 2.

[22] *See* "2000 Detention Standards"; *see also* Deposition of former Detention Standards Compliance Unit Chief Yvonne Evans (hereinafter "Evans Dep."), at 100.

[23] *Id.*; OIG Report at 2.

[24] The PBNDS are available at www.ice.gov/partners/dro/PBNDS/index.htm (last visited Mar. 12, 2009).

[25] The *Detention Operations Manual* contains the national detention standards promulgated in 2000, and is available at www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 12, 2009).

[26] *See* PBNDS, www.ice.gov/partners/dro/PBNDS/index.htm.

[27] *See* note 12, *supra.*

[28] The plaintiffs obtained this discovery in response to the government's motion to dissolve a nationwide permanent injunction first issued in 1988 (*Orantes-Hernandez v. Meese*, 685 F.Supp. 1488 (C.D.Cal. 1988), *aff'd. sub nom Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1991)). In July 2007, the federal district court in Los Angeles denied the government's motion, except as to two provisions of the injunction, and the case is now on appeal. *See Orantes-Hernandez v. Gonzales*, 504 F.Supp.2d 825 (C.D.Cal. 2007).

[29] Nearly 20,000 pages of documents regarding detention standards compliance were produced through discovery, with each page separately paginated with a Bates stamp. Throughout this report these materials are cited by the Bates number of the page being referenced. The documents produced through discovery and the depositions cited herein may be obtained from NILC.

[30] The "DMCP manual," cited throughout this chapter, is a detailed and comprehensive set of instructions for the operation of the ICE Detention Management Compliance Program. The DMCP was produced in discovery for the *Orantes* case. It should not be confused with the *Detention Operations Manual* that contains the actual national detention standards.

[31] ABA Manual, "Overview," at 4.

[32] Evans Dep. at 73.

[33] *Id.* at 46.

[34] Deposition of Detention Standards Compliance Unit Chief Walter LeRoy (hereinafter "LeRoy Dep.") at 40–41.

[35] LeRoy Dep. at 40–42 ("There's been at least one or two vacancies at all times we're constantly trying to fill."); *see also id.* at 45 ("There's always been a constant turnover [in staff].")

[36] *See* "Detention Management Program," www.ice.gov/partners/dro/dmp.htm (last modified Feb. 20, 2009) (last visited Mar. 12, 2009).

[37] *See* Evans Dep. at 43 (describing the DMCP as "the plan, the blueprint for implementing the standards").

[38] *See id.*

[39] *See id.*

[40] LeRoy Dep. 49; 69.

[41] Evans Dep. at 112; LeRoy Dep. at 124–27.

[42] LeRoy Dep. at 72; *see also* DMCP manual (Bates 8842).

[43] LeRoy Dep. at 67–69.

[44] *Id.* at 48

[45] *Id.* at 70, 72; s*ee also* Bates 8848. The DMCP manual states that field office directors, in their discretion, select the examiners for the review teams, subject to approval by the reviewing authority — the director for the Office of Detention and Removal (DRO). *See* DMCP manual, Bates 8843, 8848.

[46] LeRoy Dep. at 48.

[47] *Id.* at 76–77; *see also* DMCP manual, Bates 8851 (stating that RICs should notify the officer in charge of a facility at least 30 days before the review, but that such notice may be waived by agreement).

[48] LeRoy Dep. at 79–80 (the unit never intentionally conducted an inspection without this advance notice, though there may have been cases where notice accidentally was not given).

[49] *See* DMCP manual, Bates 8851.

[50] Deposition of Adam Garcia (hereinafter "Garcia Dep.") at 109–10 (never looked at ABA reports, UNHCR reports, or prior DHS reviews of any of the facilities he reviewed).

[51] Bates 8868–8905; DMCP manual, Bates 8848; *see also* Detention Management Division Detention Inspection Unit Course DRC-03 materials, Bates 8795.

[52] Bates 8906–8915.

[53] *See* Bates 8795.

[54] *See* DMCP manual, Bates 8858.

[55] *Id.* According to DSCU staff, in practice, the entire review team, rather than one officer, often contributed to the completion of the G-324 form. For SPC and CDF reviews, the RIC typically divided the G-324 into its three component sections, with each member of the three-member team responsible for one section of the form. For IGSAs, the two-member team typically divided the standards such that the LEO who was acting as RIC assumed responsibility for half of the standards, with the second member of the team responsible for the remainder. In both circumstances, the officer responsible for a given standard would complete the pages of the G-324 pertaining to his or her standard and make a recommendation regarding the facility's compliance with that standard. The reviewer would then submit his or her work to the RIC, who would incorporate the findings into the final G-324. LeRoy Dep. at 67–72.

[56] Evans Dep. at 47–48.

[57] DSCU training materials include a checklist of "Common Mistakes" made in the "RIC Memorandum," which lists as one such mistake: "The RIC utilizes a sample RIC Memorandum and forgets to change the name of the facility, date of inspection, etc." Bates 8749–50.

[58] *See* DMCP manual, Bates 8859–60.

[59] *See id.*, Bates 8862–63.

[60] *See id.*, Bates 8863.

[61] *See id.*

[62] *See id.*, Bates 8864.

[63] *Id.*, Bates 8864–65, 8867.

[64] DMCP manual, Bates 8848.

[65] LeRoy Dep. at 128–29.

[66] DMCP manual, Bates 8839–8867. In 2008, ICE began arranging for private contractors to monitor detention standards compliance, and the authors of this report do not know whether this monitoring is conducted under the DMCP manual.

[67] *See* Garcia Dep. at 136–137; Deposition of Michael Vaughn (hereinafter "Vaughn Dep.") at 57.

[68] *See* deposition testimony of ICE facility reviewers: Leroy Dep. at 165–7; Evans Dep. at 109:2–12; Deposition of Kristine Brisson (hereinafter "Brisson Dep.") at 46–47; Garcia Dep. at 137–138.

[69] *See* DMCP manual, Bates 8857–8858; *see also* Training Materials, Bates 8741–42.

[70] A facility may be rated "superior," provided that it is "[p]erforming all of its functions in an exceptional manner, has excellent internal controls and exceeds expectations. The facility cannot receive a Superior rating if any standard is rated deficient or at-risk." *See* DMCP manual, Bates 8858. A facility may receive a "good" rating if it is "[p]erforming all of its functions, and there are few deficient procedures within any function. Internal controls are such that there are limited procedural deficiencies. Overall performance is above an acceptable level. The facility cannot receive a good rating if any standard is rated at-risk or is a repeat deficiency." *Id.* An "acceptable" rating "is the 'baseline' for the rating system. The detention functions are being adequately performed. Although deficiencies may exist, they do not detract from the acceptable accomplishment of the vital functions. Internal controls are such that there are no performance breakdowns that would keep the program from continuing to accomplish its mission." *Id.* A "deficient" rating signals that "[o]ne or more detention functions are not being performed at an acceptable level. Internal controls are weak, thus allowing for serious deficiencies in one or more program areas." *Id.* Finally, an "at-risk" rating means that "[t]he detention operations are impaired to the point that [the facility] is not presently accomplishing its overall mission. Internal controls are not sufficient to reasonably assure acceptable performance can be expected in the future." *Id.*

[71] *See generally* DMCP manual; *see also* Brisson Dep. at 51 (responding that it is "not necessarily" the case that the rating of a standard as "acceptable" is based on the number of elements that were marked as compliant).

[72] Inspectors, including the former head of DSCU, confirmed this to be the case. *See* Evans Dep. at 108; Garcia Dep. at 120, 140; Vaughn Dep. at 87–88 (a deficiency as to a single standard that would cause harm to detainees or breach security could result in a deficient rating, but deficiencies as to five other standards might not).

[73] *See* Evans Dep. at 108:22–109:1; Garcia Dep. at 142:12–143:6; DMCP manual, Bates 8858.

[74] *See* DMCP manual, Bates 8739–40, 8849.

[75] *See* Brisson Dep. at 51, 54–57 (noting that she marked a facility compliant with the element of the "Access to Legal Material" standard requiring that the library contain the materials outlined in a list attached to the standard, even though the facility did not have these during the review, because the facility indicated its willingness to accept and provide them in the future); *id.*at 57–58 (marking a facility as "acceptable" for the element of the "Correspondence and Other Mail" standard requiring that original identity documents be forwarded to ICE staff for placement in immigration files, where reviewer also indicated that documents "[c]urrently remain[] in inmate property; [but the facility] will begin doing this").

[76] *Id.* at 49.

[77] *See* Garcia Dep. at 136.

[78] *See* DMCP manual, Bates 8858.

[79] *See* Brisson Dep. at 9–12.

[80] *See* Garcia Dep. at 7:9–9:8; 59:21–60:2; *see also* Vaughn Dep. at 8:1–9:10; *see* Brisson Dep. at 6:12–15, 11:5–12:4.

[81] *See* Garcia Dep. at 5:16–23; 35:21–37:15.

[82] *See* Vaughn Dep. at 38:1–39:3 (stating that he had yet to participate in a facility inspection in 2006 and acknowledging his participation in inspections of only two over-72-hour facilities in 2005, and two over-72-hour facilities in 2004); *see also* Brisson Dep. at 12:11–14:8; 15:1–11 (noting that she had yet to participate in a review in 2006, reviewed a total of two facilities in 2005, two facilities in 2004, and three facilities in 2003, and she was RIC for all of these reviews); *see also* Garcia Dep. at 35:21 (noting that he had yet to participate in any inspections in 2006 and recalling that he had conducted two inspections in 2005, none in 2004, three in 2003, and three in 2002).

[83] *See* Brisson Dep. at 50:1–9 (stating, in response to a question regarding whether the "deficient" or "at-risk" rating was more severe, "I would have to refer to my materials or my guide if I ever had to mark either one of those boxes.").

[84] *See* Brisson Dep. at 38:1–13.

[85] *See* Vaughn Dep. at 8, 11–12, 16–17 (officer in charge of ICE Los Angeles Staging Facility — "the reception area for any detainee coming into ICE custody" — responsible for conducting reviews of the local jails in the area that those detainees are sent to and from); Garcia Dep. at 5–6, 36–37 (supervisory immigration enforcement agent responsible for handling transportation with local jails responsible for conducting reviews of those jails).

[86] *See* Evans Dep. at 55:15–19.

[87] Evans Dep. at 55:20–56:3. The DMCP manual itself incorporates this model and explains that "[t]he use of field participants as examiners is a cost-effective practice that supports the DMCP and enhances the professional development of the staff member." DMCP manual, Bates 8848.

[88] *See* DMCP manual, Bates 8848 (emphasis added).

[89] *See id.*

[90] *See id.*

[91] *See* LeRoy Dep. at 49:20–22.

[92] *See id.* at 49:17–19; Evans Dep. at 110:21–111:6; *see also* Garcia Dep. at 22:13–14.

[93] *See* Evans Dep. at 124:12–125:4; *see also* LeRoy Dep.

[94] *See id.* at 124–25; Garcia Dep. at 22:21–25.

[95] *See* LeRoy Dep. at 121:11–18.

[96] See Vaughn Dep. at 57 (acknowledging that training manual provided no information or guidance as to how to reach ratings for individual detention standards).

[97] *See also* discussion under "Lack of Written Criteria Guiding Reviewers, and Reviewer Confusion Regarding the Application of Compliance Ratings," above.

[98] DMCP manual, Bates 8848.

[99] *See* Garcia Dep. at 21–22, 30–31 (training in 2001 followed by 35- to 40-minute on-line refresher in 2005); Vaughn Dep. at 15, 107–8 (training in 1999 followed by two-day refresher training in 2003).

[100] LeRoy Dep. at 44–45 ("there's always been a constant turnover").

[101] Evans Dep. at 54.

[102] *See* DMCP manual, Bates 8851; *see also* Bates 8736 (PowerPoint slide).

[103] LeRoy Dep. at 76–77.

[104] *See* Garcia Dep. at 79–80.

[105] *See* Vaughn Dep. at 48–49 (noting also that he was unaware of a "hard, written policy" in his field office for notice pertaining to inspections).

[106] *See* DMCP manual, Bates 8851 ("The Review Authority retains the authority to

conduct reviews without prior notification or on short notice if deemed necessary to achieve reasonable assurance that a detention facility is operating in accordance with applicable law and policy, and property and resources are effectively utilized and adequately safeguarded.").

[107] *See* LeRoy Dep. at 79:17–80:13.

[108] *See* Evans Dep. at 61–62. Her use of the term "visit" suggests that she may have been referring to something less than a full inspection.

[109] *See* Brisson Dep. at 21:13–15; Vaughn Dep at 63–64.

[110] *See* DMCP manual, Bates 8855; Training materials, Bates 8737.

[111] *See* Garcia Dep. at 110 (no written policy requires that inspectors speak with detainees); 116–17 (may not have spoken to any detainees at his last inspection); Brisson Dep. at 33 (would "maybe ask questions of detainees using the facility"); 44—45 (has only spoken to detainees in English).

[112] *See* Evans Dep. at 98–99 (reviewers are not required to speak a second language, and are not provided with interpreters); Vaughn Dep. at 67–68 (not fluent in Spanish; once used another detainee as interpreter for a Chinese detainee); Brisson Dep. at 44–45 (speaks "some" Spanish; has only spoken to detainees in English); Garcia Dep. at 116–17 (does not speak Spanish and does not bring an interpreter; relies on a correction officer or another detainee for language interpretation).

[113] *See* DMCP manual, Bates 8852; Training Manual, Bates 8730.

[114] *See* DMCP manual, Bates 8852.

[115] *Id.*, Bates 8858; Training Materials, Bates 8742.

[116] *Id.*, Bates 8859.

[117] LeRoy Dep. at 190.

[118] *Id.* at 190–91.

[119] *Id.* at 191.

[120] *See* DMCP manual, Bates 8839.

[121] ABA and UNHCR monitoring reports were produced to the plaintiffs during discovery in *Orantes.*

[122] *See* Declaration of Irena Lieberman on Behalf of the American Bar Association, dated Dec. 14, 2005, filed in the *Orantes* litigation.

[123] *See* Letter from Michael Gabaudan, Regional Representative of UNHCR, to Ranjana Natarajan, dated Nov. 22, 2006 (hereinafter "Gabaudan Letter"), filed in the *Orantes* case. UNHCR discourages the practice of detaining asylum-seekers. In recognition of actual detention practice, however, UNHCR has issued a statement announcing several principles that should inform any such detention and setting forth the relevant international legal authority governing the detention of asylum-seekers. *See* UNHCR, *UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers* (Office of the United Nations High Commissioner for Refugees, Feb. 1999), www.unhcr.org.au/pdfs/detentionguidelines.pdf (last visited Mar. 12, 2009).

[124] *See* Gabaudan Letter at [3].

[125] *See* LeRoy Dep. at 32:24–33:2 (clarifying that "[t]he opinion of the meaningfulness of the ABA reports is [LeRoy's] opinion, not an ICE position.").

[126] *See* Evans Dep. at 80–82.

[127] *See id.*

[128] *See* LeRoy Dep. at 26:3–12.

[129] *See* LeRoy Dep. at 30:17–31:3 (". . . I have a great relationship with the UNHCR, and Andrew [Painter, a Senior Protection Officer at UNHCR] always comes to me or one of my staff members to organize [visits].").

[130] *See* LeRoy Dep. at 28:2–9.

[131] *See* Evans Dep. at 80–82.

[132] *See* LeRoy Dep. at 51:4–52:2.

[133] *See id.* at 52:5–52:16.

[134] *See generally* DMCP manual; *see also* Evans Dep. at 68–69 (noting that she is unsure whether the DMCP manual states that facility use may be discontinued for noncompliance with the standards). Elsewhere in her deposition, Evans distinguished between contracts, which are made between the government and a for-profit entity, and agreements, which are made between government agencies, for example, ICE and a state or local jail. *See* Evans Dep. at 131–32. She clarified that while an agreement could be terminated for noncompliance with the standards, she was uncertain whether a contract could be similarly terminated. *See id.* at 132.

[135] *See* Evans Dep. at 68.

[136] *See id.* at 127:20–128:1; 70:3–6.

[137] *See id.* at 62:3–16.

[138] *See id.* at 65–67. Evans could not recall the years of these terminations. *See id.* at 62.

[139] *See id.* at 67. Evans believed that an investigation was still pending and the government objected to any further deposition testimony regarding the civil rights violation.

[140] *See id.* at 64.

[141] *See id.* at 64:23–34 (responding that ICE discontinued use of the TGK facility in "weeks also. Weeks to months. I'm not sure.").

[142] *See generally* DMCP manual.

[143] *See* Evans Dep. at 62–64. Defendants, on the ground of deliberative process privilege, refused to allow Evans to discuss any instances in which she recommended termination of a facility's contract, but these recommendations were not acted upon. Thus, while only three contracts were terminated on the basis of DSCU's recommendations, it is possible that the unit made recommendations at other facilities as well.

**VISITATION**

[1] *See* INS Detention Standard: Visitation (hereinafter "Visitation") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/visit.pdf.

[2] Visitation § III.L–N (Standards and Procedures: Non-Government Organization Visitation with Detainees and Tours of Facilities, Visits from Representatives of Community Service Organizations, and News Media Interviews of Detainees).

[3] Visitation § III.I.14 (Visitation by Legal Representatives and Legal Assistants: Pro Bono Lists and Detainee Sign-Up).

[4] ICE Annual Review, Cass Co. Jail (June & July 2005), Bates 10253; ICE Annual Review, Chautaqua Co. Jail (Apr. 2005), Bates 10502; ICE Annual Review, Crawford Co. Jail (Mar. 2005), Bates 13254; ICE Annual Review, Josephine Co. Jail (May 2005), Bates 1107; ICE Annual Review, Madison Co. Jail (Sept. 2005), Bates 1543; ICE Annual Reviews, Mecklenburg Co. Jail (Central) (Apr. 2004), Bates 4917 and (Apr. 2005), Bates 1067; ICE Annual Reviews, Minnehaha Co. Jail (May 2004), Bates 5075 and (June 2005), Bates 2850; ICE Annual Review, Niagara Co. Jail (Dec. 2005), Bates 12818; ICE Annual Review, Nobles Co. Jail (May 2005), Bates 2689; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12937; ICE Annual Review, Wicomico Co. Jail (June 2005), Bates 249; ICE Annual Review, Wyatt Detention Center (Dec. 2004 – Jan. 2005), Bates 12563; ICE Annual Review, Wyoming Co. Jail (Aug. 2004 – Aug. 2005), Bates 5441; ICE Annual Review, Audrain Co. Detention Center, Chicago District (May 2004), Bates 7777; ICE Annual Review, Cayuga Co. Jail (Aug. 2004), Bates 10300; ICE Annual Review, Charleston Co. Detention Center (May 2004), Bates 8017; ICE Annual Review, Coconino Co. Detention Facility (Feb. 2004), Bates 3843; ICE Annual Review, Eerie Co. Holding Center (Nov. 2004), Bates 4162; ICE Annual Review, Finney Co. Jail (May 2004), Bates 3393; ICE Annual Review, Genesee Co. Jail (Nov. 2004), Bates 3433; ICE Annual Review, Jefferson Co. Jail, Mt. Vernon, IL (Oct. 2004), Bates 3598; ICE Annual Review, Madison Co. Jail (July 2004), Bates 4589; ICE Annual Review, McHenry Co. Jail (July 2004), Bates 4782; ICE Annual Review, Mecklenburg Co. Jail (North) (Apr. 2004), Bates 4870; ICE Annual Review, Monroe Co. Jail (July 2004), Bates 669; ICE Annual Review, Morrison Co. Jail, Little Falls, MN (Sept. 2004), Bates 11941; ICE Annual Review, Niagara Co. Jail (Oct. 2004), Bates

11993; ICE Annual Review, Orleans Co. Jail (June 2004), Bates 7336; ICE Annual Review, Pettis Co. Detention Center (July 2004), Bates 6461; ICE Annual Review, Phelps Co. Jail (Mar. & Apr. 2004), Bates 6223; ICE Annual Review, Polk Co. Jail (Mar. 2004), Bates 6103; ICE Annual Review, Pottawattamie Co. Jail (July 2004), Bates 6071; ICE Annual Review, Regional Correctional Facility (Albuquerque) (Aug. 2004), Bates 6027; ICE Annual Review, Smith Co. Jail (June 2004), Bates 5681; ICE Annual Review, Weber Co. Jail (Nov. 2004), Bates 346; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5633; ICE Annual Review, Williamson Co. Jail (Aug. 2004), Bates 5591; ICE Annual Review, Yakima Co. Jail (Dec. 2004), Bates 5543; ICE Annual Review, Kenosha Co. Sheriff's Dept., Corrections (May 20003), Bates 18795; ICE Annual Review, Seattle Contract Detention Center, Seattle, WA (July 2003), Bates 11459; ICE Annual Review, Torrance Co. Correctional Facility (July – Aug. 2003), Bates 17969; ICE Annual Review, San Pedro Processing Center (May 2002), Bates 18480. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Bergen Co. Jail (Aug. 2004), Bates 9129; ICE Annual Review, Boone Co. Detention Center (Dec. 2004), Bates 9385; ICE Annual Review, Butler Co. Jail (Apr. 2005), Bates 9948; ICE Annual Review, Canadian Co. Jail (Jan. 2005), Bates 10114; ICE Annual Review, Chase Co. Jail (Sept. 2005), Bates 10419; ICE Annual Review, Hudson Co. Dept. of Corrections (Apr. 2005), Bates 529; ICE Annual Review, Karnes Co. Correctional Center (Feb. 2005), Bates 1325; ICE Annual Review, Manatee Co. Jail (July 2005), Bates 571; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3244; ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12897; ICE Annual Review, Passaic Co. Jail (June 2005), Bates 885; ICE Annual Review, Pennington Co. Jail (June 2004), Bates 11798; Follow-up ICE inspection, Plaquemines Parish Detention Center (Mar. 2004), Bates 1030; ICE Annual Review, Plaquemines Parish Detention Center (Apr. 2005), Bates 3202; ICE Annual Review, Regional Correction Center, Albuquerque (Oct. 2005), Bates 2159; ICE Annual Review, Reno Co. Jail (Sept. 2004), Bates 7244; ICE Annual Review, Sacramento Co. Jail (Aug. 2004), Bates 7155; ICE Annual Review, Salt Lake Co. Adult Detention Complex (Sept. 2004), Bates 6873; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5780; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 14161; ICE Annual Review, Union Co. Jail (Mar. 2004), Bates 6975; ICE Annual Review, Kenosha County Sheriff's Dept Corrections (July 2002), Bates 18751.

The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[5] Visitation § III.I.9 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Private Meeting Room and Interruption for Head Counts).

[6] *Id.*

[7] UNHCR report, Aguadilla Service Processing Center (Puerto Rico) (May 2005), Bates 8662; ICE Annual Reviews, Aguadilla Service Processing Center (Puerto Rico) (Mar. 2004), Bates 12579–80 and (Mar. 2005), Bates 10746; ICE Annual Review, Seattle INS Detention Facility, Seattle, WA (July 2003), Bates 11527. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Harris Co. Jail (Mar. 2005), Bates 2411; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16957; ICE Annual Review, Turner Guildford Knight Correctional Center (Mar. 2004), Bates 7434.

[8] *See, e.g.*, ABA report, Kern County Jail (Aug. 2002), Bates 17475; *see infra* (discussing ABA and UNHCR reports regarding strip searches after legal visitation).

[9] Visitation § III.I.2 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Hours).

[10] ICE Annual Review, Polk Co. Jail (May 2005), Bates 3075; ICE Annual Review, Clay Co. Jail (Dec. 2004), Bates 3745; ICE Annual Review, Dorchester Co. Detention Center (Sept. 2004), Bates 4023; ICE Annual Review, Garvin Co. Detention Center (Dec. 2004), Bates 3392; ICE Annual Review, Hill Co. Detention Center (Oct. 2004), Bates 3597; ICE Annual Review, Minnesota Correctional Facility – Rush Facility (Oct. 2004), Bates 297; ICE Annual Review, Tensas Parish Jail (Aug. - Sept 2004), Bates 18576. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9678; ICE Annual Review, Chase Co. Jail (Sept. 2005), Bates 10419; ICE Annual Review, Karnes Co. Correctional Center (Feb. 2005), Bates 1324; ICE Annual Review, Niagra Co. Jail (Dec. 2005), Bates 12818; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3244; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12045; ICE Annual Review, Salt Lake Co. Adult Detention Complex (Sept. 2004), Bates 6872; ICE Annual Review, St. Martin Parish Jail (Aug. – Sept. 2004), Bates 938; ICE Annual Review, Washington Co. Purgatory Detention Facility (Nov. 2004), Bates 6927.

[11] ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6872.

[12] Visitation § III.I.11 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Detainee Search).

[13] ICE Annual Review, Kenosha Co. Pre-Trial Facility (June 2005), Bates 843; ICE Annual Review, Morgan Co. Adult Detention Center (May 2005), Bates 1625; ICE Annual Review, Kenosha Co. Pre-Trial Detention Center (June 2004), Bates 4285; ICE Annual Review, Kern Co. Sheriff's Office, Lerdo Pretrial Facility (Dec. 2004), Bates 4321; ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6564; ICE Annual Review, Central Arizona Detention Center (Aug. 2005), Bates 10340; ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11211; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11459; ICE Annual Review, Morgan Co. Detention Center (Oct. 2004), Bates 11891; ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12580; ICE Annual Review, El Centro Service Process Center (Jan. 2004), Bates 12665; ICE Annual Review, Torrance Co. Detention (June & July 2004), Bates 13947; ICE Annual Review, Kern County Jail (Dec. 2004), Bates 17473–75 (noting uncertainty regarding whether detainees could avoid strip searches after visitation); ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18577. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Chase County Jail (Sept. 2005), Bates 10419; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12045; ICE Annual Review, Crawford Co. Jail (Mar. 2005), Bates 13254.

[14] Visitation § III.I.10 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Materials Provided to Detainees by Legal Representatives).

[15] *Id.*, Visitation Monitoring Instrument.

[16] ICE Annual Review, Orleans Parish Criminal Sheriff's Office (Sept. 2004), Bates 7288.

[17] Visitation § III.I.12 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Legal Visitation for Detainees in Administrative and Disciplinary Segregation).

[18] ICE Annual Review, Dodge County Correctional Facility (May 2005), Bates 21170 (inadequate access to legal visitation for detainees in segregation); ICE Annual Review, Dodge Co. Jail (May 2005), Bates 13567; ICE Annual Review, Kenosha Co. Pre-Trial Facility (June 2005), Bates 843; ICE Annual Review, Limestone Co. Detention Center (May 2005), Bates 2492; ICE Annual Review, Harris Co. Jail (Mar. - Apr. 2004), Bates 3468; ICE Annual Review, Madison Co. Jail (July 2004), Bates 4603; ICE Annual Review, Manatee Co. Jail (June 2004), Bates 1228; ICE Annual Review, McHenry Co. Jail (July 2004), Bates 4689; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6394; ICE Annual Review, Plaquemines Parish Detention Center (Aug. 2004), Bates 981; ICE Annual Review, Pottawattamie Co. Jail (July 2004), Bates 6070; ICE Annual Review, Sherburne Co. Jail (Oct. 2004), Bates 5814; ICE Annual Review, Williamson Co. Jail (Aug. 2004), Bates 5590; ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18794; ICE Annual Review, Tensas Parish Jail (Aug. 2003), Bates 18576.

[19] Visitation § III.I.2 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Hours).

[20] ICE Annual Review, Kenosha Co. Pre-Trial Facility (June 2005), Bates 843; ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2890; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4447; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12045; ICE Annual Review, Summit Co. Jail (Nov. 2004), Bates 14010; ICE Annual Review, Tensas Parish Jail (Aug – Sept 2002), Bates 18576.

[21] Visitation § III.H.4 (Standards and Procedures: Visits by Family and Friends: Contact Visits).

[22] *See* Visitation, Monitoring Instrument Form.

[23] Comments indicate that contact visits with family are not allowed at several facilities. Comments indicate that contact visits with family are not allowed at several facilities. *See* ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10113; ICE Annual Review, Case County Jail (Sept. 2005), Bates 10419; ICE Annual Review, Cass County Correctional Facility (June 2005), Bates 10253 ("All visits are non-contact"); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13253; ICE Annual Review, Hardin County Correctional Center (Oct. 2005), Bates 1367; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12211; ICE Annual Review, Norcor County Jail (June 2005), Bates 12897; ICE Annual Review, Bedford County Jail (Nov. 2004), Bates 9082; ICE Annual Review, Snyder County Jail (Sept. 2004), Bates 13881; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 14076; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5542.

[24] Visitation § III.B (Standards and Procedures: Notification).

[25] ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9421; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7484; ICE Annual Review, Kern Co. Sheriff's Office, Lerdo Pretrial Facility (Dec. 2004), Bates 4321; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7288; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6394; ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6564; ICE Annual Review, Torrance County Detention Center (June 2004), Bates 13948 (visitation hours not posed in visitation area); ICE Annual Review, Wyoming County Jail (Sept. 2004), Bates 13773 (written visitation rules and hours not made available to visitors); ABA report, York County Prison (July 2004), Bates 8491 (attorney visitation policy not included in handbook); ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11297; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11348; ICE Annual Review, Tensas Parish Jail (Aug. - Sept. 2002), Bates 18576. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Erie Co. Prison (Mar. 2005), Bates 13305; ICE Annual Review, La Paz Co. Jail (Apr. 2005), Bates 1502.

[26] Visitation § III.D (Standards and Procedures: Incoming Property and Money for Detainees).

[27] ICE Annual Review, Chautauqua Co. Jail (Apr. 2005), Bates 10502; ICE Annual Review, Grant Co. Jail (Feb. 2005), Bates 1276; ICE Annual Review, Hudson Co. Dept. of Corrections (Apr. 2005), Bates 528; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16956; ICE Annual Review, Madison Co. Jail (June 2005), Bates 1543; ICE Annual Review, McHenry Co. Jail (Nov. 2005), Bates 1458; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3244; ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1831; ICE Annual Review, Bonneville Co. Jail (June 2004), Bates 9347; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9421; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8160; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7484; ICE Annual Review, Genesee Co. Jail (Nov. 2004), Bates 3432; ICE Annual Review, McHenry Co. Jail (July 2004), Bates 4781; ICE Annual Review, Orleans Parish Community Corrections Center, New Orleans, LA (Sept. 2004), Bates 7288; ICE Annual Review, Regional Correctional Facility (Aug. 2004), Bates 6026; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5779; ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6564; ICE Annual Review, Torrance Co. Detention (June & July 2004), Bates 13947; ICE Annual Review, Williamson Co. Jail (Aug. 2004), Bates 5590; ICE Annual Review, Kenosha Co. Sheriff's Dept. Corrections (May 2003), Bates 18750. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, City of Las Vegas Detention Center (Sept, 2004), Bates 4447; ICE Annual Review, Clay Co. Jail (Sept. 2004), Bates 3745; ICE Annual Review, Mira Loma Detention Facility (Aug. 2005), Bates 2930.

[28] Visitation § III.H.2(d) (Standards and Procedures: Visits by Family and Friends: Persons Allowed to Visit). After 30 days, the standard requires ICE to consider whether to transfer detainees to a facility that does allow minor visitation.

[29] ICE Annual Review, Torrance Co. Detention Center (June 2005), Bates 1794; ICE Annual Review, Garvin Co. Detention Center (Dec. 2004), Bates 3392; ICE Annual Review, Genesee Co. Jail (Nov. 2004), Bates 3432. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Carver Co. Jail (Nov. 2005), Bates 10211; ICE Annual Review, Chase Co. Jail (Sept. 2005), Bates 10419; ICE Annual Review, Dickens Co. Jail (June 2005), Bates 13532; ICE Annual Review, Lin Co. Jail, Cedar Rapids, IA/Culberson Co. Jail (May 2005), Bates 12168; ICE Annual Review, Ozaukee Co. Jail (Oct. 2004), Bates 7380.

[30] ICE Annual Review, Garvin Co. Detention Center (Dec. 2004), Bates 3392 (no minor visitation allowed); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7380 (no minor visitation allowed); ABA report, Ozaukee County Jail (July 2004), Bates 8379 (facility officials confirmed policy in handbook banning visitation by all minors); ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7243 (banning visitation by minors under age sixteen). Other facilities limited visitation to minors who are children or immediate family of the detainee. *See* ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 13714; ICE Annual Review, Pike County Correctional Facility (Dec. 2003), Bates 18332.

[31] Visitation § III.H.5 (Standards and Procedures: Visits by Family and Friends: Visits for Administrative and Disciplinary Segregation Detainees).

[32] Visitation § III.I.12 (Standards and Procedures: Visitation by Legal Representatives and Legal Assistants: Legal Visitation for Detainees in Administrative and Disciplinary Segregation).

[33] *See* Visitation Monitoring Instrument ("Detainees in special housing afforded visitation"). The review form does not distinguish between administrative and disciplinary segregation, nor between legal and general visitation.

[34] ICE Annual Review, El Paso Service Processing Center (Mar. 2005), Bates 11584.

[35] ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11348 (limited visitation hours, without any accommodations); ABA report, Dupage County Jail (July 2003), Bates 17376.

[36] ABA report, Keogh Dwyer Correctional Facility (July 2004), Bates 8478 (noting burdensome process for facility to approve visitors); ABA report, Hudson County Jail (Aug. 2003), Bates 17622; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12445. The standard explicitly does not require visitor lists and allows visitation by immediate and extended family, minors, as well as friends and associates. *See* Visitation § III.H.2 (Standards and Procedures: Visits by Family and Friends: Persons Allowed to Visit).

[37] Visitation § III.O.5 (Standards and Procedures: Other Special Visits: Examinations by Independent Medical Service Providers and Experts).

[38] ICE Annual Review, Macomb Co. Jail (May 2005), Bates 1586; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12938; ICE Annual Review, Polk Co. Jail (May 2005), Bates 3076; ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1832; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10300; ICE Annual Review, Erie Co. Holding Center (Nov. 2004), Bates 4162; ICE Annual Review, Frio Co. Jail (Dec. 2004), Bates 3342; ICE Annual Review, Garvin Co. Detention Center (Dec 2004), Bates 3393; ICE Annual Review, Polk Co. Jail (Mar. 2004), Bates 6103; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5252; ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5815; ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18016; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18480; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18577. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Sussex Co. Jail (Aug 2006), Bates 387; ICE Annual Review, Clay Co. Jail (Sept. 2004), Bates 3746; ICE Annual Review, Genesee Co. Jail (Dec. 2004), Bates 3432; ICE Annual Review, Monroe Co. Jail (July 2005), Bates 2811 (ICE reviewer did not answer question); ICE Annual Review, Nobles Co. Jail (May 2005), Bates 2690; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12094; ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3202; ICE Annual Review, Tensas Parish Detention Center (Aug 2004), Bates 6565.

[39] ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5815.

[40] Visitation § III.L (Non-Government Organization Visitation with Detainees and Tours of Facilities); III.M (Visits from Representatives of Community Service Organizations); III.N (News Media Interviews of Detainees); III.O.1 (Law Enforcement Officials' Visits).

[41] ICE Annual Review, Chatauqua Co. Jail (Apr. 2005), Bates 10503; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12938; ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18795; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18480; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18577. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Howard Co. Detention Center (July 2005), Bates 2333; ICE Annual Review, Bergen Co. Jail (Aug. 2004), Bates 9129; ICE Annual Review, Cayuga Co. Jail (Aug. 2004), Bates 10300; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4068; ICE Annual Review, Ector Co. Correctional Center (Nov. 2004), Bates 4117 (ICE reviewer marked facility as complying with element even though facility indicated compliance with family and legal visitation only); ICE Annual Review, Erie Co. Holding Center (Nov. 2004), Bates 4162; ICE Annual Review, Genesse Co. Jail (Nov. 2004), Bates 3433; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 12259, 13715; ICE Annual Review, Oklahoma Co. Detention Center (Dec. 2004), Bates 12095; ICE Annual Review, Regional Correctional Facility (Albuquerque) (Aug. 2004), Bates 6027; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5780, 14161; ICE Annual Review, Smith Co. Jail (June 2004), Bates 5681, 14103.

[42] *See* Visitation Monitoring Instrument (noting whether or not "Law enforcement officials, requesting to visit with a detainee, are referred to the ICE F eld Office for approval."); ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10503; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 17018; ICE Annual Review, Lin County Jail, Cedar Rapids, IA/Culberson Co. Jail (May 2005), Bates 12169; ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2891; ICE Annual Review, Nobles Co. Jail (May 2005), Bates 2690; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12938; ICE Annual Review, Weber Crawford Co. Jail (Mar. 2005), Bates 13254; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16872; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18480; ICE Annual Review, Tensas Parish Jail (Aug.-Sept. 2002), Bates 18577. In addition, the checklist for the Odessa Detention Center included comments indicating a violation: ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 12259.

[43] *See* Visitation Monitoring Instrument form, noting that "The decision to permit or deny a tour is not delegated below the level of Field Office Director."

[44] ICE Annual Review, Canadian Co. Jail, El Reno, OK (Nov. 2005), Bates 10114; ICE Annual Review, Hardin Co. Correctional Center, (Oct. 2005), Bates 1368; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16957; ICE Annual Review, Minnehaha Co. Jail (June 2005), Bates 2851; ICE Annual Review, Nobles Co. Jail (May 2005), Bates 2690; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4069; ICE Annual Review, Frio Co. Jail (Sept. 2004), Bates 3342; ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18795; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5252; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11459; ICE Annual Review, Worcester Co. Jail (Nov. – Dec. 2004), Bates 5955. In addition, the checklists for this standard for the following facilities were either marked "not applicable" or included comments that indicated a violation: ICE Annual Review, Bexar County GEO Detention Facility (July 2005), Bates 9760; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3245; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 5350, 12259.

[45] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10114.

[46] ABA report, Mira Loma Detention Center (June 2002), Bates 17424. The standard allows legal visitation by attorneys who do not have state bar cards but who can verify with other documentation that they are licensed to practice law. *See* Visitation § III.I.4 (Standards and Procedures: Visits by Legal Representatives and Legal Assistants: Identification of Legal Representatives and Assistants).

[47] *Id.*, Bates 17426–27.

[48] ABA report, Kern County Jail (Aug. 2002), Bates 17473.

[49] *Id.*, Bates 17473–75.

[50] ABA report, Houston Service Processing Center (Jan. 2003), Bates 17566–67.

[51] *Id.*

[52] ABA report, St. Mary's County Detention Center (June 2003), Bates 17604.

[53] *Id.*, Bates 17605.

[54] ABA report, Plymouth County Correctional Facility (June 2003), Bates 17663–64.

[55] *Id.*

[56] ABA report, El Paso Service Processing Center (July 2003), Bates 17503.

[57] ABA report, Middlesex County Jail (July 2003), Bates 17765–66.

[58] ABA report, Monmouth County Correctional Institute (July 2003), Bates 17746, 17748–50.

[59] *Id.*

[60] *Id.*

[61] ABA report, Oakland County Jail (July 2003), Bates 17650–51.

[62] ABA report, Clay County Jail (Aug. 2003), Bates 17691–94.

[63] *Id.*, Bates 17693–94.

[64] *Id.*, Bates 17693.

[65] *Id.*, Bates 17692.

[66] ABA report, Queens Detention Facility (Mar. 2004), Bates 8432–33.

[67] *Id.*, Bates 8434–35.

[68] ABA report, Ozaukee County Jail (July 2004), Bates 8364–66.

[69] ABA report, York County Prison (July 2004), Bates 8492–94.

[70] *Id.*, Bates 8492.

[71] *Id.*, Bates 8494.

[72] ABA report, Bristol County Jail (Aug. 2004), Bates 8236–38.

[73] *Id.*, Bates 8236–37.

[74] *Id.*

[75] ABA report, Colquitt County Jail (Mar. 2005), Bates 8621–22.

[76] ICE Annual Review, Elizabeth Correctional Facility (Sept. 2004), Bates 17344–45; ICE Annual Review, Elizabeth Correctional Facility (Sept. 2003), Bates 11259–61; ICE Annual Review, Elizabeth Correctional Facility (Dec. 2002), Bates 18112–13.

[77] ABA report, Elizabeth Correctional Facility (October 2003), Bates 17718.

[78] ABA report, Bergen County Jail (Aug. 2003), Bates 17360–61.

[79] ABA report, Dodge County Detention Facility (June 2004), Bates 8364, 8637.

[80] *Id.* , Bates 8636-38.

[81] ICE Annual Review, Dodge County Detention Facility (June 2004), Bates 3976–77.

[82] ABA report, Passaic County Jail (July 2004), Bates 8413–15.

[83] ABA report, Passaic County Jail (Aug. 2005), Bates 8551, 8555.

[84] ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 14677–78; ICE Annual Review, Passaic County Jail (June 2005), Bates 14496-97.

[85] ABA report, Dorchester Detention Center (July 2004), Bates 8258–59.

[86] ICE Annual Review, Dorchester Detention Center (Sept. 2004), 4023–24.

[87] ABA report, Santa Ana Detention Facility (July 2004), Bates 8457–58.

[88] ICE Annual Review, Santa Ana Detention Facility (Aug. 2004), Bates 5251–52.

[89] ABA report, Pamunkey Regional Jail (Aug. 2004), Bates 8391–92.

[90] *Id.*

[91] ICE Annual Review, CSC Detention Facility (Sept. 2002), Bates 11527.

[92] ABA report, CSC Detention Facility (May 2002), Bates 17730–31.

[93] *Id.*, Bates 17731.

[94] ICE Annual Review, CSC Detention Facility (July 2003), Bates 11420, 11459.

[95] ICE Annual Review, San Pedro Service Processing Center (Aug. 2005), Bates 12277; ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 12332; ICE Annual Review, San Pedro Service Processing Center (January 2003), Bates 18494; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17857; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18442.

[96] ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18479–80.

[97] ABA report, San Pedro Service Processing Center (Aug. 2005), Bates 8558; ABA report, San Pedro Service Processing Center (July 2003), Bates 1758; ABA report, San Pedro Service Processing Center (Mar. 2002), Bates 17448.

[98] ABA report, San Pedro Service Processing Center (Mar. 2002), Bates 17453–55.

[99] *Id.* Bates 17453.

[100] ABA report, San Pedro Service Processing Center (July 2003), Bates 17583–86.

[101] ABA report, San Pedro Service Processing Center (Aug. 2005), Bates 8562.

[102] ICE Annual Review, Kenosha County Detention Facility (May 2003), Bates 18794–95.

[103] ICE Annual Review, Kenosha County Detention Facility (May 2004), Bates 3647–48.

[104] ABA report, Kenosha County Detention Facility (July 2004), Bates 8283.

[105] ABA report, Clay County Jail (Aug. 2003), Bates 17693–94.

[106] ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3745–46.

[107] ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12609.

[108] UNHCR report, Aguadilla Service Processing Center (May 2005), Bates 8666. UNHCR noted that lack of confidentiality had particularly adverse impacts on asylum-seekers, given their precarious position and need for informed legal advice to pursue a potential claim.

[109] ABA report, Krome Service Processing Center (Apr. 2004), Bates 17048–49.

[110] ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16956.

[111] *See, e.g.*, ABA report, Kern County Jail (Aug. 2002), Bates 17473.

[112] ABA report, Dodge County Detention Facility (June 2004), Bates 8638–39; ABA report, Montgomery County Correctional Facility (July 2004), Bates 8325; ABA report, Ozaukee County Jail (July 2004), Bates 8366; ABA report, York County Prison (July 2004), Bates 8494; ABA report, Corrections Corporation of America (January 2003), Bates 17567; ABA report, Hudson County Jail (Aug. 2003), Bates 17622; ABA report, Middlesex County Jail (July 2003), Bates 17765-66; ABA report, Yuba County Jail (Dec. 2003), Bates 17678-80;. ABA report, Dallas County Jail Systems Facility (Mar. 2002), Bates 17388.

[113] ABA report, Dodge County Detention Facility (June 2004), Bates 8638 (12 adults allowed on detainee visitor list); ABA report, Middlesex County Jail (July 2003), Bates 17765-66 (four persons allowed on detainee visitor list).

## RECREATION

[1] *See* INS Detention Standard: Recreation (hereinafter "Recreation") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/recreat.pdf.

[2] *See* Recreation § III.H (Recreation for Special Management Unit).

[3] Recreation § III.C (Transfer Option Where Only Indoor Recreation is Available).

[4] *See* Recreation § III.B (Recreation Schedule).

[5] *See* Physicians for Human Rights and the Bellevue/NYU Survivors of Torture Program, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (advance copy, June 2003), available from www.pegc.us/archive/Organizations/PHR_detention.pdf (last visited Mar. 25, 2009).

[6] *See* Recreation § III.G (Program Content).

[7] *See* Recreation § III.F (Recreation Specialist).

[8] Recreation § III.C (Transfer Option Where Only Indoor Recreation Is Available) at 1.

[9] *Id.* at 3.

[10] *See* Recreation § III.G (Program Content).

[11] *See* Recreation § III.H (Recreation For Special Management Unit (SMU)).

[12] Recreation § III.I (Volunteer Program Involvement).

[13] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[14] Recreation § I (Policy).

[15] UNHCR report, Racine County Jail (Aug. 2001), Bates 18864–65. It is unclear if this problem was corrected as the government did not produce a subsequent ICE review for Racine County Jail in the discovery mandated under the *Orantes* case.

[16] *Id.*

[17] *See* Recreation § III.A (Requirements for Recreation).

[18] Recreation § III.B (Recreation Schedule).

[19] ICE Annual Review, Christian County Jail (Sept. 2005), Bates 9596–97; ICE Annual Review, Cass County Jail (July 2005), Bates 10249; ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13249–50; ICE Annual Review, Dodge County Detention Center (June 2004), Bates 3972–73; ICE Annual Review, Hampton Roads Regional Jail (Jan. 2005), Bates 2447–48; ICE Annual Review, Hardin County Correctional Center (Oct. 2005), Bates 1363–64; ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4280–81; ICE Annual Review, Linn County Jail (May 2005), Bates 12164–65; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1454–55; ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5070–71; ICE Annual Review, Morgan County Adult Detention Center (May 2004), Bates 11887–88; ICE Annual Review, Oakland City Jail (Mar. 2005), Bates 2246–47; ICE Annual Review, Pennington County Jail (Aug.-Sept. 2005), Bates 3004–05; ICE Annual Review, Phelps County Jail (May 2005), Bates 2004–05; ICE Annual Review, Sherburne County Jail (Nov. 2005), Bates 13017–18; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4064–65; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3388–89; ICE Annual Review, Madison County Jail (July 2004), Bates 4587–88; ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6101–02.

[20] ICE Annual Review, Lin County Jail (May 2005), Bates 12164–65; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3388–89; ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4280–81; ICE Annual Review, Morgan County Adult Detention Center (May 2004), Bates 11887–88.

[21] ICE Annual Review, Dodge County Detention Center (May 2005), Bates 13563–64; ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2005), Bates 839–40; ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2846–47; ICE Annual Review, Morgan County Adult Detention Center (May 2005), Bates 1621–22.

[22] ICE Annual Review, Chase County Jail (Sept. 2005), Bates 10415–16.

[23] Recreation § III.C (Transfer Option Where Only Indoor Recreation Is Available).

[24] *Id.*

[25] ICE Annual Review, Cass County Jail (July 2005), Bates 10249; ICE Annual Review, Phelps County Jail (May 2005), Bates 2004–05; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4064–65; UNHCR report, George Allen Jail (Oct. 2001), Bates 17785; UNHCR report, McHenry County Jail (Aug. 2001), Bates 18874.

[26] Recreation § III.A (Requirements for Recreation) at 1 (noting, however, that an indoor recreation room of this kind "does not meet the requirement for outdoor recreation").

[27] *Id.*

[28] *Id.*

[29] ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10498–99; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8156–57; ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9380–81; ICE Annual Review, Orleans County Jail (June 2004), Bates 7331–32; ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 934–35; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18475–76; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11521–22.

[30] ABA report, York Correctional Institution (Nov. 2003), Bates 17529.

[31] ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10498–99; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8156–57; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11521–22).

[32] ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18475–76.

[33] Recreation § III.B (Recreation Schedule).

[34] *Id.*

[35] *Id.*

[36] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10109–10 (less than one hour per day, five days a week); ICE Annual Review, Cass County Jail (July 2005), Bates 10109–10 (opportunity to participate in indoor recreation Monday-Friday; not on weekends); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13249–50 (no set schedule); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3240–41 (three hours a week); ICE Annual Review, Park County Jail (May 2005), Bates 796–97 (15 minutes outside, 45 minutes inside daily); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2639–40 (detainees rotated through recreation yard 4 times per week for 2 hours, but not every day); ICE Annual Review, Blount County Jail (Aug. 2004), Bates 9298–99 (three days a week); ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3741–42 (3 hours per week); ICE Annual Review, Dickens County Correctional Facility (June 2004), Bates 4241 (3 hours per week); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4019–20 (7 days a week but only 2 days outdoors); ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6088, 6101 (one hour of recreation, five times per week not possible in main jail, only in interim jail); ICE Annual Review, Smith County Jail (June 2004), Bates 5676–77 (three hours per week); ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6650–51 (3-4 times per week); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5538–39 (3 hours per week); ICE Annual Review, Yuba County Jail (Aug. 2004), Bates 5484–85 (detainees rotated through recreation yard 4 times per week for 2 hours, but not every day); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54 (detainees have opportunity to participate in daily recreation, but not always for an hour, according to log book); ICE Annual Review, Torrance County Correctional Facility (July-Aug. 2003), Bates 17964–65 (5 days per week "per ACA complaint"); ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11521–22 (no set schedule).

[37] ICE Annual Review, Cass County Jail (July 2005), Bates 10249–50; ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13249–50; ICE Annual Review, Park County Jail (May 2005), Bates 796–97; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2639–40; ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4019–20; ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6088, 6101; ICE Annual Review, Yuba County Jail (Aug. 2004), Bates 5484–85; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54; ICE Annual Review, Torrance County Correctional Facility (July-Aug. 2003), Bates 17964–65; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11521–22); ICE Annual Review, Torrance County Correctional Facility (June 2002), Bates 17922–23.

[38] ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3240–41; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3741–42; ICE Annual Review, Dickens County Correctional Facility (June 2004), Bates 4241; ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4019–20; ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6088, 6101; ICE Annual Review, Smith County Jail (June 2004), Bates 5676–77; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11454.

[39] ABA report, Passaic County Jail (Aug. 2005), Bates 8538–39 (5 days of outdoor and 2 days of indoor recreation per week, according to staff; however, detainees report that recreation is rarely available and is not rescheduled when cancelled for inclement weather); ABA report, San Pedro Service Processing Center (Aug. 2005), Bates 8571 (recreation available only 45 minutes per day, according to detainees); ABA report, Dorchester County Detention Center (July 2004), Bates 8266–67 (7 days per week but only 2 days outdoors); ABA report, Mira Loma Detention Center (July 2004), Bates 8309–10 ("yard time" twice a day for 40 minutes, but schedule is unpredictable and often cancelled); ABA report, Osborn Correctional Institution (May 2004), Bates 8350 (officially 1 hour daily, but closer to 45 minutes, according to detainees); ABA report, Passaic County Jail (July 2004), Bates, 8422 (detainees reported receiving half an hour of indoor recreation twice a week and half an hour of outdoor recreation three times a week; after waiting to sign in, detainees received only 20 minutes of recreation time); ABA report, Sussex County Jail (a/k/a Keogh Dwyer Correctional Facility) (July 2004), Bates 8486 (45 minutes-1 hour, 5 days per week); UNHCR report, Tangipahoa Parish Jail (May 2004), Bates 21860 (1 hour/day according to deputy sheriff; 30-60 minutes/week, according to detainees); NGO/ICE delegation, Turner Guilford Knight Correctional Facility (a/k/a TGK Detention Facility) (Jan. 2004), Bates 14378–80 (3 times per week for 45 minutes, plus additional time as a result of Florida Immigrant Advocacy Center's advocacy); UNHCR report, McHenry County Jail (Sept. 2003), Bates 17829–33 (no set schedule; times determined by officers; recreation available only upon request and limited to 30 minutes per day); UNHCR report, Ozaukee County Jail (Sept. 2003), Bates 17843 (amount of times depends on where detainees are housed; 2-5 hours/week); ABA report, Plymouth County Correctional Facility (June 2003), Bates 17671–72 (detainees reported that recreation had been cancelled a number of times in the last month); ABA report, York Correctional Institution (Nov. 2003), Bates 17529 (45 minutes, 5 days per week); ABA report, Yuba County Jail (Dec. 2003), Bates 17684–85 (detainees rotated through recreation yard 4 times per week for 2 hours, but not every day); UNHCR report, ACI-Cranston Intake Service Center (May 2002), Bates 17404 (recreation allowed every third day; ABA report, CSC Detention Facility (May 2002), Bates 17738–39 (amount of time depends on the day and guard on duty); ABA report, Dallas County Jail System Facility (Mar. 2002), Bates 17393 (one hour Monday-Friday indoors); ABA report, Kern County Jail (Aug. 2002), Bates 17485–87 (schedule provides for 3 hours per week, but staff reported 1.5-2 hours, 2 times per week; detainees reported 1 time per week, if at all; 4 hours in 11 days; depending on the officer on duty); ABA report, Mira Loma Detention Center (June 2002), Bates 17418 (recreation time is lost waiting in line for store, retrieving money, etc.); ABA report, Santa Ana Detention Facility (Oct. 2002), Bates 17517–18 (detainees reported recreation time is limited because criminals and noncriminals must split time; extended lockdowns for 72 hours because of staff shortages); Torrance County Correctional Facility (June 2002), Bates 17922–23 (5 days per week "per ACA complaint"); ABA report, Wackenhut Corrections Corp. (Apr. 2002), Bates 17641–42 (some detainees do not have outdoor recreation access every day); UNHCR report, Denton County Detention Center (Oct. 2001), Bates 17792–93 (1 hour, 3 times per week); UNHCR report, George Allen Jail (Oct. 2001), Bates 17785 (1 hour, 5 days a week indoors); UNHCR report, Grayson County Jail (Oct. 2001), Bates 17797 (3 times a week for 1 hour); UNHCR report, Navarro County Detention Center (Oct. 2001), Bates 17802 (three times a week, 45-60 minutes; recreation time depends on officers' schedules; reported no recreation for 5-6 days); UNHCR report, Piedmont Regional Jail (July 2001), Bates 18892–96 (policy allows 30-45 minutes per day of outdoor recreation, but detainees reported 1-2 sessions per week); UNHCR report, Tangipahoa Parish Jail (Apr. 2001), Bates 18889 (1 hour, 3 times per week according to staff; only one hour in last month, according to detainee); UNHCR report, Tri-County Detention Center (Aug. 2001), Bates 18869 (no schedule, recreation determined by officers on duty; detainees complained no outdoor recreation for one month because of bad weather (heat/mud/rain) and short staff).

[40] *See* Recreation § III.B (Recreation Schedule).

[41] ABA report, Bristol County House of Correction (Aug. 2004), Bates 8248; ABA report, Dorchester County Detention Center (July 2004), Bates 8266–67; ABA report, Osborn Correctional Institution (May 2004), Bates 8351; ABA report, Corrections Corporation of America (Jan. 2003), Bates 17573; ABA report, Elizabeth Detention Center (Oct. 2003), Bates 17721–22; UNHCR report, ACI-Cranston Intake Service Center (May 2002), Bates 17413.

[42] *See* Recreation § III.G (Program Content).

[43] *Id.*

[44] *See Id.*

[45] ICE Annual Review (Headquarters), Macomb County Sheriff's Department (Mar. 2004), Bates 4543 (board games be brought from outside or purchased at facility); ICE Annual Review, Madison County Jail (July 2004), Bates 4587–88 (no equipment except rubber balls); ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4280–81; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6456–57.

[46] ABA report, Aurora Contract Detention Facility (Sept. 2004), Bates 8231 (equipment worn down, broken, or dangerous to use); ABA report, Berks County Prison (July 2004), Bates 16610 (broken equipment); ABA report, Bristol County House of Correction (Aug. 2004), Bates 8248 (no outdoor equipment except a few game balls; most books in English); NGO/ICE delegation visit, Comfort Suites Hotel (Jan. 2004), Bates 14381 (no toys or crayons for children); ABA report, Dodge County Detention Center (June 2004), Bates 8647 (no cardiovascular or muscular exercise equipment); ABA report, Dorchester County Detention Center (July 2004), Bates 8266 (no weights or exercise equipment); ABA report, Kenosha County Detention Center (July 2004), Bates 8286–87 (gym contains no equipment); ABA report, York County Prison (July 2004), Bates 8504–05 (balls not firm enough to play real games; no cardio equipment; only weight machines in some areas); ABA report, Clay County Jail (Aug. 2003), Bates 17706 (no recreation equipment of any kind); ABA report, Plymouth County Correction Facility (June 2003), Bates 17671 (no recreation equipment); ABA report, Yuba County Jail (Dec. 2003), Bates 17685 (no exercise equipment); UNHCR report, ACI-Cranston Intake Service Center (May 2002), Bates 17413 (basketball nets only; few books or games); UNHCR report, Comfort Suites Hotel (Dec. 2002), Bates 17814–18 (no toys or crayons for children); ABA report, Dallas County Jail System Facility (Mar. 2002),

Bates 17393 (ping-pong table broken; no free weights); ABA report, Kern County Jail (Aug. 2002), Bates 17487 (few pleasure books available are extremely old).

[47] ABA report, Passaic County Jail (Aug. 2005), Bates 8538–39; ABA report, Bristol County House of Correction (Aug. 2004), Bates 8248 (too confining for anything but in-place exercise); ABA report, Dodge County Detention Center (June 2004), Bates 8647 (no exposure to natural light); ICE Annual Review, Orleans Parish Community Corrections Center (Sept.-Oct. 2004), Bates 7480–81; ABA report, Pamunkey Regional Jail (Aug. 2004), Bates 8405 (too small for running or jogging); ABA report, Santa Ana Detention Facility (July 2004), Bates 8465–66 (small area without much direct sunlight); ICE Annual Review, Smith County Jail (June 2004), Bates 5676–77; UNHCR report, Tangipahoa Parish Jail (May 2004), Bates 21860 (small concrete area); NGO/ICE delegation visit, Turner Guilford Knight Correctional Center (Jan. 2004), Bates 14378–80 (small, restrictive area); ABA report, Clay County Jail (Aug. 2003), Bates 177704–06; ABA report, Elizabeth Detention Center (Oct. 2003), Bates 17721–22; ABA report, Oakland City Jail (July 2003), Bates 17656 (no windows facing outside in indoor recreation area); ABA annual review, Plymouth County Correction Facility (June 2003), Bates 17671–72 (too small); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54; ABA report, Yuba County Jail (Dec. 2003), Bates 17684–85 (detainees locked on roof with no bathroom access); ABA report, CSC Detention Facility (May 2002), Bates 17738–39 (detainees not given proper jackets so often choose to remain indoors during recreation); Bates 17704–06 (no access to sunlight, water); ABA report, Kern County Jail (Aug. 2002), Bates 17486–87 (too small); ABA annual review, Santa Ana Detention Facility (Oct. 2002), Bates 17518 (small area without much direct sunlight); ABA report, Wackenhut Corrections Corp. (Apr. 2002), Bates 17641–42 (small, crowded area); ABA report, Elizabeth Detention Center (July 2001), Bates 18837–38; UNHCR report, Tangipahoa Parish Jail (Apr. 2001), Bates 18889 (small concrete area).

[48] ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12893–94 (no outdoor sports); ABA report, Kenosha County Detention Center (July 2004),Bates 8286–87; ABA report, Montgomery County Correctional Facility (July 2004), Bates 8337 (only allowed to walk around outdoor area); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6456–57 (detainees allowed to play sock ball or walk around recreation area); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54.

[49] ABA report, Kenosha County Detention Center (Sept. 2005), Bates 8598–99 (female detainees have no access to outdoor recreation); ABA report, Bristol County House of Correction (Aug. 2004), Bates 8248; ABA report, Kenosha County Detention Center (July 2004), Bates 8286–87 (female detainees have no access to outdoor recreation); UNHCR report, Kenosha County Detention Center (Sept. 2003), Bates 17839 (female detainees have no access to outdoor recreation); ABA report, ABA report, Wackenhut Corrections Corp. (Apr. 2002), Bates 17641–42.

[50] *See* Recreation § III.H (Recreation for Special Management Unit (SMU)).

[51] *Id.* For detainees in administrative segregation or protective custody and special needs detainees, recreation may only be denied on a finding that the detainee poses an "immediate and serious threat" to himself or others. *Id.* For detainees in disciplinary segregation, privileges may be denied temporarily on a finding that the detainee poses an "unreasonable risk" to himself or others. *Id.*

[52] *Id.*

[53] *Id.*

[54] ICE Annual Review, Batavia Service Processing Center (May 2005), Bates 10810–11; ICE Annual Review, Carver County Jail (Nov. 2005), Bates 10207–08; ICE Annual Review, Morrison County Jail (Sept. 2004), Bates 11936–37 (only upon request by detainee); ICE Annual Review, Saline County Jail (Aug.-Sept. 2004), Bates 7074–75 (no explanation if reason is discipline or security; administrative segregation detainees receive explanation only if appealed).

[55] *Id.*

[56] ICE Annual Review, Krome Service Processing Center (February 2005), Bates 16753–54; ICE Annual Review, Mini-Cassia Criminal Justice Center (June 2004), Bates 5023–24; ICE Annual Review, Mira Loma Detention Center (July 2004), Bates 5120–21; ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7189–90; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18790–91.

[57] *See* Recreation § III.G (Program Content).

[58] ICE Annual Review, Bonneville County Jail (May 2005), Bates 9837–38; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10295–96; ICE Annual Review, Buffalo Federal Detention Facility (May 2003), Bates 18059–60; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453–54 (staff are inside in corridors while detainees recreate outdoors; potential for escape); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2407–08; ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4019–20.

[59] ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4019–20.

[60] Memo from County Sheriff's Office re: Plans of Action, Aguadilla Service Processing Center (Mar. 2004), Bates 10639; ICE Annual Review, CCA Silverdale (Dec. 2004), Bates 5713–14.

[61] ICE Annual Review, St. Mary's County Detention Center (July 2005), Bates 1745–46; ICE Annual Review, Orleans Parish Community Corrections Center (Sept.-Oct. 2004), Bates 7480–81; ICE Annual Review, Smith County Jail (June 2004), Bates 5676–77.

[62] ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3388–89; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11453-11454.

[63] ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18791.

[64] *Id.*, Bates 18790.

[65] UNHCR report, Kenosha Co. Detention Center (Sept. 2003), Bates 17839.

[66] *Id.*

[67] ICE Annual Review, Kenosha Co. Detention Center (May 2004), Bates 3644 (notably, the checklist's failure to separately request information regarding male and female access may have contributed to this oversight).

[68] ABA report, Kenosha Co. Detention Center (July 2004), Bates 8287.

[69] *Id.*, Bates 8286–87.

[70] ICE Annual Review, Kenosha Co. Detention Center (June 2005), Bates 2289.

[71] ABA report, Kenosha Co. Detention Center (Sept. 2005), Bates 8598.

[72] ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 14675.

[73] *Id.*, Bates 14676.

[74] ABA report, Passaic County Jail (July 2004), Bates 8422.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] ICE Annual Review, Passaic County Jail (June 2005), Bates 14493.

[79] ABA report, Passaic County Jail (Aug. 2005), Bates 8538.

[80] *Id.*

[81] *Id.*

[82] *Id.*, Bates 8538–39.

[83] ICE Annual Review, Dodge County Detention Center (June 2004), Bates 3972.

[84] *Id.*, Bates 3973.

[85] *Id.*, Bates 3945.

[86] ABA report, Dodge Co. Detention Center (June 2004), Bates 8647.

[87] ICE Annual Review, Dorchester Co. Detention Center (Sept. 2004), Bates 4019.

[88] *Id.*

[89] *Id.*, Bates 4020.

[90] *Id.*

[91] *Id.*, Bates 8267.

[92] *Id.*

[93] ABA report, Dorchester Co. Detention Center (July 2004), Bates 8266.

[94] ICE Annual Review, Santa Ana Detention Facility (Aug. 2004), Bates 11057.

[95] *Id.*, Bates 11058.

[96] ABA report, Santa Ana Detention Facility (July 2004), Bates 8465.

## TELEPHONE ACCESS

[1] INS Detention Standard: Telephone Access (hereinafter "Telephone Access") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/telephone.pdf.

[2] Telephone Access § III.B (Standards and Procedures: Detainee Notification).

[3] Telephone Access § III.C & D (Standards and Procedures: Numbers of Telephones, and Telephone Maintenance).

[4] Telephone Access § III.E (Standards and Procedures: Direct Calls and Free Calls).

[5] *Id.*

[6] Telephone Access § III.J (Standards and Procedures: Privacy for Telephone Calls on Legal Matters).

[7] Telephone Access § III.H (Standards and Procedures: Inter-facility Telephone Calls). The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[8] Telephone Access § III.I (Standards and Procedures: Incoming Calls).

[9] Telephone Access § III.G (Standards and Procedures: Telephone Privileges in the Special Management Unit).

[10] *Id.*

[11] ICE Annual Review, Dale G. Haile Detention Center (Sept. 2005), Bates 13251; ICE Annual Review, Finney County Jail (June 2005), Bates 13391 (not marked as violation, but noncompliance with standard indicated by remarks); ICE Annual Review, Harris County Jail, (Mar. 2005) Bates 2409; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 14627; ICE Annual Review, Josephine County Jail (May 2005), Bates 1105; ICE Annual Review, Madison County Jail (Sept. 2005) Bates 1541; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1456; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 11842 (reviewer noted that rules are posted "usually if not removed by detainees"); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12816 (rules not posted); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3242; ICE Annual Review, Orleans County Jail (June 2005), Bates 12935; ICE Annual Review, Park County Jail (May 2005), Bates 798; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3152; ICE Annual Review, St. Francois County Detention Center (May-June 2005), Bates 13063 (not marked as violation, but noncompliance with standard indicated by remarks); ICE Annual Review, Twin Falls Criminal Justice Facility (Aug. 2005), Bates 12976; ICE Annual Review, Audrain County Detention Center (May 2004), Bates 7774; ICE Annual Review, Blount County Jail, (Aug. 2004), Bates 9300; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9419; ICE Annual Review, Carbon County Correctional Facility (May 2004), Bates 9500, 9532; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4445; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3743; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10297; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8158; ICE Annual Review, Dickens County Correctional Center (June 2004), Bates 4241; ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4021 (reviewer incorrectly checked "N/A" for this standard because the policy is in the detainee handbook); ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4159 (rules only provided in the detainee handbook); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3430; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4545; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11990; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12043; ICE Annual Review, Orleans County Jail (June 2004), Bates 7333; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6392; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6458; ICE Annual Review, Pottawattami County Jail (July 2004), Bates 6068; ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7241 (rules are only provided in detainee handbook; reviewer marked this as "Acceptable"); ICE Annual Review, Saline County Jail (Aug. 2004-Sept. 2004), Bates 7076; ICE Annual Review, Smith County Jail (June 2004), Bates 5678; ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 936 (reviewer incorrectly marked "N/A"); ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6562; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7432; ICE Annual Review, Wyoming County Jail, (Aug. 2004), Bates 5438 (rules only provided in detainee handbook); ICE Annual Review, York County Prison (Dec. 2004), Bates 5271, 5297–98 (rules only provided in the detainee handbook; reviewer incorrectly marked this as "acceptable"); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11420, 11456; ICE Annual Review, El Paso Service Processing Center, (June 2002), Bates 12443.

[12] ABA report, Berks County Prison (July 2004), Bates 15872; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11420, 11456.

[13] ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12816 (rules not posted); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11990; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3242; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12043; ICE Annual Review, Orleans County Jail (June 2005), Bates 12935; ICE Annual Review, Orleans County Jail (June 2004), Bates 7333; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3152; ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7241; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11420, 11456; ABA Report, Seattle Contract Detention Center, (May 2002), Bates 17732.

[14] ICE Annual Review, Kenosha County Detention (June 2005), Bates 2282; ICE Annual Review, Lincoln County Jail (June 2005), Bates 2509–23; ICE Annual Review, Mecklenburg County Jail (Apr. 2005), Bates 1058 (does not address high-demand periods); ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2946–56 (does not describe direct/free calls or emergency calls); ICE Annual Review, Park County Jail (May 2005), Bates 798 (detainees not made aware of the facility's telephone access policy upon admittance); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2633 (no description at all in handbook); ICE Annual Review, Berks County Prison (July 2004), Bates 9202 (emergency calls and message system not described); ICE Annual Review, Calcasieu Center (June 2004), Bates 9408; ICE Annual Review, Finney County Jail (May 2004), Bates 4229 (emergency calls and message system not described); ICE

Annual Review, Kern County Sheriffs' Office Lerdo pretrial Facility (Dec. 2004), Bates 4310 (no description at all in handbook); ICE Annual Review, Mecklenburg County Jail (Apr. 2004), Bates 4856–58 (no procedure for emergency calls, message system, or high-demand periods); ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5140, 5157–59 (does not describe direct/free calls, emergency calls, or message system); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11979 (ability to receive emergency messages not covered); ICE Annual Review, Pettis County Jail (June 2004), Bates 6447 (entire "handbook" is only two pages long); ICE Annual Review, Smith County Jail (June 2004), Bates 5667; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12458.

[15] ICE Annual Review, Mecklenburg County Jail (Apr. 2005), Bates 1058; ICE Annual Review, Mecklenburg County Jail (Apr. 2004), Bates 4856–58; ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2946–56; ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5140, 5157–59; UNHCR Report, Pamunkey Regional Jail (Aug. 2005), Bates 8678 (detainees unaware of ability to make free calls to legal service providers).

[16] ICE Annual Review, Macomb County Sheriff's Department (May 2005), Bates 1583 (English only); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12816 (reviewer indicated that there was no "significant language" aside from English spoken at the facility); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1747 (English only); ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3743 (facility stated it was in the process of translating rules into Spanish); ICE Annual Review, Dorchester County Detention Center, (Sept. - Oct. 2004), Bates 4033 (English only); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3595; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4545 (English only); ICE Annual Review, North Las Vegas detention Center (July 2004), Bates 12043 (information given in other languages by AT&T phone line "in case of emergencies"); ICE Annual Review, Smith County Jail (June 2004), Bates 5678 (English only); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7432–33 (Chinese and Creole only); ICE Annual Review, Seattle Contract Detention Center (July2003), Bates 11456.

[17] *Id.;* ICE Annual Review, Macomb County Sheriff's Department (May 2005), Bates 1583; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4545.

[18] ABA Report, Passaic County Jail (July 2004), Bates 8416 (no instructions for illiterate or non–English speakers).

[19] ICE Annual Review, Krome Services Processing Center (Feb. 2005), Bates 17015–16 (no privacy panels; phones located under televisions, making it difficult to have a conversation or any privacy; repeat violation from prior year); ICE Annual Review, Lin County Jail Cedar Rapids (May 2005), Bates 12140; 12166 (no privacy barriers); ICE Annual Review, Oakland City Jail (Mar. 2005), Bates 2248 (detainees have to request private calls); ICE Annual Review, Polk County Jail (May 2005), Bates 3073 (phones are close together and no privacy panels are set up); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2641 (no privacy on phone used for collect and debit call cards); ICE Annual Review, City of Las Vegas Detention Center, (Sept. 2004), Bates 4445 (no privacy as phone located in center of day room, but this element was marked acceptable); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7023–24, 7482 (requests must be made through caseworker for private calls); ICE Annual Review, Dickens County Correctional Facility (June 2004), Bates 4241 (no privacy in housing areas); ICE Annual Review, Keogh Dwyer Correctional Facility (Aug. 2004), Bates 384–85 (detainees must request private calls through caseworker); ICE Annual Review, Berks County Prison (July 2004), Bates 15304 (phones are in common areas of day rooms); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12043–44 (no privacy in housing areas); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 2848; 5249 (reviewer indicated that privacy was adequate because "officers do not eavesdrop" even though the phones are located in common areas where staff and detainees could hear private legal conversations.); ICE Review (July 2004), Tangipahoa Parish Jail (Aug. 2004), Bates 143 (no privacy for calls to a legal representatives or consulates; these calls must be made in presence of a staff member); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11313, 11346, 16869, 16910–11 (no privacy in housing areas privacy panels are insufficient and telephones are located under televisions, making it difficult to have a conversation and detainees must squat to use the telephones); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11524 (no privacy at all).

[20] ABA report, Kenosha County Detention Facility, (Sept. 2005), Bates 8588 (no privacy in housing areas); ABA Report, Passaic County Jail (Aug. 2005), Bates 8417, 8530 (no privacy in housing areas, resulting in physical altercations); ABA Report, San Pedro Service Processing Center (Aug. 2005), Bates 8565 (no privacy in housing areas); ABA Report, Aurora Contract Detention Facility (Sept. 2004) Bates 8223-27 (no privacy for legal calls); ABA Report, Bristol County Jail, (Aug. 2004), Bates 8225–26, 8239–41 (no privacy on calls; telephones located in open areas; no privacy panels); ABA Report, Dodge County Detention Facility (June 2004), Bates 8640 (no privacy in housing areas); ABA Report, Dorchester Detention Center (July 2004), Bates 8260 (no privacy in housing areas); ABA Report, Ozaukee County Jail (July 2004), Bates 8369; ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8396–98 (no privacy on calls, including those from lawyers); ABA Report, Passaic County Jail (July 2004); ABA report, Queens Detention Center (Mar. 2004), Bates 8437 (no privacy in housing areas); ABA Report, York County Prison (July 2004), Bates 8491 (no privacy for legal calls); ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17665 (no privacy in housing areas); ABA Report, ACI Cranston Intake Services Center (May 2002), Bates 17408 (no privacy); UNHCR Report, Piedmont Regional Jail (July 2001), Bates 18823 (no privacy; calls rushed). The ABA found privacy violations two years in a row at the Passaic facility.

[21] ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16954 (no procedure for detainees having trouble making private calls; a deaf/mute detainee was unable to place a private legal call due to a lack of equipment); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5249 (requests are handled on a case-by-case basis, no set procedure); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11524 (no procedure for detainees having trouble making private calls); ABA report, Berks County Prison (July 2004), Bates 15873 (no procedure for a detainee to request an unmonitored call to court, legal representative, or attorney).

[22] ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13197 (no notice when calls are monitored; not marked as violation, but noncompliance with standard indicated by remarks on review form); ICE Annual Review, Grant County Jail (Feb. 2005), Bates 1275 (no notice posted by phones); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7023–24 (no notice that calls are monitored); ICE Annual Review, Keogh-Dwyer Correctional Facility (Sussex County Jail) (Aug. 2004), Bates 385 (facility does not post a notice when calls are monitored); ICE Annual Review, Penobscot County Jail (Mar. 2004), Bates 6480 (reviewer incorrectly checked this standard as "N/A" because the calls were "recorded but not monitored"); ICE Annual Review, El Paso Services Processing Center (June 2002), Bates 12444 (no notice when calls are monitored); ABA report, Berks County Prison (July 2004), Bates 15873 (detainee calls monitored but no notice posted; no procedure for a detainee to request an unmonitored call to court, legal representative, or attorney).

[23] ABA Report, Bristol County Jail (Aug. 2004), Bates 8239 (all calls are monitored); ICE Annual Review, North Las Vegas Detention Center (June 2004), Bates 12044 (all calls, including special access calls, are monitored); Pamunkey Regional Jail (Aug.

2004), Bates 8397–98 (all calls are monitored).

[24] ICE Annual Review, Dickens County Jail (June 2005), Bates 13530 (special access calls are not free; not marked as violation, but noncompliance with indicated by remarks); ICE Annual Review, Finney County Jail (June 2005), Bates 13391 (special access calls permitted only for emergencies; not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 11842 (special access calls permitted only on case-by-case basis); ICE Annual Review, Northern Oregon Correctional Center, (June 2005), Bates 12895 (restrictions are placed on calls to legal services providers on approved list); ICE Annual Review, Polk County Jail (May 2005), Bates 3073 (special access calls are not free); ICE Response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 143 (no system for free calls); ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11700 (no free calls to legal services providers); ICE Annual Review, Plaquemines Parish Detention Center (Aug. 2004), Bates 995–99 (phone system does not allow for calls to consulates, courts, and free legal assistance providers); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11059 (special access calls permitted only on case-by-case basis); ICE Annual Review, West Carroll Detention (Sept. 2004), Bates 13905 (no policy or procedure for special access calls; calls are not free); ICE Annual Review, Worcester County Jail (Nov. - Dec. 2004), Bates 5952 (no free special access calls); ICE Annual Review, Yakima County Jail, (Dec. 2004), Bates 13838 (special access calls permitted on a case-by-case basis; not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18807–08 (requests for free calls to Immigration Court, consulates, and pro bono legal service providers frequently take up to one month).

[25] UNHCR Report, Aguadilla Service Processing Center and Guaynaba Metropolitan Detention Center (Aug. 2005), Bates 8663 (detainees unable to place collect calls to a free legal service provider; notice in handbook saying no free legal service providers; unable to contact consulates or attorneys, despite repeated verbal and written requests); ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8588 (detainee unable to call lawyer who did not accept collect calls); UNHCR Report, Pamunkey Regional Jail (Aug. 2005), Bates 8678 (detainee reported that they were unaware they could make free or direct calls and that phone access codes did not work); ABA Report, Aurora Contract Detention Facility (Sept. 2004) Bates 8223–27 (indigent detainees not permitted free phone access for legal services calls; only one local legal call per day, by special request; no free calls to find counsel); ABA Report, Berks County Prison (July 2004), Bates 15871 (only one call during first four days in jail allowed); ABA Report, Bristol County Jail (Aug. 2004), Bates 8239, 8241 (only collect or domestic calls); ABA Report, Dodge County Detention Facility, (June 2004), Bates 8640 (collect calls only; improving phone access "not a priority"); ABA Report, Dorchester Detention Center (July 2004), Bates 8260 (no free emergency calls); ABA Report, Montgomery County Correctional Facility, (July 2004), Bates 8329 (no free emergency calls); ABA Report, Osborn Correctional Institution (July 2004), Bates 8347 (calls to attorneys limited to two per month); ABA Report, Ozaukee County Jail (July 2004), Bates 8368–69 (only domestic collect calls, with exception of free legal services numbers; no incoming calls); ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8395 (no calling cards for purchase; no international calls); ABA Report, Passaic County Jail (July 2004), Bates 8416 (no collect calls unless recipient has Verizon phone service); UNHCR Report, Tangipahoa Parish Prison (May 2004), Bates 8696 (ABA unable to place collect call from facility to DC office); ABA Report, York County Prison (July 2004), Bates 8491 (no free direct calls to legal representatives); ABA Report, DuPage County Jail (July 2003), Bates 17377, 17383 (collect calls only; no incoming calls; preprogrammed phone system allowing free calls not installed); ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17665 (limited to collect calls, unable to reach consulate for four months); ABA report, ACI Cranston Intake Service Center (May 2002), Bates 17405, 17408 (only collect calls and only after receiving a PIN number, which took a month or longer; calls allowed only to preapproved numbers; no free calls to court or consulate); ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17558–59 (no ability to make any free calls; no plans to implement a phone system in accordance with the standard); UNHCR Report, Piedmont Regional Jail (July 2001), Bates 18818–19 (no procedure for free calls to legal service providers, courts, or consulates); UNHCR Report Rappahannock Regional Jail (July 2001), Bates 18826 (collect calls only).

[26] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10111; ICE Annual Review, Carver County Jail (Nov. 2005), Bates 10209; ICE Annual Review, Charleston County Detention Center (May 2005), Bates 10379; ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13196 (no provision for these calls); ICE Annual Review, Dickens County Jail (June 2005), Bates 13530; ICE Annual Review, El Centro Processing Center (July 2005), Bates 11842; ICE Annual Review, Finney County Jail, (June 2005), Bates 13391 (allowed only for emergencies; not marked as violation, but noncompliance with standard indicated by remarks); ICE Annual Review, Grant County Jail (Feb. 2005), Bates 1274 (calls only allowed in emergencies); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2409; ICE Annual Review, Macomb County Jail (May 2005), Bates 1583; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1456; ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2005), Bates 1065; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12210 (reviewer wrote "never been an issue?," indicating a question as to whether arrangements could be made for such calls); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12816 (no provision for these calls); ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3199 (reviewer marked this "not applicable" and wrote "No history exists of this." There is no indication of whether appropriate provisions exist.); ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7976; ICE Annual Review, Chase County Jail (July 2004), Bates 8067 (detainees are allowed to call family members only in emergencies and only from the ICE office); ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3743; ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3895 (no policy in place); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7482; ICE Annual Review, Garvin County Detention Facility (Dec. 2004), Bates 3390; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4545; ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4867; ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5025; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11990; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6392 (calls are not allowed because of security concerns); ICE Annual Review, Regional Correctional Facility (Albuquerque) (Aug. 2004), Bates 6024 (detainees can make calls to immediate family members in other facilities only if ICE makes a request to the facility); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7191 (requests are referred to ICE); ICE Annual Review, Rolling Plains Regional Detention Center (Mar. 2004), Bates 7534 (no procedures in place because the "[s]ituation has never arise[n]"); ICE Annual Report, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6870; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5249; ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5812; ICE Annual Review, Smith County Jail (June 2004), Bates 5678; ICE Annual Review, Smith County Jail (June 2004), Bates 5678; ICE Annual Review, West Carroll Detention (Sept. 2004), Bates 13905; ICE Annual Review, Wyatt Detention Center, (Dec. 2004- Jan. 2005), Bates 12560 (no provision for these calls); ICE Annual Review, Denver Contract Detention Facility

(Aug. 2003), Bates 11168 (this element marked "not applicable").

[27] ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13196; ICE Annual Review, Macomb County Jail (May 2005), Bates 1583; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12816; ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3895; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4545; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11990.

[28] Telephone Access § III.H (Inter-facility Telephone Calls); ICE Annual Review, Finney County Jail, (June 2005), Bates 13391; ICE Annual Review, Grant County Jail (Feb. 2005), Bates 1274 (even though this clearly violates the standard, the reviewer believed that this procedure was satisfactory, and incorrectly checked the "Acceptable" box); ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2888; ICE Annual Review, Chase County Jail (July 2004), Bates 8067.

[29] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10298 (restricted access); ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13196 (detainees in administrative segregation not provided with the same privileges as those in the general population; not marked as violation, but noncompliance with standard indicated by remarks); ICE Annual Review, Department of Corrections, Hagatna (July 2005), Bates 13484 (detainees in disciplinary segregation are "maximum security inmates" and are only allowed one phone call a month); ICE Annual Review, Dickens County Jail (June 2005) Bates 13530–31 (detainees denied the same phone privileges); ICE Annual Review, Dodge County Jail (May 2005), Bates 13453 (denied same privileges); ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13316, 13363 (denied legal, consular, and family calls, and limited calls by time and quantity); ICE Annual Review, Howard County Detention Center (July 2005), Bates 2341 (denied legal, consular, and family calls, and limited calls by time and quantity); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 527, 569 (detainees only able to use phones during one hour of free time each day); ICE Annual Review, Krome Services Processing Center (June 2005), Bates 16955 (not allowed nonlegal calls of any sort); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1457 (one hour of phone access); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3243 (detainees in administrative segregation are not given the same amount of time to make phone calls); ICE Annual Review, Orleans County Jail (June 2005), Bates 12935–36 (detainees in administrative segregation not provided appropriate phone privileges); ICE Review Including Detainee Handbook Passaic County Jail (June 2005), Bates 14495 (detainees only able to use phones during one hour of free time each day); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1758 (denied legal, consular, and family calls, and limited calls by time and quantity); ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 7583 (denied legal, consular, and family calls, and limited calls by time and quantity); ICE Annual Review, Angelina County Detention Center (Sept. 2004), Bates 7680, 7687 (no phone access; standard still rated "acceptable"); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9419 (denied legal, consular, and family calls, and limited calls by time and quantity); Bates 10112 (denied legal, consular, and family calls, and limited calls by time and quantity); ICE Annual Review, Garvin County Detention Facility (Dec. 2004), Bates 3390 (detainees must request telephone use and requests are considered on a "case-by-case basis"); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12044 (detainees in administrative segregation only allowed phone calls when out of their cell; or upon written request); ICE Annual Review, Orleans County Jail (June 2004), Bates 7334; ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 70 (Detainees in administrative segregation only allowed to make calls regarding legal matters upon the approval of an inmate request form); ICE Annual Review, Turner Guilford Knight Correctional Center, (Mar. 2004), Bates 7400, 7431–33 (collect calls only; no calls to consulates, embassies, or legal service providers).

[30] ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3243 (detainees in administrative segregation are not given the same amount of time to make phone calls); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12044 (detainees in administrative segregation only allowed phone calls when out of their cell; or upon written request); ICE Annual Review, Orleans County Jail (June 2005), Bates 12935–36 (detainees in administrative segregation not provided appropriate phone privileges); ICE Annual Review, Orleans County Jail (June 2004), Bates 7334.

[31] ABA Report, Dodge County Detention Facility (June 2004), Bates 8641, 8655 (no phone access); ABA Report, ACI-Cranston Intake Service Center, (May 2002), Bates 17404 (detainees in segregation lose all phone privileges).

[32] ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13196 (detainees in disciplinary segregation are not always allowed calls for family emergencies); ICE Annual Review, Berks County Prison (July 2004), Bates 15304–05 (detainees in disciplinary segregation must obtain approval for calls to consulates or attorneys or for legal matters; not marked as violation, but noncompliance with standard indicated by remarks); ICE Annual Review, Orleans County Jail (June 2005), Bates 12935–36 (detainees in disciplinary segregation only allowed 5 minutes per week for phone calls).

[33] ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10500 (no system for emergency messages); ICE Annual Review, Dodge County Jail (May 2005), Bates 13565 (messages only delivered if "a real emergency;" not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, El Paso Service Processing Center (Mar. 2005), Bates 11609 (emergency messages are only given to detainees after "staff verification;" not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, Orleans County Jail (June 2005), Bates 12935 (no system for emergency messages); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10297 (no system for emergency messages); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8158 (no system for emergency messages); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5025 (no system for emergency messages); ICE Annual Review, Orleans County Jail (June 2004), Bates 7333 (no system for emergency messages); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7191 (only emergency messages from ICE are delivered; not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, Silverdale Correctional Facility (Dec. 2004), Bates 13742 (messages only after warden verifies emergency; not marked as violation, but noncompliance indicated by remarks); ICE Annual Review, Worcester County Jail (Nov.- Dec. 2004), Bates 5778 (only legal messages are delivered); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5438 (no system for emergency messages); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11346 (no ability for messages of any kind).

[34] Multiyear violations were found at the Chautauqua and Orleans County detention facilities.

[35] ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11346.

[36] ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8589–90 (phone messages are generally not taken; attorney messages not delivered unless facility staff determines it is an emergency); ABA Report, Berks County Prison (July 2004), Bates 15873 (no ability to receive messages of any kind; prison staff said they will not give emergency messages out of fear the messages are fabricated and codes for prison breaks or other illegal activities); ABA reports, Osborn Correctional Institution (July 2004), Bates 8347, 8379 (detainees reported that phone messages are not delivered; handbook states that messages will not be taken, though facility claimed to have an "informal" procedure for delivering messages for legal matters or emergencies, if they are verified);

ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8398 (no procedure for delivering attorney messages; staff stated that they "try to limit the number of messages from attorneys"; detainees reported that they did not receive messages from attorneys; death in detainees' families may be the only kind of emergency message delivered and these must be verified); ABA report, Passaic County Jail (July 2004), Bates 8417 (no messages of any kind taken; staff said they refuse to be "an answering service"); ABA Report, Bergen County Jail (Aug. 2003), Bates 17361 (no messages taken from attorneys); ABA Report, Dupage County Jail (July 2003), Bates 17377 (no messages taken, not even from attorneys); ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17408 (messages not taken; no set procedure for emergency messages).

[37] ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2409 (review indicates that failure to inspect is acceptable because detainees report problems); ICE Annual Review, McHenry County Jail (July 2004), Bates 4779 (staff relies on detainee to inform about malfunctions); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5249 (phones only inspected visually; staff relies on detainees to inform about malfunctions); ICE Annual Review, San Diego Correctional Facilities (Aug. 2003), Bates 11346 (staff relies on detainees to inform about malfunctions).

[38] ABA Report, Dallas County Jail, (Mar. 2002), Bates 17665 (phone system goes down for 24-hour periods, and calls cut off suddenly); ABA Report, Seattle Contract Detention (CSC) Facility, (May 2002), Bates 17732 (connection problems); UNHCR Report, Pamunkey Regional Jail (July 2001), Bates 18807 (calls cut off sporadically; phone service disconnected for days at a time due to disciplinary infractions of other inmates); UNHCR Report, Virginia Beach Correctional Facility, (July 2001), Bates 18823 (phones cut off after every two to three minutes; unable to make free calls due to system technology problems).

[39] ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3242 (two telephones were found to be inoperable and no documentation was found that these telephones had been inspected or reported to the service provider); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5540, Bates 7883 (several phone out-of-service for an extended time; out-of-service phones not reported promptly; repairs not monitored to ensure timely resolution).

[40] ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 7883 (phones found to be "out of service for an extended period of time").

[41] Telephone Access § III.A (Standards and Procedures: Detainee Access to Telephones).

[42] ICE Annual Review, Central Arizona Detention Center (Aug. 2005), Bates 10338; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11420, 11456–57 (ratio of phones to detainees was as high as one phone per 40 detainees); ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17558–59 (no phones); UNHCR Report, Piedmont Regional Jail, (July 2001), Bates 18892 (no phones in women's pod).

[43] Telephone Access § III.F (Standards and Procedures: Telephone Usage Restrictions).

[44] *Id.*

[45] ICE Annual Review, Jefferson County Jail (Feb. 2005), Bates 473 (handbook indicated that calls limited to 10 minutes when demand is high; standard rated as "acceptable"); ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 7582–83 (calls limited to 15 minutes each, not marked as violation, but noncompliance with standard indicated by remarks; the facility rated as "acceptable" for the overall standard); ICE Annual Review, Minnesota Correctional Facility-Rush Facility (Oct. 2004), Bates 295–96 (calls are limited to 15 minutes each; not marked as violation, but noncompliance with standard indicated by remarks; the facility rated as "acceptable" for the overall standard).

[46] ABA Report, Dodge County Detention Facility (June 2004), Bates 8640 (15-minute limit on all calls); ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17558–59 (15-minute limit on all calls).

[47] ICE Annual Review, York County Prison (Dec. 2004), Bates 5297–98.

[48] *Id.*, Bates 5297

[49] *Id.*, Bates 5298.

[50] *Id.*

[51] ICE Annual Review, Rolling Plains Detention Center (Feb. 2004), Bates 213–19; 300–03 (noting that costs for collect calls appear too high; detainees are charged up to $4.84 for access to a phone line and the first minute); ICE Detention Facility Special Assessment, Wicomico County Jail (July 2004), Bates 171–77.

[52] The ABA and UNHCR also discovered violations that ICE failed to report at the Calhoun County Jail, the Clinton County Jail, the Colquitt County Jail, the Dorchester Detention Center, the Elizabeth Correctional Facility, the Houston Processing Center, the Krome Service Processing Center, the Mira Loma Detention Center, the Monroe County Jail, the Pamunkey Regional Jail, the Queens Contract Detention Facility, the San Pedro Service Processing Center and the Santa Ana Detention Facility.

[53] ICE Annual Review, Berks County Prison (July 2004), Bates 9176–77.

[54] ABA report, Berks County Prison (July 2004), Bates 15871.

[55] *Id.*

[56] *Id.*, Bates 15872.

[57] *Id.*

[58] *Id.*, Bates 15873.

[59] *Id.* (prison staff will not give emergency messages to detainees out of fear that the emergencies are not real emergencies, but instead are coded messages regarding prison breaks or other illegal activities).

[60] ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18792.

[61] *Id.*, Bates 18793.

[62] UNHCR report, Kenosha County Detention Center (Sept. 2003), Bates 17837.

[63] *Id.*, Bates 17839.

[64] ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3645–46.

[65] ABA report, Kenosha County Detention Center (July 2004), Bates 8285.

[66] ICE Annual Review, Kenosha County Detention Center (June 2005), Bates 2290–91.

[67] ABA report, Kenosha County Detention Center (Sept. 2005), Bates 8588.

[68] *Id.*, Bates 8586, 8589.

[69] *Id.*, Bates 8589.

[70] *Id.*

[71] ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 11751.

[72] ABA report, Passaic County Jail (July 2004), Bates 8416.

[73] *Id.*

[74] *Id.*, Bates 8417.

[75] *Id.*

[76] ICE Annual Review, Passaic County Jail (June 2005), Bates 14495.

[77] *Id.*

[78] ABA report, Passaic County Jail (Aug. 2005), Bates 8530 (since phones are located in either the corners of cells or the office of the ombudsman, all calls occur in the presence of officers and/or other detainees).

[79] *Id.*, Bates 8531 (phones in cells do not accept preprogrammed numbers for pro bono attorneys and there are no preprogrammed phones for calling the local immigration court, Board of Immigration Appeals, or consular offices).

[80] *Id.*, Bates 8532 (officers do not take and deliver messages to detainees unless they are of an emergency nature).

[81] ICE Annual Review, Dodge County Detention Facility (June 2004), Bates 3974–75.

[82] ABA report, Dodge County Detention Facility (June 2004), Bates 8640.

[83] *Id.*

[84] *Id.*

[85] *Id.*

[86] *Id.*

[87] *Id.*, Bates 8641.

[88] *Id.*

[89] *Id.*

[90] ICE Annual Review, Keogh-Dwyer Correctional Facility (Sussex County Jail) (Aug. 2004), Bates 385.

[91] *Id.*

[92] ABA report, Keogh Dwyer Correctional Facility (July 2004), Bates 8484.

[93] *Id.*

[94] *Id.*

[95] *Id.*, Bates 8485.

[96] *Id.*

### ACCESS TO LEGAL MATERIAL

[1] INS Detention Standard: Access to Legal Material § III.A, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/legal-material.pdf.

[2] Access to Legal Material § III.A–B.

[3] Access to Legal Material § III.C.

[4] INS, formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[5] Access to Legal Material § III.E. It is not clear which government office, if any, currently has this responsibility. The 2008 Performance-Based Detention Standards still reference the INS Office of General Counsel, which no longer exists.

[6] Access to Legal Material § III.L.

[7] Access to Legal Material § III.G.

[8] Access to Legal Material § III.K.

[9] Access to Legal Material § III.M.

[10] Access to Legal Material § III.R.

[11] ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10754 (facility lacks space for a law library); ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10092; ICE Annual Review, Charleston County Detention Center (May 2005), Bates 10365 (no designated room for a law library, but there is a designated area set aside for legal material with one desk and one chair); ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13182–83 (inappropriately marked as "acceptable"; comment states that law library is "[k]ept in Chief's Office"); Follow-up DHS inspection, Las Animas County Jail Center (Apr. 2005), Bates 4368–69 (no law library, no typewriters, no paper, no pencils, no equipment for detainees to do any kind of meaningful research); ICE Annual Review, Pottawattame County Jail (July 2005), Bates 2034 (no actual room for a law library; instead each pod has some reading items on a cart); ICE Annual Review, Ramsey County Jail (Nov. 2005), Bates 2091 (book cart is moved to each cell, but no physical law library); ICE Annual Review, Yavapai County Detention Center (June 2005), Bates 1248; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 7995–96 (books are in a central location, but there is no actual library); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8138–39 (no law library, but review notes that "every attempt is made to ensure all legal needs/ materials are furnished through the County courts"); ICE Annual Review, Coconino County Detention Center (Feb. 2004), Bates 3821; ICE Annual Review, Finney County Jail (May 2004), Bates 4221–22 (no physical law library; detainees can check out materials and take them back to their living areas); ICE Annual Review, Hamilton County Jail (Nov. 2004), Bates 3509, 3514–15 (lack of law library is noted, but every item on the standard is still marked "acceptable"); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3576 (space has been designated for the library but no equipment or materials yet); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4365 (no physical law library; computer and software will be placed on rolling cart for detainees to use in their pods); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12073 (facility has a law library, but detainees are not allowed to visit it; all materials "must be requested and delivered); ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7267–68, 7453 (facility has no law library; uses system to deliver requested materials to detainees but many detainees stated that their requests had never been fulfilled; review also noted that in 2003, facility received legal materials from ICE that it placed on a cart that was pushed around, but the books were missing and destroyed); ICE Annual Review, Pottawattamie County Jail (May 2004), Bates 6049 (no actual library; materials are on a cart); ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 963 (book carts are used); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6850 (no physical law library; uses some kind of computerized system through a jail program clerk to give detainees access to legal materials); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5228; ICE Annual Review, Santa Clara County Main Jail Complex (Oct. 2004), Bates 5831, 14206 (facility closed its physical law library due to a reduction in ICE beds; requested materials can be delivered to detainees' living quarters); ICE Annual Review, Shawnee County Detention Center (Dec. 2004), Bates 14116–17 (detainee requests information and a legal aid researches and copies materials for detainees); ICE Annual Review, Silverdale Correctional Facility, Corrections Corporation of America (Dec. 2004), Bates 5374–75 (detainees can request information which is to be researched and delivered by a legal aide); ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5568–69 (materials available only upon request); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5521–22 (uses a "mobile library cart" that is brought to each pod); ICE Annual Review, Shawnee County Department of Corrections (Nov. 2003), Bates 5732; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18445, 18456–57 (law library space being used to store personal hygiene products).

[12] ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8590–94; ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (no law library; instead, the facility has one computer workstation per housing unit); ABA Report, Keogh Dwyer Correctional Facility (July 2004), Bates 8479–82 (law library is a mobile cart on which books are haphazardly stacked; there is also a "general library" which New Jersey statutes and case law); UNCHR Report, Ozaukee County Justice Center (Sept. 2003), Bates 17841 (no law library; no immigration legal materials); ABA Report, Santa Ana Detention Facility (Oct. 2002), Bates 17512–21 (no library; there is one computer terminals with Westlaw per housing module but only detainees representing themselves pro se have access to the computers); UNHCR Report, Racine County Jail (Aug. 2001), Bates 18865–66.

[13] ICE Annual Review, Yavapai County Detention Center (June 2005), Bates 770.

[14] ICE Annual Review, Charleston County Detention Center (May 2005), Bates 10364–65; ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13138–39; ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13284–85; ICE Annual Review, Garfield County Jail (June 2005), Bates 13421–22; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 512–13 (some materials are missing and list of materials required is not posted); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1440–41; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27 (facility only had a few books, which were outdated); ICE Annual Review, Orleans County Jail

(June 2005), Bates 12921–22; ICE Annual Review, Park County Detention Center (May 2005), Bates 783–84; ICE Annual Review, Regional Correction Center Albuquerque (Oct. 2005), Bates 2137–38 (list of required materials also appears missing); ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1815–16 (reviewer inappropriately marked "not applicable" for whether all required materials are available and whether the list of required materials is posted); ICE Annual Review, Bannock County Jail (June 2004), Bates 9017–18; ICE Annual Review, Berks County Prison (July 2004), Bates 9156–57; ICE Annual Review, Cambria County Prison (Oct. 2004) Bates 9449–50; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10278–79; ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3769–70; ICE Annual Review, Colquitt County Sheriff's Office and Jail (Mar. 2004), Bates 3875–76; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7453 (most books were missing, the rest were destroyed, and requests for materials by detainees were ignored; nonetheless, the facility received an "acceptable" rating because it promised to have ICE install computers with legal materials for detainees' use); ICE Annual Review, Ector County Correctional Center (Nov. 2004), Bates 4095–96; ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4177–78 (several law books are missing); ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3626–27 (reviewer inappropriately marked "not applicable" for whether the library has all required materials and whether the list of required materials is posted; comments indicate that facility only has a CD library); ICE Annual Review, Keogh-Dwyer Correctional Facility (Aug. 2004), Bates 373 (reviewer inappropriately marked "not applicable" for whether the law library contains all materials in Attachment "A" and whether the list is posted in the library); ICE Annual Review, Las Animas County Jail Center (Apr. 2005), Bates 4368–69 (materials are either outdated or missing); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4519, 4527–28 (library does not contain all required materials and the list of required materials is not posted); ICE Annual Review, McHenry County Jail (July 2004), Bates 4760–61 (library does not have all required materials and list of required materials is not posted); ICE Annual Review, Middlesex County Jail (Oct. 2004), Bates 4940–41 (library does not have all required materials and list of required materials is not posted); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5006–07 (library does not have all required materials and list of required materials is not posted); ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 13706–07; ICE Annual Review, Orleans County Jail (June 2004), Bates 7314–15; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7267–68 (the legal materials provided to the facility were lost or defaced or unusable); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6439–40; ICE Annual Review, Phelps County Jail (Apr. 2004), Bates 6201–02; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6373–74; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11031 (repeat deficiency); ICE Annual Review, Smith County Jail (June 2004), Bates 14097–98; ICE Annual Review, South Ute Detention Center (Nov. 2004), Bates 51–52 (reviewer inappropriately marked "not applicable" for this requirement and noted that ICE materials needed to be updated); ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6542–43; ICE Annual Review, Torrance County Detention (June 2004), Bates 13943–44; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 13874–75 (materials are only made available "upon request"); ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11235–36; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18606–07 (library does not have all required materials and does not post a list of materials); ICE Annual Review, Elizabeth Contract Detention Facility (Dec. 2002), Bates 18089–90; ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18647–48; ICE Annual Review, Tensas Parish Detention Center (Aug. 2002), Bates 18556–57.

[15] ABA Report, Passaic County Jail (Aug. 2005), Bates 8532–34; ABA report, Berks County Prison (July 2004), Bates 16606; ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (only one of the male housing units had some of the required materials); ABA Report, Dodge County Detention Facility (June 2004), Bates 8642–44; ABA Report Keogh Dwyer Correctional Facility (July 2004), Bates 8478–82 (only two of the thirty required materials are available); ABA Report, Kenosha County Detention Facility (July 2004), Bates 8278–80; ABA Report, Passaic County Jail (Mar. 2004), Bates 8417–8419; ABA Report, Queens Detention Center (July 2004), Bates 8439–45 (most, but not all materials are available); ABA Report, Bergen County Jail (Aug. 2003), Bates 17363 (only has 5 of the 30 required materials); ABA Report, Clay County Jail (Aug. 2003), Bates 17699; ABA Report, DuPage County Jail (July 2003), Bates 17379; ABA Report, El Centro Service Processing Center (Jan. 2003), Bates 17542–44; ABA Report, Elizabeth Corrections Corporation of America Facility (Oct. 2003), Bates 17720; ABA Report, Monmouth County Correctional Institute (July 2003), Bates 17751–52; UNCHR Report, Monroe County Jail (Apr. 2003), Bates 17825–26; ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17667–68; ABA Report, St. Mary's County Detention Center (June 2003), Bates 17608–09; ABA Report, ACI-Cranston Intake Service Center (May 2002), Bates 17409–10; ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17559–60; ABA Report, Kern County Jail (Aug. 2002), Bates 17481–82; ABA Report, Mira Loma Detention Center (June 2002), Bates 17432; UNHCR Report, CCA Otay Mesa Adult Detention Center (Oct. 2002), Bates 17812; ABA Report, San Pedro Service Processing Center (Mar. 2002), Bates 17456–58; ABA Report, Seattle CSC Detention Facility (May 2002), Bates 17732–35 (only had 15 of the 30 required materials; most were outdated); UNCHR Report, Oakdale Federal Detention Center (Apr. 2001), Bates 18882–83 (materials are either outdated or missing).

[16] ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8398–403; ABA Report, Hudson County Jail (Aug. 2003), Bates 17625 (only 17 of 30 required materials; most were outdated); ABA Report, Elizabeth Detention Center (July 2001), Bates 18835; UNCHR Report, McHenry County Jail (Aug. 2001), Bates 18875–76 (facility does not have all required materials and many that are available are outdated; updated regulations are collected in a folder as they come in, rather than inserted into the regulations book to update the outdated regulations making the regulations basically "useless"); UNCHR Report, Tri-County Detention Center (Aug. 2001), Bates 18870–71 (all materials are missing or outdated).

[17] ICE Annual Review, Wicomico County Adult Detention Center (June 2005), Bates 233–34 (facility has neither required materials nor list of materials); ICE Annual Review, Yavapai County Detention Center (June 2005), Bates 770–71; ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7957–58; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8138–39; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3821–22; ICE Annual Review, Dickens County Correctional Facility (June 2004), Bates 4241; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4140–41(no materials at facility; notes indicate an ability for detainees to request materials that are received quickly; unclear if list of materials is posted); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4177–78; ICE Annual Review, Linn County Jail (May 2004), Bates 3261–62; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 5329–30; ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11682–83; ICE Annual Review, Smith County Jail (June 2004), Bates 5649, 5659–60; ICE Annual Review, St. Martin Parish Jail (Aug. 2004), Bates 917–18 (facility lacks required materials and list of materials is not posted); ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5611–12; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 13874–75; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates

18773–74; ICE Annual Review, Queens Contract Detention Facility (Oct. 2003), Bates 11378–79; UNHCR Report, Pamunkey Regional Jail (Aug. 2005), Bates 8678 (facility technically had the materials, but they were not available to detainees because they were still in boxes); ABA Report, Ozaukee County Jail (July 2004), Bates 8371–73; UNCHR Report, Kenosha County Detention Center (Sept. 2003), Bates 17836 (no legal materials covering immigration topics available); UNHCR Report, Denton County Detention Center (Oct. 2001), Bates 17794; UNHCR Report, Navarro County Detention Center (Oct. 2001), Bates 17803.

[18] ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8590–94.

[19] ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10486–87; ICE Annual Review, Columbia County Jail (Jan. 2005), Bates 13217; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15417–15418; ICE Annual Review, Orleans County Jail (June 2005), Bates 12921–22; ICE Annual Review, Bannock County Jail (June 2004), Bates 9017–18; ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7957–58; ICE Annual Review, Madison County Jail (July 2004), Bates 4570–71; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 13706–07; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6439–40; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 13627–28; ICE Annual Review, Smith County Jail (June 2004), Bates 14097–98; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7400; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5611–12; ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5419–20; ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11235–36; ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18647–48; ABA Report, Passaic County Jail (Aug. 2005), Bates 8532–34; ABA report, Berks County Prison (July 2004), Bates 16606; ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (only one of the male housing units had some of the required materials); ABA Report Keogh Dwyer Correctional Facility (July 2004), Bates 8478–82; ABA Report, Kenosha County Detention Facility (July 2004), Bates 8278–80; ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8398–403; ABA Report, Bergen County Jail (Aug. 2003), Bates 17363; ABA report, DuPage County Jail (July 2003), Bates 17379.

[20] ICE Annual Review, Cass Correctional Center (June 2005), Bates 10236–37; ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13233–34; ICE Annual Review, La Paz County Jail (Apr. 2005), Bates 1486–87; ICE Annual Review, Macomb County Jail (May 2005), Bates 1568–69; ICE Annual Review, Pottawattamie County Jail (July 2005), Bates 2034–35 (inappropriately marked as "not applicable" and notes indicate that it is "unknown" whether an employee is designated to maintain and update materials); ICE Annual Review, Wicomico County Jail (June 2005), Bates 233–34 (reviewer incorrectly marked this element as compliant even though noting that "ICE has not promptly updated and supplemented outdated materials," which the standard does not require ICE to do); ICE Annual Review, Berks County Prison (July 2004), Bates 15285–86; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8138–39; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10278–79; ICE Annual Review, Ector County Detention Center (Nov. 2004), Bates 4095–96; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4140–41; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3371–72; ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3411–12 (inappropriately marked as "not applicable"); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4374–75; ICE Annual Review, Macomb County Jail (Mar. 2004), Bates 4519, 4527–28; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12022–23; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 5329–30; ICE Annual Review, Orleans County Jail (June 2004), Bates 7314–15; ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11682–83; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 13627–28; ICE Annual Review, Smith County Jail (June 2004), Bates 14097–98; ICE Annual Review, St. Martin Parish Jail (Aug. 2004), Bates 917–18; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5611–12; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18773–74; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18606–07.

[21] ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46; ABA Report, Bergen County Jail (Aug. 2003), Bates 17363; ABA Report, Clay County Jail (Aug. 2003), Bates 17699; ABA Report, El Centro Service Processing Center (Jan. 2003), Bates 17542–44; ABA Report, ACI-Cranston Intake Service Center (May 2002), Bates 17409–10; ABA Report, San Pedro Service Processing Center (Mar. 2002), Bates 17456–58.

[22] ABA Report, Kenosha County Detention Facility (July 2004), Bates 8278–80.

[23] ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 12240–41; UNHCR Report, Avoyelles Women's Correctional Center (May 2004), Bates 8692–93; ABA Report, Berks County Prison (July 2004), Bates 16606; UNHCR Report, Tangipahoa Parish Jail (May 2004), Bates 8695; ABA Report, Clay County Jail (Aug. 2003), Bates 17699; ABA Report, El Centro Service Processing Center (Jan. 2003), Bates 17542–44; ABA Report, Hudson County Jail (Aug. 2003), Bates 17625; ABA Report, Monmouth County Correctional Institute (July 2003), Bates 17751–52; ABA Report, ACI-Cranston Intake Service Center (May 2002), Bates 17409–10; ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17559–60; ABA Report, Kern County Jail (Aug. 2002), Bates 17481–82; ABA Report, Mira Loma Detention Center (June 2002), Bates 17432; UNHCR Report, CCA Otay Mesa Adult Detention Center (Oct. 2002), Bates 17812; ABA Report, Seattle CSC Detention Facility (May 2002), Bates 17732–35; UNHCR Report, George Allen Jail (Oct. 2001), Bates 17786; ABA Report, Elizabeth Detention Center (July 2001), Bates 18835.

[24] Follow-up DHS inspection, Las Animas County Jail Center (Apr. 2005), Bates 4368–69; ICE Annual Review, Bannock County Jail (June 2004), Bates 9017–18; ICE Annual Review, Berks County Prison (July 2004), Bates 9156; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 7995–96; ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3876; ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4177–78; DHS review Las Animas County Jail Center (Dec. 2004), Bates 4365; ICE Annual Review, Phelps County Jail (Mar. 2004), Bates 6201 (no computer; but review noted that ICE detainees were not yet held at this facility); ICE Annual Review, Pottawattamie County Jail (May 2004), Bates 6049; ICE Annual Review, Smith County Jail (June 2004), Bates 5649; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5521–22 (a computer is available upon request); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18773–74; ICE Annual Review, Queens Contract Detention Facility (Oct. 2003), Bates 11378 (one computer that did not work); ICE Annual Review, Rockingham Roads Regional Jail (Aug. 2003), Bates 18227–28; ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18647–48 (the one computer donated by the ICE District Office to the facility is being used by facility staff, and is not available to detainees); ICE Annual Review, Rockingham Roads Regional Jail (Aug. 2002), Bates 18186–87.

[25] ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8590–94 (facility has only one computer, which, upon request, may be brought to a multi-purpose room for detainees; detainees interviewed were not aware of their access to a computer and stated that requests had been denied); ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8399–03.

[26] UNHCR Report, Aguadilla Service Processing Center (May 2005), Bates 8665 (one computer and one printer; detainees were not allowed to use the computer for legal research or to prepare legal documents).

[27] ICE Annual Review, Columbia County Jail (Jan. 2005), Bates 13217 (one computer

without legal materials; typewriter available only upon request); ICE Annual Review, Dale G. Haile Detention Center (Sept. 2005), Bates 6333; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27 (reviewer noted that 3 computers for 800 detainees was insufficient; only 1 computer had Lexis-Nexis; suggested 2 additional computers with Lexis); ICE Annual Review, Dickens County Correctional Facility (June 2004), Bates 4241 (no typewriter available and only one computer, which is locked at all times); ICE Annual Review, Finney County Jail (May 2004), Bates 3262 (no typewriter; jail prints materials for the detainees from the computer); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6439; ICE Annual Review, Regional Correctional Facility (Albuquerque) (Aug. 2004), Bates 6005; ICE Annual Review, Worcester County Jail (Nov. 2004), Bates 5938; ICE Annual Review, Queens Contract Detention Facility (Oct. 2003), Bates 11366 (repeat deficiency).

[28] ABA Report, Colquitt County Jail (Mar. 2005), Bates 8626 (only has one computer and one typewriter for 39 ICE detainees); ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (one computer workstation per housing unit, which is insufficient); ABA Report, Ozaukee County Jail (July 2004), Bates 8372–73 (only one computer and no typewriter); ABA Report, Santa Ana Detention Facility (July 2004), Bates 8462 (one computer; no employee present knew how to turn on the computer; one detainee stated that she had asked to use the computer for legal research and had been denied access); ABA Report, Clay County Jail (Aug. 2003), Bates 17700 (two computers, which had been dismantled by inmates and staff stated that they had no intent of acquiring new ones; only two typewriters, which was insufficient for the number of detainees); ABA Report, DuPage County Jail (July 2003), Bates 17381 (no computer; only one typewriter for all ICE detainees and criminal inmates); ABA Report, El Centro Service Processing Center (Jan. 2003), Bates 17542–44 (only has three typewriters, which was inadequate given the number of detainees; one typewriter had been broken for over one year); ABA Report, Kern County Jail (Aug. 2002), Bates 17470–99 (needs more than two typewriters); UNCHR Report, Monroe County Jail (Dec. 2002), Bates 17825–26 (only one computer); ABA Report, Santa Ana Detention Facility (Oct. 2002), Bates 17512–21 (one computer terminal per housing module but only detainees representing themselves pro se have access to the computer terminals); ABA Report, San Pedro Service Processing Center (Mar. 2002), Bates 17448–69 (needs more supplies and typewriters); ABA Report, Elizabeth Detention Center (July 2001), Bates 18835 (only one typewriter for 300 detainees).

[29] ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 825 (maximum of two people can use the law library at once); ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12587–88 (insufficient space); ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 963 (requirements for sufficient chairs and library lighting are marked as not applicable); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 13627–28 (insufficient number of chairs; not well-lit); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7400 (library does not have sufficient space; only one room for three to four detainees at once); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18773–74 (insufficient number of chairs); ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18647–48 (insufficient number of chairs); ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8399–403 (library is in very small room; only two to three detainees can use the library at once).

[30] ABA Report, Queens Detention Center (Mar. 2004), Bates 8439–45 (insufficient seating); ABA Report, CSC Detention Facility (May 2002), Bates 17732–35 (insufficient chairs and desks; only two chairs and two small desks for 160 detainees); ABA Report, Franklin County Jail and House of Corrections (Jan. 2002), Bates 17559–60 (library cold and too small); ABA Report, Wackenhut Corrections Corp. (Apr. 2002), Bates 17639 (library is too small; only two worktables and six chairs for 340 detainees); ABA Report, Elizabeth Detention Center (July 2001), Bates 18835 (library is too small); UNCHR Report, Tangipahoa Parish Jail (Apr. 2001), Bates 18889–90 (closet-like room).

[31] ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2395 (library is part of the multi-purpose room, which may affect the noise level); ICE Annual Review, Elizabeth Contract Detention Facility (Dec. 2002), Bates 18089–18090 (library is noisy because it is by the entrance gate).

[32] ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10753–54; ICE Annual Review, Charleston County Detention Center (May 2005), Bates 10364–65; ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13138–39; ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13284–85; ICE Annual Review, La Paz County Jail (Apr. 2005), Bates 1486–87; ICE Annual Review, Macomb County Jail (May 2005), Bates 1568–69; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2627–28 (Lexis did not work because the facility did not have Adobe Acrobat on its computers); ICE Annual Review, Cambria County Prison (Oct. 2004) Bates 9449–50 (software does not work); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8138–39; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10278–79; ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3769–70; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3821–22; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4047–48; ICE Annual Review, Ector County Correctional Center (Nov. 2004), Bates 4095–96; ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4177–78; ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3411–12; ICE Annual Review, Madison County Jail (July 2004), Bates 4570–71; ICE Annual Review, Mira Loma Detention Center (July 2004), Bates 5103–04; ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 12240–41; ICE Annual Review, Orleans County Jail (June 2004), Bates 7314–15; ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11682–83; ICE Annual Review, Pottawattamie County Jail (July 2004), Bates 6049–50; ICE Annual Review, Smith County Jail (June 2004), Bates 14097–98; ICE Annual Review, St. Martin Parish Jail (Aug. 2004), Bates 917–18; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5611–12; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5568–69 (this element of the checklist was marked "not applicable" without explanation).

[33] ABA report, Berks County Prison (July 2004), Bates 16606.

[34] ICE Annual Review, Cass Correctional Center (June 2005), Bates 10236–37; ICE Annual Review, Rolling Plains Regional Detention Center (Feb. 2005), Bates 1898–99; ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 1857–58; ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9363–64; UNHCR Report, Avoyelles Women's Correctional Center (May 2004), Bates 8692–93.

[35] ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27 (only one computers had Lexis, which was insufficient for 800 detainees).

[36] ICE Annual Review, Madison County Jail (Sept. 2005), Bates 1527–28 (reviewer incorrectly marked "not applicable" for whether outside persons/organizations could provide legal materials); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3371–72; ICE Annual Review, South Ute Detention Center (Nov. 2004), Bates 51–52; ABA Report, Queens Detention Center (July 2004), Bates 8439–45.

[37] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10092–93 (detainees are only allowed to use library upon request); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2005), Bates 1052–53 (detainees must sign-up for library use); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27 (two detainees act as law clerks and research requests from other detainees; other detainees are not allowed to visit the library); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4002–03

(detainees only have access to the law library one hour per week); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4177–78 (detainees only guaranteed one hour per week of library use and may have to forgo recreation to use the library); ICE Annual Review, Harris County Jail (Mar. 2004), Bates 3448–49 (detainees must request to use Lexis-Nexis); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4519, 4527–28 (library is open one day per cell block for one to two hours per detainee); ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 11731–32 (detainees are only allotted four hours library use per week); ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18647–48 (detainees have access to the law library only on weekends).

[38] ABA Report, San Pedro Service Processing Center (Aug. 2005), Bates 8565–68 (detainees must forego recreation time to visit the law library; because only 10 detainees can visit the library at one time, detainees do not have access 5 hours/week as the standard requires); ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (female detainees only have library access during recreation, so much choose between use of the library or recreation); ABA Report, Dodge County Detention Facility (June 2004), Bates 8642 (access is restricted by detainees' classification status; some classification levels cannot visit the library, if they have a specific statutory cite, they can get a photocopy of that statute); ABA Report Keogh Dwyer Correctional Facility (July 2004), Bates 8478–82 (mobile cart only available to detainees 4.5 hours/week; "general library" can be accessed 5 days a week for 45 minutes, but only during recreation time); ABA Report, Osborn Correctional Institution (July 2004), Bates 8348–50 (detainees not given adequate time to use the library; to use the library detainees must forgo their recreation time); UNHCR Report, Tensas Detention Center (May 2004), Bates 8699–700 (female detainees reported that they did not have access to the law library; warden stated that to avoid comingling men and women, women only have library access at night); ABA Report, Bergen County Jail (Aug. 2003), Bates 17363 (law library is open only four hours a week total; only 12 detainees are allowed in the library at one time; detainees must sign up and may be passed on the list if they already recently used the law library); ABA Report, Houston Corrections Corporation of America (Jan. 2003), Bates 17571 (detainees are forced to choose between using the law library and recreation); ABA Report, Middlesex County Jail (July 2003), Bates 17769 (detainees complained that each housing units only had library access for one hour two or three times per week); ABA Report, Monmouth County Correctional Institute (July 2003), Bates 17751–54 (detainees stated that access to the law library was severely limited; detainees only have access one day per week); ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17667–69 (detainees complained about not having sufficient access to the library, about waiting from 1 1/2 weeks to 1 month to have access); ABA Report, San Pedro Service Processing Center (July 2003), Bates 17591 (officer stated that the detainees can use the library one hour/day in groups of 10; but this is inconsistent with the fact that the facility has between 300 to 400 detainees; and a maximum of 24 groups can visit the library in one day, assuming 24-hour library access); Lawyers Without Borders Report, York Correctional Institution (Nov. 2003), Bates 17522–32 (law library only allows five detainees at one time, resulting failure to allow each detainee to use the library five hours per week); ABA Report, Yuba County Jail (Dec. 2003), Bates 17681 (detainees complained about delays in library access: one detainee stated that he was given access two days after his request; another stated that he his request was never honored); ABA Report, Kern County Jail (Aug. 2002), Bates 17470–99 (detainees limited to four hours of library use per week, which librarian confirmed is often not actually provided due to the high demand; detainees complained that it took up to two weeks to have access to the law library after making a request); ABA Report, San Pedro Service Processing Center (Mar. 2002), Bates 17458 (law library accommodates only 10 detainees at one time; detainees noted long waits for library use due to this limit); UNHCR Report, Denton County Detention Center (Oct. 2001), Bates 17794 (detainees in the old wing of the facility only have library access three hours a week; there is no law library in the new wing, there is no library, and detainees can only request immigration law materials); UNHCR Report, George Allen Jail (Oct. 2001), Bates 17786 (detainees only have library access one hour per week); UNCHR Report, McHenry County Jail (Aug. 2001), Bates 18875 (detainees can only use the law library one hour per week); UNHCR Report, Navarro County Detention Center (Oct. 2001), Bates 17803 (detainees must request to use materials and are sometimes inappropriately denied).

[39] ICE Annual Review, Berks County Prison (May 2005), Bates 9743 (detainees in segregation can request legal materials, but not visit the library); ICE Annual Review, Bexar County GEO Detention Facility (Nov. 2005), Bates 9783–84 (law library manager visit detainees in segregation every Friday and brings materials to them); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13233–34 (segregated detainees can request materials for delivery, but cannot visit the library); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15696–97 (segregated detainees can request materials for delivery, but cannot visit the library) ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12800–01 (segregated detainees can request materials for delivery, but cannot visit the library); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27 (segregated detainees can request legal materials, but cannot visit the library); ICE Annual Review, Pike County Correctional Facility (Jan. 2005), Bates 6288 (segregated detainees can request materials for delivery, but cannot visit the library); ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3180–81 (segregated detainees can only use law library to contest segregation; also time limitation on library use for "court case"); ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 7563–64 (segregated detainees may request legal materials, but cannot visit library); ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9107–08 (segregated detainees have their library requests brought to their housing areas); ICE Annual Review, Berks County Prison (June 2004), Bates 15285–86 (segregated detainees can request materials for delivery, but cannot visit the library); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4426–27 (segregated detainees can make legal material requests through classification officers, but cannot visit the library); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4002–03 (segregated detainees lose library privileges; inappropriately checked as "not applicable" for whether the facility notified ICE when detainees are denied access to law library); ICE Annual Review, Finney County Jail (May 2004), Bates 4221–22 (segregated detainees may request library materials, but cannot visit the library; denials of access to legal materials are not documented); ICE Annual Review, Limestone County Detention Center (May 2004), Bates 4474–75 (legal materials delivered to detainees in segregation); ICE Annual Review, Minnesota Correctional Facility-Rush Facility (Oct. 2004), Bates 276 (segregated detainees can request items from the library for delivery, but cannot go to the library); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11970–71 (segregated detainees can request materials, but cannot visit the library); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12022–23 (segregated detainees can request materials from law clerks, but cannot visit the library); ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 963–64 (segregated detainees can request library materials for delivery, but cannot visit the library); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7133–34 (no access for detainees in disciplinary segregation); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 13627–28 (segregated detainees do not have access to law library); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7400 (detainees in administrative segregation do not have access to library; they cannot even request materials); ICE Annual Review, Union County Jail (Mar. 2004), Bates 6953–59

(segregated detainees can make material requests, but cannot visit library); ICE Annual Review, York County Prison (Dec. 2004), Bates 5280–81 (segregated detainees in segregation can request material delivery, but cannot visit library).

[40] ABA Report, Bristol County Jail (Aug. 2004), Bates 8242–46 (segregated detainees had no access to immigration legal materials); ABA Report, Hudson County Jail (Aug. 2003), Bates 17626 (segregated detainees can request materials for delivery, but cannot visit the library); ABA Report, San Pedro Service Processing Center (July 2003), Bates 17591 (segregated detainees can request materials for delivery, but cannot visit the library).

[41] ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10753–54; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 512–13; ICE Annual Review, Atlanta City Detention Center (May 2004), Bates 7707–08 (facility does not report denials of access to library; instead facility reached agreement with ICE Field Office for detainees to file their own grievances when they were denied access to the library); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4426–27; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7453, 7463–64 (repeat finding); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4002–03 (inappropriately checked as "not applicable" for whether the facility notified ICE when detainees are denied access to law library); ICE Annual Review, Finney County Jail (May 2004), Bates 4221–22; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4374–75; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4519, 4527–28; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7267; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7400, 7412–7413; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11322–11323 (no process to report denials of access to library unless detainee submits a grievance); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18456–18457.

[42] ABA Report, Kenosha County Detention Facility (July 2004), Bates 8278–80 (segregated detainees given computer access only if they had an urgent need to do legal research such as an upcoming preliminary hearing; detainees who were scheduled to be released from segregation soon were not given access to the library).

[43] ICE Annual Review, Dale G. Haile Detention Center (Sept. 2005), Bates 6333–34; ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9363–64; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3821 (element inappropriate marked as "not applicable" because "research and doc prep conducted by attorney"); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4519, 4527–28; ICE Annual Review, McHenry County Jail (July 2004), Bates 4760–61 (requests for detainee to assist other detainees are forwarded to ICE).

[44] ABA Report, Dodge County Detention Facility (June 2004), Bates 8642–44; UNHCR Report, McHenry County Jail (Sept. 2003), Bates 17834 (detainees are not allowed to assist one another to use the computer); UNHCR Report, Kenosha County Detention Center (Sept. 2003), Bates 17836 (detainees are not allowed to assist one another to use the computer).

[45] UNHCR Report, McHenry County Jail (Sept. 2003), Bates 17834 (detainees are not allowed to assist one another to use the computer).

[46] ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10486–87; ICE Annual Review, Hardin County Correctional Center (Oct. 2005), Bates 1349–50 (remarks indicate that requests by illiterate or non–English speaking detainees for legal materials are made in writing, but it is not clear how effective this process is given these detainees inability to write in English); ICE Annual Review, Nobles County Jail (May 2005), Bates 2668–69 (reviewer incorrectly marked this element as compliant although the remarks indicate that the facility only assists illiterate or non–English speaking detainees "if possible"); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3226–27; ICE Annual Review, Orleans County Jail (June 2005), Bates 12922–23; ICE Annual Review, Polk County Jail (May 2005), Bates 3058–59; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2627–28; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4426–27; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3821–22 (reviewer incorrectly marked this element as "not applicable" because there were "currently no long-term ICE detainees," but the review indicates that significant numbers of ICE detainees were held at the facility over the year); ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4047–48 (reviewer incorrectly marked this element as "not applicable"); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3411–12 (inappropriately marked this element of the standard as "not applicable"); ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11190–91; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4519, 4527–28; ICE Annual Review, Orleans County Jail (June 2004), Bates 7314–15; ICE Annual Review, Pottawattamie County Jail (May 2004), Bates 6049–50 (reviewer inappropriately marked this element as acceptable although noting that it was unknown whether the local ICE office ensured that this requirement was met; standard clearly requires all facilities to ensure this requirement is met, it is not the responsibility of ICE); ICE Annual Review, Rolling Plains Regional Detention Center (Mar. 2004), Bates 7515–16; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5521–22 (reviewer incorrectly marked this element as "not applicable" because there are no ICE staff at the facility, although the standard clearly requires all facilities to ensure that illiterate and non–English speakers have access to legal materials); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18773–74. (reviewer inappropriately checked "not applicable" because no law books are provided); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18729.

[47] ABA Report Keogh Dwyer Correctional Facility (July 2004), Bates 8478–82 (non–English speaking detainees do not have access to other detainees to use as translators; all legal materials are in English); ABA Report, Houston Contract Detention Center (Jan. 2003), Bates 17571 (law library had very few Spanish language materials. One detainee complained that the law library did not have a Spanish-English dictionary. The staff stated that the reason the library was missing Spanish language materials was because they had been checked out, but the reviewers questioned this explanation because it did not appear possible to fit any additional materials on the available shelves); ABA Report, DuPage County Jail (July 2003), Bates 17379 (all materials are in English and non–English speaking detainees must request and pay for non-English materials); ABA Report, San Pedro Service Processing Center (July 2003), Bates 17593 (all of the materials are in English; officer stated that detainees can translate for each other and often improperly charge for translating); ABA Report, Seattle Contract Detention Facility (May 2002), Bates 17732–35 (absence of dictionaries and legal materials in languages other than English means that non–English speaking detainees do not use the library at all).

[48] ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13182–83.

[49] ABA Report, Colquitt County Jail (Mar. 2005), Bates 8626–27.

[50] ABA Report, CSD Detention Facility (May 2002), Bates 17732–35.

[51] ICE Annual Review, Keogh Dwyer Correctional Facility (Aug. 2004), Bates 7004–05.

[52] ABA Report Keogh Dwyer Correctional Facility (July 2004), Bates 8478–82.

[53] ABA Report, San Pedro Service Processing Center (July 2003), Bates 17593.

[54] ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 14,648–91; ICE Annual Review, Passaic County Jail (June 2005), Bates 858–904.

[55] ABA Report, Passaic County Jail (Mar. 2004), Bates 8417–19; ABA Report, Passaic

County Jail (Aug. 2005), Bates 8532–34 (detainees must submit several requests before being given access to the library and may not be given sufficient time).

[56] ICE Annual Review, Queens Contract Detention Facility (Oct. 2003), Bates 11378–79.

[57] ABA Report, Queens Detention Center (July 2004), Bates 8439–45.

[58] ICE Annual Review, Pamunkey Regional Jail (Oct. 2005), Bates 419.

[59] ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8398–03.

[60] ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4002–03.

[61] ABA Report, Dorchester Detention Center (July 2004), Bates 8262–63.

[62] ICE Annual Review, Elizabeth Contract Detention Facility (Dec. 2002), Bates 18089–90.

[63] ABA Report, Elizabeth Detention Center (July 2001), Bates 18835.

## GROUP PRESENTATIONS ON LEGAL RIGHTS

[1] INS Detention Standard: Group Presentations on Legal Rights (hereinafter "GPLR") § III (Standards and Procedures), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/grplegal.pdf.

[2] GPLR § III.C (Detainee Notification and Attendance).

[3] GPLR § III.F (Written Materials).

[4] GPLR § III.I (Videotaped Presentations).

[5] GPLR § III.E (Presentation Guidelines).

[6] GPLR § III.G (Individual Counseling Following a Group Presentation).

[7] GPLR § I (Policy).

[8] GPLR § III (Standards and Procedures).

[9] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[10] Form G-324A, Detention Inspection Form Worksheet, Group Legal Presentations Checklist. In the original instruction, "No Group Presentations," "Months," "Standard," and "Acceptable" are capitalized, exactly as quoted here.

[11] ICE Annual Review, Sussex County Jail (Aug. 2006), Bates 378-79; ICE Annual Review (facility not identified) (June 2005), Bates 9–10; ICE Annual Review, Atlanta City Detention Center (June 2005), Bates 9671–72; ICE Annual Review, Caldwell County Detention Center (July 2005), Bates 9981–82; ICE Annual Review, Cambria County Prison (Oct. 2005), Bates 10064–65; ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10105–06; ICE Annual Review, Carbon County Correctional Facility (May 2005), Bates 10163–64; ICE Annual Review, Carver County Jail (Nov. 2005), Bates 10204–05; ICE Annual Review, Cass County Jail (June–July 2005), Bates 10246–47; ICE Annual Review, Chatham County Detention Center (Aug. 2005), Bates 10451–52; ICE Annual Review, Christian County Jail (Sept. 2005), Bates 9593–94; ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13148–49; ICE Annual Review, Department of Corrections (July 2005), Bates 13479–80; ICE Annual Review, Dickens County Correctional Facility (May 2005), Bates 13525–26; ICE Annual Review, El Centro Processing Center (July 2005), Bates 10847–48; ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13297–98; 13345–46; ICE Annual Review, Finney County Jail (June 2005), Bates 13386–13387; ICE Annual Review, Forsyth County Law Enforcement Center (June 2005), Bates 13101–02; ICE Annual Review, Garfield County Detention Center (June 2005), Bates 13430–31; ICE Annual Review, Grant County Jail (Feb. 2005), Bates 1269–70; ICE Annual Review, Greene County Jail (Sept. 2005), Bates 1400–01; ICE Annual Review, Hardin County Correctional Center (Oct. 2005), Bates 1360–61; ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2404–05; ICE Annual Review, Hill County Detention Center (Sept. 2005), Bates 2363–64; ICE Annual Review, Howard County Detention Center (July 2005), Bates 2325–26; ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 836–7 (standard not given a rating); ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 17009–10; ICE Annual Review, La Paz County Jail (Apr. 2005), Bates 1495–96; ICE Annual Review, Limestone County Detention Center (May 2005), Bates 2485–86; ICE Annual Review, Linn County Correctional Center (May 2005), Bates 12161–62; ICE Annual Review, Lincoln County Jail (June 2005), Bates 2526–27; ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2005), Bates 1060–61; ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2843–44; ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2962–63; ICE Annual Review, Monroe County Jail (July 2005), Bates 2803–04; ICE Annual Review, Newton County Correctional Center (Feb. 2005), Bates 12851–52; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12811–12; ICE Annual Review, Nobles County Jail (May 2005), Bates 2681–82; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3237–38; ICE Annual Review, Park County Jail (May 2005), Bates 793–4; ICE Annual Review, Passaic County Jail (June 2005), Bates 14490–91; ICE Annual Review, Pennington County Jail (Aug. - Sept. 2005), Bates 3001–02; ICE Annual Review, Phelps County Jail (May 2005), Bates 2001–02; ICE Annual Review, Plaquemines Parish Detention Center (May 2005), Bates 1023–24; ICE Annual Review, Pottawattamie County Jail (July 2005), Bates 2043–44; ICE Annual Review, Ramsey County Jail (Nov. 2005), Bates 2100–01; ICE Annual Review, Regional Correction Center Albuquerque (Oct. 2005), Bates 2150–51; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3147–48; ICE Annual Review, Sherburne County Jail (Nov. 2005), Bates 10556–57; ICE Annual Review, Sherburne County Jail (Nov. 2005), Bates 13014–15; ICE Annual Review, St. Francois County Detention Center (May 2005), Bates 13058–59; ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1742–43; ICE Annual Review, Torrance County Detention Center (June 2005), Bates 1786–87; ICE Annual Review, Wicomico County Jail (June 2005), Bates 242–3; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2636–37; ICE Annual Review, Atlanta City Detention Center (May 2004), Bates 7720–21 (standard not rated); ICE Annual Review, Berks County Prison (July 2004, Sept. 2004), Bates 9169–71; 9207–08 (standard not rated); ICE Annual Review, Berks County Prison (June 2004), Bates 15298–99 (standard not rated); ICE Annual Review, Bexar County Detention Center (July 2004), Bates 9250–51; ICE Annual Review, Blount County Jail (July 2004, Aug. 2004) Bates 9294–95; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9413–14; ICE Annual Review, Cambria County Prison (Oct. 2004) Bates 9458–59; ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7970–71; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8008–09; ICE Annual Review, Chatham County Detention Center (July 2004), Bates 8106–07; ICE Annual Review, Christian County Jail (Sept. 2004), Bates 8197–98; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4439–40; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3737–

38; ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3782–83; ICE Annual Review, Colquitt County Sheriff's Office and Jail (Mar. 2004), Bates 3889–90 (standard not rated); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7476–77 (standard not rated); ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4060–61; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4153–54; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3384–85; ICE Annual Review, Grand Fork City Correctional Center (Dec. 2004), Bates 3523–24; ICE Annual Review, Harris County Jail (Mar.–Apr. 2004), Bates 3461–62; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3589–90; ICE Annual Review, Kenosha County Pre-Trial Detention Center (Aug. 2004), Bates 4277–78; ICE Annual Review, Keogh Dwyer Correctional Facility (Aug. 2004), Bates 7017–18; ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4861–62; ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4908–09; ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5066–67; ICE Annual Review, Minnesota Correctional Facility – Rush City (Oct. 2004), Bates 289–90; ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5162–63; ICE Annual Review, Monroe County Jail (July 2004), Bates 660–1; ICE Annual Review, Monroe County Jail (July, 2004), Bates 8939–40; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11984–85; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12036–37; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12086–87; 12109–10; ICE Annual Review, Onondaga County Justice Center (Dec. 2004), Bates 7830–31; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7280–81 (standard not rated); ICE Annual Review, Pennington County Jail (June 2004), Bates 11789–90; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6452–53; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6386–87; ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 6163–64; ICE Annual Review, Pottawattamie County Jail (July 2004), Bates 6062–63; ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 975–6; ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7185–86; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16863–64; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5241–42; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11053–54; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 13630–31; ICE Annual Review, Seneca County Jail (June 2004), Bates 14226–27; ICE Annual Review, Shawnee County Detention Center (Dec. 2004), Bates 14118–19; ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5806–07; ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 14172–73; ICE Annual Review, Silverdale Correctional Facility (Dec. 2004), Bates 5387–88; ICE Annual Review, CCA Silverdale Correctional Facility (Dec. 2004), Bates 5711–12; ICE Annual Review, Smith County Jail (June 2004), Bates 5672–73; ICE Annual Review, Snyder County Jail (Sept. 2004), Bates 6811–12; ICE Annual Review, Snyder County Jail (Sept. 2004), Bates 14072–73; ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 6775–76 (standard not rated); ICE Annual Review, St. Martin Parish Jail (Aug.–Sept. 2004), Bates 930–1; ICE Annual Review, Summit County Jail (Nov. 2004), Bates 6688–89; ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6555–56; ICE Annual Review, Torrance County Detention Center (June 2004), Bates 6601–02; ICE Annual Review, Torrance County Detention (June 2004; July 2004), Bates 13945–46; ICE Annual Review, Trumbull County Detention Center (May 2004), Bates 13963–64; ICE Annual Review, Union County Jail (Mar. 2004), Bates 6966–67; ICE Annual Review, Val Verde County Detention Center (June 2004), Bates 709–10; ICE Annual Review, Val Verde County Detention Center (July 2004), Bates 6510–11; ICE Annual Review, Washington County Purgatory Detention Facility (Nov. 2004), Bates 6920–21; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5624–25; ICE Annual Review, West Carroll Detention (Sept. 2004), Bates 13903–04; ICE Annual Review, West Tennessee Detention Facility (Oct. 2004), Bates 5913–14; ICE Annual Review, West Tennessee Detention Facility (Oct. 2004), Bates 13923–24; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5582–83 (standard not rated); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 7877–78; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 13846–47.

[12] ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15709–15710; ICE Annual Review, South Central Regional Jail (Nov. 2005), Bates 1702–1703.

[13] ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7614–7615; ICE Annual Review, Madison County Jail (July 2004), Bates 4583–4584; ICE Annual Review, Weber County Jail (Nov. 2004), Bates 338–339; ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5432–5433, 13769–13770; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5534–5535.

[14] Form G-324A, Detention Inspection Form Worksheet, Group Legal Presentations Checklist.

[15] In just a few cases, ICE reviewers used an earlier version of the checklist that did not contain this instruction. *See, e.g.*, ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11694–11695. Even in these cases, reviewers have varied in their approaches to completing these forms with respect to facilities that have not received requests from presenters. For example, one DHS reviewer commented that a facility had not received any requests for presentations but appeared to be open to them, and thus marked "Y' for the elements of the standard related to ICE's responsiveness to the requests of presenters and the facility's presentation of legal rights videos, but marked "N" for all other elements of the standard. *See, e.g.*, ICE Annual Review, Berks County Prison (July 2004), Bates 16903–16905; *see also* ABA Report Colquitt County Jail (Mar. 2005), Bates 8628 ("As CCJ has never had a request for a Group Rights Presentation, we are unable to ascertain if this section of the *Standards* has been substantially implemented."). The facility nonetheless was rated "acceptable" for the standard. ICE Annual Review, Berks County Prison (July 2004), Bates 16903–16905. In contrast, at another facility, the reviewer indicated that the facility was compliant with every element of the standard, even though no requests for presentations had been received. The reviewer added that the facility would allow such presentations, if requested, pending a consideration of their safety and security, and rated the facility acceptable for the standard. ICE Annual Review, Finney County Jail (May 2004), Bates 4234. The diversity of these responses indicates the limited effectiveness of DHS reviews in measuring compliance with the standard.

[16] ICE Annual Review, Chautauqua County Jail (Apr. 2005) 10495–10496; ICE Annual Review, Madison County Jail (Sept. 2005), Bates 1536; ICE Annual Review, Orleans County Jail (June 2005), Bates 12930; ICE Annual Review, Aguadilla Service Processing Center (2004), Bates 12597; ICE Annual Review, Cayuga County Jail (July 2004), Bates 10291; ICE Annual Review, Macomb Country Sheriff's Department (Mar. 2004), Bates 4539; ICE Annual Review, Orleans Country Jail (June 2004); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11339. In another review, the reviewing officer checked the box to indicate no presentations were held, marked "no" for nearly all of the elements of the checklist, and rated the facility "acceptable."

[17] *cf.* ABA Report, Bergen County Jail (Aug. 2003), Bates 17366.

[18] *Id.*

[19] *Id.*

[20] ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9120.

[21] ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11694–11695; ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 64; ICE Annual Review, South Ute Detention Center (Oct. 2004), Bates 1175.

[22] ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11694.

[23] ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17671.

[24] ABA Report, Oakland City Jail (July 2003), Bates 17652.

[25] ICE Annual Review, Kenosha County Sheriff's Department Corrections (May 2003), Bates 18786.

[26] GPLR § III.C (Detainee Notification and Attendance).

[27] ICE reviewers noted violations of this element at the following facilities: ICE Annual Review, Calhoun County Jail (Feb. 2005), Bates 10026 (answer marked: "No"; accompanying remark: "The INS liaison at the facility notifies the population of any upcoming presentations."); ICE Annual Review, Dale G. Haile Detention Center (Sept. 2005), Bates 6342 (answer marked: "No"; accompanying remark: "Presentations are on a scheduled basis and open to everyone."); ICE Annual Review, Dodge County Jail (May 2005), Bates 13560 (answer marked: "No"; accompanying remark: "Verbal announcements"); ICE Annual Review, Monroe County Jail (May 2005), Bates 2762; ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 64; ICE Annual Review, South Ute Detention Center (Oct. 2004), Bates 1175; ICE Annual Review, ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18471; ICE Annual Review, Tensas Parish Jail (Aug. – Sept. 2002), Bates 18568.

In addition, ICE reviewers' comments indicated violations at the following facilities: ICE Annual Review, Kenosha County Detention (June 2005), Bates 2285 (answer marked: "N/A"; accompanying remark: "All detainees are allowed to attend, no signups are required."); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1451 (answer marked: "Yes"; accompanying remark: "Some are unannounced, but held in the units for all to attend."); ICE Annual Review, Audrain County Detention Center (May 2004), Bates 7768 (answer marked: "Yes"; accompanying remark: "Has never happened, but would do so."); ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 11744; 14671; 15799; 16812 (answer marked: "Yes"; accompanying remark: "No sign up sheet. All ICE detainees are allowed to participate unless in SDU."); ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6646 (answer marked: "Yes"; accompanying remark: "Never asked to do this, but will."); ICE Annual Review, St. Francois Detention Center (June 2004), Bates 13985 (answer marked: "Yes"; accompanying remark: "Never asked to do this, but will"); ICE Annual Review, York County Prison (Dec. 2004), Bates 5290 (answer marked: "Yes"; accompanying remark: "As needed."); ICE Annual Review, York County Prison (Nov. 2003; Dec. 2004), Bates 13669 (answer marked: "Yes"; accompanying remark: "As needed"); Elizabeth Contract Detention Facility (Dec. 2002), Bates 18104 (answer marked: "Yes"; accompanying remark: "Not as often").

[28] GPLR § III.C (Detainee Notification and Attendance).

[29] *See* GPLR, Monitoring Instrument, Question 6.

[30] ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 64; ICE Annual Review, South Ute Detention Center (Oct. 2004), Bates 1175; ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18007.

[31] GPLR § III.C (Detainee Notification and Attendance); *see also* G-324A, Detention Inspection Form Worksheet, Group Legal Presentations Checklist.

[32] ICE Annual Review, South Central Regional Jail (Nov. 2004), Bates 64; ICE Annual Review, South Ute Detention Center (Oct. 2004), Bates 1175; ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18007.

[33] GPLR § III.I (Videotaped Presentations).

[34] ABA Report, Colquitt County Jail (Mar. 2005), Bates 8628 (answer marked: "No"; accompanying remark: "CCJ does not have a copy of the "Know Your Rights" video because ICE did not have sufficient quantities to distribute to all facilities."); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1451 (answer marked: "No"; accompanying remark: "New units are set up with capability to show in housing units."); ICE Annual Review, McHenry County Jail (July 2004), Bates 4773 (answer marked: "No"; accompanying remark: "Spanish tape is broken. Will be replaced by ICE."); NGO delegation to Miami/Dade facilities, Miami/Dade Detention Facilities; Krome (Jan. 2004), Bates 14390 (indicating that ICE tapes are not being shown on a regular basis); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5019 (answer marked: "No"; accompanying remark: "Facility does not have ICE approved video tapes."); ICE Annual Review, Morrison County Jail (Sept. 2004), Bates 11932 (answer marked: "No"; accompanying remark: "Don't have any tapes"); ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6646 (answer marked: "No"; accompanying remark: "Tapes forthcoming from ICE"); ICE Annual Review, St. Francois Detention Center (June 2004), Bates 13985 (answer marked: "No"; accompanying remark: "Tapes forthcoming"); ABA Report, Clay County Jail (Aug. 2003), Bates 17702 (reporting that the "Know Your Rights" videotape had not been aired and that facility officials interviewed were unaware of the existence of the video); ICE Annual Review, Elizabeth Contract Detention Facility (Dec. 2002), Bates 18104 (answer marked: "No"; accompanying remark: "no video, OIC will obtain video"); Memorandum accompanying ICE Annual Review, Tensas Parish Jail (Aug.–Sept. 2002), Bates 18545 ("At this time the Service has not made available a video describing legal rights."); ICE Annual Review, Tensas Parish Jail (Aug.– Sept. 2002), Bates 18568 ("The Service has not provided this video.").

[35] ICE Annual Review, El Centro Service Process Center (Jan. 2004), Bates 12657 (answer marked: "Yes"; accompanying remark: "Not showing at present time due to construction.").

[36] GPLR § III.F (Written Materials); *see also* GPLR, Attachment A.

[37] *Id.*

[38] ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3424; ICE Annual Review, Palm Beach County Jail (Oct. 2004), Bates 11694–11695; ABA Report, Oakland City Jail (July 2003), Bates 17652; ICE Annual Review, Kenosha County Sheriff's Department Corrections (May 2003), Bates 18786–18787; ABA Report, Plymouth County Correctional Facility (June 2003), Bates 17671; ICE Annual Review, Kenosha Country Sheriff's Department Corrections (July 2002), Bates 18742–18743; ICE Annual Review, Pike County Prison (Dec. 2002), Bates 18281; ICE Annual Review, Review Summary Report for Tensas Parish Jail (July–Aug. 2002), Bates 18545.

[39] GPLR § III.J (Availability of Policy).

[40] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1451; ICE Annual Review, Polk County Jail (May 2005), Bates 3068; ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18007; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18471; ICE Annual Review, Tensas Parish Jail (Aug.-Sept. 2002), Bates 18568 ("No written policy").

[41] *See generally* "INS Detention Standard: Access to Legal Material," in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009); ICE Annual Review, Santa Clara Main Complex (Oct. 2004), Bates 5771 (answer marked: "Yes"; accompanying remark: "Policy in place for Inmate access to legal material.").

[42] GPLR § III.D (Entering the Facility).

[43] ABA Report, CSC Detention Facility (May 2002), Bates 17735. A lack of language-specific information also posed difficulties for Chinese-speaking detainees at the CSC Detention Facility. ABA Report, CSC Detention Facility (May 2002), Bates 17735.

[44] *Id.* at 17736.

[45] ICE Annual Review, Buffalo Federal Detention Facility (May 2003), Bates 18955.

**CORRESPONDENCE AND OTHER MAIL**

[1] INS Detention Standard: Correspondence and Other Mail (hereinafter "COM") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/correspondence.pdf.

[2] COM § III.C (Standards and Procedures: Processing).

[3] COM § III.B (Standards and Procedures: Detainee Notification).

[4] COM § III.E.2 (Standards and Procedures: Inspection of Incoming Correspondence and Other Mail: Special Correspondence).

[5] COM § III.E.1 (Standards and Procedures: Inspection of Incoming Correspondence and Other Mail: General Correspondence and Other Mail).

[6] COM § III.F.1 (Standards and Procedures: Inspection of Outgoing Correspondence and Other Mail: General Correspondence and Other Mail).

[7] COM § III.F.2 (Standards and Procedures: Inspection of Outgoing Correspondence and Other Mail: Special Correspondence).

[8] COM § III.G (Standards and Procedures: Rejection of Incoming and Outgoing Mail).

[9] COM § III.H (Standards and Procedures: Contraband Recording and Handling).

[10] COM § III.I (Standards and Procedures: Postage Allowance).

[11] *Id.*

[12] COM § III.J (Standards and Procedures: Writing Implements, Paper, and Envelopes).

[13] COM § III.K (Standards and Procedures: Detainees in Special Management Units) (setting for policies for SPC's and CDF's); COM § II (Applicability) (noting that IGSAs must meet or exceed the objectives of the standard).

[14] COM § III.E.1 (Standards and Procedures: Inspection of Incoming Correspondence and Other Mail: General Correspondence and Other Mail).

[15] ICE Annual Review, Minnesota Correctional Facility-Rush Facility (Oct. 2004), Bates 282; ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 831; ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 969 (all incoming mail is scanned); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2005), Bates 1056; ICE Annual Review, Macomb County Jail (May 2005), Bates 1573; ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1819; ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 1862; ICE Annual Review, Pottawattamie County Jail (June 2005), Bates 2038; ICE Annual Review, Howard County Detention Facility (July 2005), Bates 2320 (violation indicated by comments that facility has policy of inspecting mail outside of detainee presence); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2399 (incoming general mail inspected outside of detainee presence); ICE Annual Review, Monroe County Jail (May 2005), Bates 2757; ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2838; ICE Annual Review, Mira Loma Detention (Aug. 2005), Bates 2918; ICE Annual Review, Plaquemines Parish Detention Center (Apr. 2005), Bates 3186 (general correspondence opened upon receipt but special correspondence opened in detainee presence); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3231; ICE Annual Review, Finney County Jail (May 2004), Bates 3267; ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3417; ICE Annual Review, Harris County Jail (Mar. – Apr. 2004), Bates 3454; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3582; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4146; ICE Annual Review, Dickens County Correctional Center (June 2004), Bates 4241 (all incoming mail opened outside presence of detainee); ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4271; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4432; ICE Annual Review, Limestone County Detention Center (May 2004), Bates 4480; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4533; ICE Annual Review, Madison County Jail (July 2004), Bates 4576; ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5012; ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5059; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5234; ICE Annual Review, York County Prison (Dec. 2004), Bates 5284 (repeat violation); ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5799; ICE Annual Review, West Tennessee Detention Facility (Oct. 2004), Bates 5906; ICE Annual Review, Worcester County Jail (Nov./Dec. 2004), Bates 5942; ICE Annual Review, Regional Correctional Facility (Albuquerque) (Aug. 2004), Bates 6011; ICE Annual Review, Phelps County Jail (Mar., Apr. 2004), Bates 6207; ICE Annual Review, Pike County Correctional Facility (Jan. 2005), Bates 6294; ICE Annual Review, Snyder County Jail (Sept. 2004), Bates 6804; ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6857; ICE Annual Review, Washington County Purgatory Detention Facility, San Francisco, CA (Nov. 2004), Bates 6915 (violation indicated by comments that "procedures states that staff 'may' read contents of inmate mail as necessary"); ICE Annual Review, Union County Jail, Elizabeth, NJ (Mar. 2004), Bates 6959 (all mail is inspected and logged in mailroom, and only special mail is opened in presence of detainee); ICE Annual Review, Saline County Jail, Salina, KS (Aug., Sept. 2004), Bates 7063 (two officers present, but no indication that detainee is present); ICE Annual Review, Minnesota Correctional Facility - Rush City (Oct. 2004), Bates 7102; ICE Annual Review, Rockingham County Department of Corrections, Brentwood, NH (May 2004), Bates 7178; ICE Annual Review, Reno County Jail, Hutchinson, KS (Sept. 2004), Bates 7228 (two officers present, but not detainee); ICE Annual Review, Orleans Parish Community Corrections Center, New Orleans, LA (Sept. 2004), Bates 7273; ICE Annual Review, Orleans County Jail, Albion, NY (June 2004), Bates 7320; ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7365 ("all detainee mail are inspected for contraband"); ICE Annual Review, Turner Guilford Knight Correctional Center, Miami, FL (Mar. 2004), Bates 7419 (violation indicated by comments that all mail is opened for contraband); ICE Annual Review, Community Corrections Center, New Orleans, LA (Sept. 2004), Bates 7469; ICE Annual Review, Rolling Plains Regional Detention Center, Haskell, TX (Mar. 2004), Bates 7521; ICE Annual Review, Allegheny County Jail, Pittsburgh, PA (Oct. 2004), Bates 7569; ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7608; ICE Annual Review, Minnesota Correctional Facility - Rush City (Oct. 2004), Bates 4720; ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7963; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8001; ICE Annual Review, Chase County Jail (July 2004), Bates 8054; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8145; ABA report, Ozaukee County Jail (July 2004), Bates 8374 ("in a non-emergency situation, it is unclear whether or not the detainee is present for inspection" of mail); ICE Annual Review, Bedford County Jail (Nov. 2004), Bates 9067; ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9113; ICE Annual Review, Berks County Prison (July 2004), Bates 9162; ICE Annual Review, Blount County Jail (July 2004), Bates 9287 (blanket policy of inspecting all incoming and outgoing mail); ICE Annual Review, Bonneville County Jail (June 2004), Bates 9332; ICE Annual Review, Boone County Jail (June 2004), Bates 9369; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9406; ICE Annual Review, Cambria County Prison (Oct. 2004), Bates 9453; ICE Annual Review, Calhoun County Jail (Feb. 2005), Bates 10020; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10284 (comments indicating violation, in that facility follows state regulations allowing mail to be opened outside presence of detainee); ICE Annual Review, Chatham County Detention Center, Savannah, GA (Aug. 2005), Bates 10446; ICE Annual Review, Sherburne County Jail, Elks River, MN (Nov. 2005), Bates 10551; ICE Annual Review, Salt Lake County Detention

Complex (Sept. 2004), Bates 10614; ICE Annual Review, Batavia Service Processing Center, Batavia, NY (May 2005), Bates 10802; ICE Annual Review, Santa Ana City Jail, Santa Ana, CA (Aug. 2004), Bates 11046; ICE Annual Review, San Diego Correctional Facility, San Diego, CA (Aug. 2003), Bates 11328 ("All general mail is opened without detainee present…. All aliens are notified in writing of this policy during Intake and have the option of refusing. However, if an alien refuses to have all general mail opened, he/she will receive no mail and all mail will be sent back to sender."); ICE Annual Review, North Las Vegas Detention Center, N. Las Vegas, NV (July 2004), Bates 12028; ICE Annual Review, Oklahoma County Detention Center, Oklahoma City, OK (Dec. 2004), Bates 12079; ICE Annual Review, Buffalo Federal Detention Facility, Batavia, NY (May 2004), Bates 12394 (violation indicated by comments that facility houses both ICE and criminal detainees, that volume of mail is high, and that as a result, to "open and screen all incoming mail in the presence of the detainee would be very time consuming, impractical, and disruptive"); ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12886 (facility policy states that detainees do not have to be present); ICE Annual Review, Orleans County Jail (June 2005), Bates 12925; ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13239 ("everything is inspected"); ICE Annual Review, Dickens County Jail (June 2005), Bates 13520; ICE Annual Review, Dodge County Jail (May 2005), Bates 13555; ICE Annual Review, Santa Ana City Jail, Santa Ana, CA (Aug. 2004), Bates 13615 (repeat violation indicated by remarks that facility "still scans both incoming and outgoing mail without the detainee present"); ICE Annual Review, York County Prison (Nov. 2003; Dec. 2004), Bates 13656; ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5412; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16856 (all mail except legal mail opened without detainee present); ABA report, Dupage County Jail (July 2003), Bates 17380 (all incoming general mail inspected outside presence of detainee); ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 17998; ICE Annual Review, Buffalo Federal Detention Facility (May 2003), Bates 18032 (repeat violation); ICE Annual Review, Pike County Prison (Dec. 2002), Bates 18274; ICE Annual Review, Pike County Prison (Dec. 2003), Bates 18317 (repeat violation); Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18562; ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18735; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18779 (repeat violation).

[16] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[17] ICE Annual Review, Ramsey County Jail (aka Ramsey County Adult Detention Center) (Nov. 2005), Bates 2095; ICE Annual Review, McHenry County Jail (July 2004), Bates 4766; ICE Annual Review, Santa Ana City Jail, Santa Ana, CA (Aug. 2004), Bates 11046.

[18] ICE Annual Review, McHenry County Jail (July 2004), Bates 4749; ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5059; ICE Annual Review, Garfield County Jail (June 2005), Bates 13425; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11046; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12079 (facility inspects all outgoing mail prior to it being sealed); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13239 ("All mail going in and out of the facility besides legal mail is inspected."); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18735 (all outgoing mail is scanned).

[19] *See, e.g.*, ABA report, Dorchester Detention Center (July 2004), Bates 8262.

[20] ABA report, Dorchester Detention Center (July 2004), Bates 8262; ABA report, St. Mary's County Detention Center (June 2003), Bates 17610.

[21] ABA report, St. Mary's County Detention Center (June 2003), Bates 17610.

[22] COM § III.B (Standards and Procedures: Detainee Notification) (requiring notification through handbook or its equivalent; in languages spoken by any significant portion of the facility population; by posting of rules in housing areas of SPCs and CDFs); COM § II (Applicability) (noting that IGSAs must meet or exceed objectives of the standard if they adopt alternative procedures).

[23] ICE Annual Review, St. Martin Parish Jail (Aug.–Sept. 2004), Bates 923 (correspondence rules not posted in housing areas); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4008 (correspondence rules not posted in housing areas); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6445 (correspondence rules not posted in housing or common areas); ICE Annual Review, Queens Contract Detention Facility (Oct. 2003), Bates 11384 (correspondence rules not posted on walls); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11438 (violation indicated by comments that rules are contained in handbook only); ICE Annual Review, Oklahoma County Detention Center, (Dec. 2004), Bates 12079 (correspondence rules not posted in housing areas); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12455 (correspondence rules not provided in handbook or otherwise communicated to detainees at admission); ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18562 (correspondence rules not provided in handbook).

[24] ABA Report, Dodge County Detention Facility (June 2004), Bates 8645 (facility does not notify detainees of rules and procedures relating to special correspondence, sending and receiving packages, receipt of identity documents, obtaining writing implements, and free postage for indigent detainees; ABA Chart, Detention Standards Implementation Initiative, Summary of Implementation Problems (Jan. 2006), Bates 8520 (noting that Dodge County Detention Facility handbook does not inform detainees how to label special correspondence and that San Pedro Service Processing Center handbook does not inform detainees of confidentiality protections for special correspondence).

[25] COM § III.B (Standards and Procedures: Detainee Notification).

[26] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1445 (facility handbook not yet translated into Spanish); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1737 (correspondence information in English only); ICE Annual Review, Finney County Jail (May 2004), Bates 3267 (correspondence information not in Spanish); ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3775 (noting facility reliance on college students for translation of policies); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4533 (correspondence information in English only); ICE Annual Review, Madison County Jail (July 2004), Bates 4576 (correspondence information not translated for large number of African detainees); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5425 (noting facility reliance on translators because materials not available in other languages); ICE Annual Review, Smith County Jail (June 2004), Bates 5665 (correspondence information in English only); ICE Annual Review, Phelps County Jail (Mar., Apr. 2004), Bates 6207 (correspondence information not in Spanish); ICE Annual Review, St. Francois County

Detention Center (June 2004), Bates 6639 (correspondence information not in Spanish); ICE Annual Review, St. Mary's County Detention Center (July 2004), Bates 6724 (correspondence information in English only); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6857 (correspondence information not yet translated into Spanish); ICE Annual Review, Saline County Jail, Salina, KS (Aug., Sept. 2004), Bates 7063 (correspondence information not yet translated into language(s) other than English); ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7228 (correspondence information in English only); ICE Annual Review, Orleans County Jail (June 2004), Bates 7320 (correspondence information in English only); ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7607 (correspondence information in English only); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8145 (correspondence information in English only); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11438 (violation indicated by remarks stating that Chinese language handbook is needed); ICE Annual Review, Pennington County Jail (June 2004), Bates 11782 (violation indicated by remarks that Spanish handbook not yet completed); ICE Annual Review, Niagara County Jail, Lockport, NY (Oct. 2004), Bates 11977 (violation indicated by remarks that Spanish handbook not yet completed and translation must be done by fellow detainees); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12455 (no handbook or notification of correspondence policy at time of detainees' admission); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13239 (correspondence information in English only); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 13758 (correspondence information in English only); ICE Annual Review, Tensas Parish Jail, (Aug. 2002), Bates 18562 (handbook does not contain key correspondence information); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18779 (correspondence information in English only).

[27] *See, e.g.*, ICE Annual Review, Berks County Prison (July 2004), Bates 9200 (noting that translation service was not always available); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11438 (noting that Spanish speaker was not always available for translation).

[28] ICE Annual Review, Mira Loma Detention Facility (Aug. 2005), Bates 2918.

[29] ABA Chart, Detention Standards Implementation Initiative, Summary of Implementation Problems (Jan. 2006), Bates 8520 (noting that San Pedro Service Processing Center handbook "does not state that special correspondence may only be opened in a detainee's presence, and may be inspected for contraband, but not read" and Dodge County Detention Facility handbook "does not inform detainees how to label special correspondence").

[30] ABA Report, San Pedro Service Processing Center (Aug. 2005), Bates 8569.

[31] COM § III.G (Standards and Procedures: Rejection of Incoming and Outgoing Mail).

[32] ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 969 (only addressee is notified regarding rejected mail, and no written notice regarding rejected outgoing mail); ICE Annual Review, Macomb County Jail (May 2005), Bates 1573 (no written notice to detainee of rejected mail); ICE Annual Review, Ramsey County Jail (Nov. 2005), Bates 2095 (no notice to sender of rejected incoming mail); ICE Annual Review, Nobles County Jail (May 2005), Bates 2674 (no notice to detainee of rejected mail); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3231 (no notice to sender of rejected incoming mail); ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3827 (no written notice to detainee of rejected incoming mail); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4183 (no written notice to detainee and no notice at all to sender of rejected incoming mail); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4432 (no written notice when incoming or outgoing mail is rejected); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4533 (no written notice to detainee of rejected incoming mail); ICE Annual Review, Smith County Jail (June 2004), Bates 5665 (no written notice when incoming or outgoing mail is rejected); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6445 (no notice to detainee of rejected incoming or outgoing mail); ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7273 (no notice given regarding rejected mail); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7365 (no notice to detainee or sender of rejected incoming mail); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7469 (no notice given regarding rejected incoming or outgoing mail); ICE Annual Review, Bannock County Jail (June 2004), Bates 9023 (no written notice to sender when incoming mail is rejected); ICE Annual Review, Boone County Detention Facility (Dec. 2004), Bates 9369 (no notice to sender when incoming mail is rejected); ICE Annual Review, Chatham County Detention Center (Aug. 2005), Bates 10446 (no notice to detainee of rejected mail); ICE Annual Review, Sherburne County Jail, Elks River, MN (Nov. 2005), Bates 10551 (no notice to sender of rejected incoming mail); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11329 (violation indicated by remarks that rejected mail was only indicated by annotation on envelope); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12455 (no written notice to detainee of rejected incoming mail); ICE Annual Review, Wyatt Detention Center (Dec. 2004; Jan. 2005), Bates 12547 (no notice to sender of rejected incoming mail); ICE Review including detainee handbook, Passaic County Jail (June 2005), Bates 14484 (no written notice to detainee of rejected incoming mail, and mail is returned to sender without explanation); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15422 (no written notice regarding rejected incoming mail); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18463 (no written notice regarding rejected incoming mail); ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18562 (no written notice regarding rejected incoming mail); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18735 (no policy regarding written notice of rejected mail).

[33] COM § III.H (Standards and Procedures: Contraband Recording and Handling).

[34] ICE Annual Review, Nobles County Jail (May 2005), Bates 2674 (no written record made of items removed from detainee mail); ICE Annual Review, Finney County Jail (May 2004), Bates 3267 (no written record made of items removed from detainee mail); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3417 (facility gives verbal notice to detainees only and does not keep written record of items removed from detainee mail); ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3827 (facility gives verbal notice to detainees only and does not keep written record of items removed from detainee mail); ICE Annual Review, Dorchester County Detention Center (Sept. – Oct. 2004), Bates 4008 (no written record made of items removed from detainee mail); ICE Annual Review, Dickens County Correctional Center (June 2004), Bates 4241 (no written record when items are removed from detainee mail); ICE Annual Review, Middlesex County Department of Corrections (Oct. 2004), Bates 4946; ICE Annual Review, Mira Loma Detention Center (July 2004), Bates 5109 (written record made only for removal of "hard" contraband, not other items, from detainee mail); ICE Annual Review, Smith County Jail (June 2004), Bates 5665 (no written record made of items removed from detainee mail); ICE Annual Review, Worcester County Jail (Nov./ Dec. 2004), Bates 5942 (no written record made of items removed from detainee mail); ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6639 (no written record when items are removed from detainee mail); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7178 (no record of items removed from detainee's mail); ICE Annual Review, Chatham County Detention Center (Aug. 2005), Bates 10446 (no written record

made of items removed from detainee mail); ICE Annual Review, Point Coupee Parish Detention Center (May 2004), Bates 10615 (no written record made when items are removed from detainee mail); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11329 (violation indicated by remarks that logbook for rejected mail had not been updated); ICE Annual Review, El Centro Service Process Center (Jan. 2004), Bates 12646 (no written record made of items removed from detainee mail); ICE Annual Review, El Centro Service Processing Center, El Centro, CA (Jan. 2004), Bates 15500 (no written record made of items removed from detainee mail, and no such records found in contraband logbooks).

[35] COM § III.H.1 (Standards and Procedures: Contraband Recording and Handling).

[36] ICE Annual Review, Howard County Detention Facility (July 2005), Bates 2321 (cash is not accepted by mail); ICE Annual Review, McHenry County Jail (July 2004), Bates 4767 (cash returned to sender); ICE Annual Review, West Tennessee Detention Facility (Oct. 2004), Bates 5907 (violation indicated by remarks that cash cannot be received through mail); ICE Annual Review, Pike County Correctional Facility (Jan. 2005), Bates 6295 (cash returned to sender); ICE Annual Review, Saline County Jail (Aug., Sept. 2004), Bates 7063 (cash returned); ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7274 (facility does not accept cash; money order only); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11329 (violation indicated by remarks that facility does not accept cash via mail, only cashier's check or money orders); ICE Annual Review, Wyatt Detention Center (Dec. 2004; Jan. 2005), Bates 12548 (cash not accepted by mail); ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18563 (cash is not accepted by mail, is returned to sender, and facility does not make any documentation); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections, Kenosha, WI (July 2002), Bates 18736 (facility does not accept cash; money order or checks only).

[37] COM § III.H.2 (Standards and Procedures: Contraband Recording and Handling).

[38] ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 924 (marked not applicable, indicating that facility did not keep detainee identity documents on-site); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1738 (facility did not keep detainee identity documents on-site); ICE Annual Review, Lincoln County Jail (June 2005), Bates 2522 (noting that ICE was responsible for detainee identity documents); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2632 (noting that ICE was responsible for detainee identity documents); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3378 (marked not applicable, indicating that facility did not keep detainee identity documents on-site and did not provide copies to detainees upon request); ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4009 (ICE, not facility, was responsible for all detainee identity documents); ICE Annual Review, Ector County Correctional Center (Nov. 2004), Bates 4102 (noting that facility did not keep A-files, and arresting agency kept detainee identity documents); ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4147 (noting that ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4184 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4433 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Odessa Detention Center (Nov. 2004), Bates 5335 (arresting agency, not facility, kept detainee identity documents); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6380 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6446 (marked not applicable, indicating that ICE not facility, was responsible for detainee identity documents); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6858 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Keogh-Dwyer Correctional Facility (Aug. 2004), Bates 7011 (marked not applicable, indicating that facility did not keep detainee identity documents on-site); ICE Annual Review, Audrain County Detention Center, Chicago District (May 2004), Bates 7762 (marked not applicable, indicating that facility did not keep detainee identity documents on-site); ICE Annual Review, Bonneville County Jail (June 2004), Bates 9333 (marked not applicable, indicating that facility did not keep detainee identity documents on-site); ICE Annual Review, Cambria County Prison (Oct. 2004), Bates 9454 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Butler County Jail (Apr. 2005), Bates 9937 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Calhoun County Jail (Feb. 2005), Bates 10021 (remarks indicating that ICE, not facility, was responsible for detainee identity documents off-site at ICE office); ICE Annual Review, Chase County Jail (Sept. 2005), Bates 10410 (ICE, not facility, was responsible for detainee identity documents); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11439 (noting that "ALL identity documents turned over to BICE"); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12029 (ICE, not facility, was responsible for detainee identity documents).

[39] ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1738 (facility does not provide copy of identity documents to detainees upon request); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6446 (marked not applicable, indicating that facility does not provide copy of identity documents to detainees upon request); ICE Annual Review, Bonneville County Jail (June 2004), Bates 9333 (marked not applicable or violation, indicating that facility does not provide copy of identity documents to detainees upon request); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11329 (facility does not provide copy of identity documents to detainees upon request); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12456 (facility does not provide copy of identity documents to detainees upon request); ICE Annual Review, San Pedro Service Processing Center, San Pedro, CA (May 2002), Bates 18463 (facility does not provide copy of identity documents to detainees upon request).

[40] ICE Annual Review, Palm Beach County Sheriff's Office (Oct. 2004), Bates 11673 (noting that because facility did not have any place to secure identity documents are therefore destroyed them); Bates 11689 (noting no ICE personnel at facility).

[41] COM § III.E.2 (Standards and Procedures: Inspection of Incoming Correspondence and Other Mail: Special Correspondence).

[42] COM § III.F.2 (Standards and Procedures: Inspection of Outgoing Correspondence and Other Mail: Special Correspondence).

[43] ABA report, Clay County Jail (Aug. 2003), Bates 17701.

[44] *Id.*

[45] ABA report, Montgomery County Correctional Facility (July 2004), Bates 8335.

[46] ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 7569.

[47] ABA report, Berks County Prison (July 2004), Bates 16607.

[48] ABA report, Plymouth County Correctional Facility (June 2003), Bates 17671.

[49] ABA report, Dallas County Jail System Facility (Mar. 2002), Bates 17392.

[50] ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6857 (mail to politician or media not treated as special correspondence); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7178 (mail to politician or media not treated as special correspondence); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7365 (mail to politician or media not treated as special correspondence); ICE Annual Review, Crawford County Sheriff's Department (Mar. 2005), Bates 13239 ICE Annual Review,

Buffalo Federal Detention Facility (Aug. 2002), Bates 17998 (media mail is not treated as special correspondence); ICE Annual Review, Garfield County Jail (June 2005), Bates 13425 (mail to politician or media not treated as special correspondence); ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 17998 (mail to media not treated as special correspondence); ICE Annual Review, Pike County Prison (Dec. 2002), Bates 18274 (mail to politician or media not treated as special correspondence); ICE Annual Review, Pike County Prison (Dec. 2003), Bates 18317 (repeat violation, mail to politician or media not treated as special correspondence); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18735 (media mail not treated as special correspondence).

[51] COM § III.J (Standards and Procedures: Writing Implements, Paper, and Envelopes).

[52] COM § III.I (Standards and Procedures: Postage Allowance).

[53] *Id.* If the facility has no system for detainees to purchase stamps, it must allow all detainees to mail all special correspondence and at least five items of general correspondence per week at government expense.

[54] *Id.*

[55] ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2632 (indigent detainees allowed to send only two free letters per week); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2839 (indigent detainees allowed only one letter per day); ICE Annual Review, Polk County Jail (May 2005), Bates 3064 (detainees limited to two postage-paid envelopes per week); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3418 (detainees limited to two postage-paid envelopes per week); ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3776 (indigent detainees allowed to send only two free letters per week); ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4147 (detainees limited to two postage-paid envelopes per week); ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4855 (indigent detainees required to make requests to send special correspondence at government expense to chaplain); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4902 (marked not applicable, indicating violation that detainees are not allowed to send at least three general correspondence items per week); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5426 (detainees limited to two postage-paid envelopes per week); ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6096 (detainees limited to two outgoing postage-paid envelopes per week for general correspondence); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7179 (all detainees allowed only three pieces of mail per week); ICE Annual Review, Orleans County Jail (June 2004), Bates 7321 (free general correspondence limited to two pieces per week); ABA report, Pamunkey Regional Jail (Aug. 2004), Bates 8401(providing indigent detainees only four envelopes and writing implements every two weeks); ICE Annual Review, Berks County Prison (July 2005), Bates 9748 (detainees limited to two postage-paid envelopes per week); ICE Annual Review, Bonneville County Jail (May 2005), Bates 9830 (detainees allowed to send only two letters per week); ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10099 (free general correspondence for indigent detainees limited to two pieces per week); ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10491 (free general correspondence for indigent detainees limited to two pieces per week); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11977 (indigent detainees limited to two pieces of general correspondence per week); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12029 (facility provides only two stamped envelopes per week and "additional items must be requested"); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12080 (detainees provided only one stamp per week); ICE Annual Review, Orleans County Jail (June 2005), Bates 12926 (free general correspondence for indigent detainees limited to two pieces per week); ICE Annual Review, Citrus County Jail (Nov. 2005; Dec. 2005), Bates 13144 (free general correspondence for indigent detainees limited to two pieces per week); ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18563 (detainees allowed to send only two letters per week).

[56] ICE Annual Review, Macomb County Sheriff's Department (May 2005), Bates 1574 (detainees required to buy writing implements); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3232 (requiring detainees to make written request for two stamped envelopes, sheets of paper, and a pencil); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4433 (indigent detainees allowed only one stamp and one envelope per week); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4534 (requiring detainees to purchase writing implements for mail); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5426 (no envelopes, writing paper, or pencils provided to any detainees free of charge); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12806 (marked not applicable, and comments indicating violation that all ICE detainees are not provided writing implements at no cost).

[57] ABA report, Aurora Contract Detention Facility (Sept. 2004), Bates 8228.

[58] *Id.*

[59] ABA report, Osborn Correctional Institution (July 2004), Bates 8358.

[60] ABA report, Keogh Dwyer Correctional Facility (July 2004), Bates 8482.

[61] ABA report, Dupage County Jail (Illinois) (July 2003), Bates 17380.

[62] ABA report, Pamunkey Regional Jail (Aug. 2004), Bates 8401.

[63] ICE Annual Review, Bexar County Detention Center (July 2004), Bates 9244 .

[64] ABA report, Kern County Jail (Aug. 2002), Bates 17483; ABA report, Corrections Corporation of America, Houston, TX (Jan. 2003), Bates 17570 (indigents are those with less than $3.00 in their account for more than thirty days).

[65] ABA report, Kenosha County Detention Facility (Sept. 2005), Bates 8612.

[66] ABA report, San Pedro Service Processing Center (Mar. 2002), Bates 17460.

[67] UNHCR Report, TGK Detention Facility (Apr. 2001), Bates 18850.

[68] COM § III.C (Standards and Procedures: Processing).

[69] ICE Annual Review, Ramsey Adult Detention Center (Nov. 2004), Bates 969 (no weekend mail delivery); ICE Annual Review, CCA Silverdale (Dec. 2004), Bates 7045 (delivery of packages to detainees may take 48 hours); ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7963 (no holiday or weekend mail delivery); ICE Annual Review, Northwest Detention Center (July 2005), Bates 10960 (mail received on Saturdays not distributed until Mondays).

[70] ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3827; ICE Annual Review, Finney County Jail (May 2004), Bates 4227; ICE Annual Review, Kern County Sheriff's Office, Lerdo Pre-Trial Facility (Dec. 2004), Bates 4308; ICE Annual Review, McHenry County Jail (July 2004), Bates 4766; ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4854 (facility refused to accept certified or priority mail); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4901; ICE Annual Review, Smith County Jail (June 2004), Bates 5665; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5765 (no log books); ICE Annual Review, Summit County Jail (Nov. 2004), Bates 6683 (marked not applicable or violation indicated by comments); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7178; ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7228 (facility does not allow deliveries via priority, overnight or certified mail); ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9369; Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18562 (noting that such packages "may" be logged, and require prior approval); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18735.

[71] ABA report, Plymouth County Correctional Facility (June 2003), Bates 17671.

[72] *See, e.g.*, ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1738 (marked not applicable, as to whether every indigent detainee had the opportunity to send reasonable correspondence at the government expense, without further comment or explanation).

[73] *See, e.g.*, ICE Annual Review, Worcester County Jail (Nov. 2004), Bates 5942-43; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7469.

## ADMINISTRATIVE AND DISCIPLINARY SEGREGATION

[1] The 2008 Performance-Based National Detention Standards include one detention standard on Special Management Units that encompasses the prior two detention standards on administrative and disciplinary segregation.

[2] INS Detention Standard: Special Management Unit (Administrative Segregation) (hereinafter "AS") § III.A, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/smu_adm.pdf.

[3] AS § III.A.

[4] INS Detention Standard: Special Management Unit (Disciplinary Segregation) (hereinafter "DS") § III.A, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/smu_discip.pdf.

[5] AS § III.C; DS § III.C.

[6] AS § III.D; DS § III.D.

[7] AS § III.D.

[8] AS § III.B.

[9] DS § III.A.

[10] DS § III.D.

[11] AS § I; DS § I.

[12] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[13] ICE Annual Review, Madison County Jail (Sept. 2005), Bates 1549–50; ICE Annual Review, Monroe County Jail (May 2005), Bates 2774 (classification unit sometimes used as administrative segregation, although facility does have SMU); ICE Annual Review, Orleans County Jail (June 2005), Bates 12942, 12945 ("keeplock status" used); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2650, 53 (no SMU "per se," but cells in old part of facility serve as functional equivalent; received "acceptable" rating); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8166, 8168–69 ("All administrative and disciplinary segregation detainees are kept under [illegible] in the maximum security block."); ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 154 (hold cells and maximum security cells improperly used for administrative and disciplinary segregation); ICE Review, Las Animas County Jail Center (Dec. 2004), Bates 4398, 4402; ICE Annual Review, Monterey Park City Jail (Aug. 2004), Bates 8998, 9002; ICE Annual Review, Orleans County Jail (June 2004), Bates 7340, 7347; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 12689, 15599 (facility procuring funds for SMU, rated "acceptable," speculating that "when the unit is constructed this standard should receive an acceptable rating"); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7198 ("D Block is used as seg. D Block is a regular unit. . . . There are only 4 seg cells in the facility and they are used for females."); ICE Annual Review, Tangipahoa Parish Jail (June 2004), Bates 15879; ICE Annual Review, Wyoming County Jail (Apr. 2004), Bates 5449–52.

[14] ICE Annual Review, Orleans County Jail (June 2005), Bates 12944; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2650; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4401 (but overall "at risk" facility rating: Bates 4364); ICE Annual Review, Orleans County Jail (June 2004), Bates 7343; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 12703, 15636 (reviewer gives "acceptable" rating and predicts that "when the unit is constructed this standard should receive an acceptable rating"); Wyoming County Jail (Apr. 2004), Bates 5449–52 ("NA" marked for every question, but facility rated "acceptable").

[15] ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7258 (rated "deficient"); ABA Report, Osborn Correctional Institution (July 2004), Bates 8357; ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7198.

[16] ICE Annual Review, Polk County Jail (May 2005), Bates 3082 ("housed in the same area albeit in separate cells"); ICE Annual Review, Rockingham County Department of Corrections, Brentwood, NH (May 2004), Bates 7198 ("There are only 4 seg cells in the facility and they are used for females.").

[17] AS § III.B–C.

[18] *Id.*

[19] ICE Annual Review, Berks County Prison (May 2005), Bates 9736, 9764 (status review after two weeks instead of required 72 hours); ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 848 (review conducted every 10 days); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1463 (review conducted every 15 days; "policy does not include the detainee presence for each additional review"); ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2895; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12823; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3249 ("classification tech" conducts reviews; review not properly logged); ICE Annual Review, Orleans County Jail (June 2005), Bates 12942; ICE Annual Review, Blount County Jail (July 2004, Aug. 2004) Bates 9307 (reviews are "10 days"); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10304 ("30 day reviews"); ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3795 (no review after 7 days, noting the "detainees average less than 1 week detention"); ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3902; ICE Annual Review, Finney County Jail (May 2004), Bates 3285 (Detainees do not stay in administrative segregation "that long. They are moved to another facility if needed."); ICE Annual Review, McClennan County Detention Center (Nov. 2004), Bates 4796–831 ("Every 2 months"); ICE Annual Review, Morgan County Detention Center (May 2004), Bates 11898 ("Will implement"); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11997; ICE Annual Review, Orleans County Jail (June 2004), Bates 7340; ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7198 ("NA" checked); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6877 ("reviewed at the request of the staff or inmate"); ICE Annual Review, Shawnee County Department of Corrections (Dec. 2004), Bates 5739; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11422, 11468 (no supporting documentation; no progress from 2002); ICE Annual Review, Shawnee County

Detention Center (Nov. 2003), Bates 14134; ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18447, 18487 ("Time frame for reviews, decisions, and execution of appropriate paperwork is inconsistent."); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11480, 11489 (no documentation).

[20] UNHCR Report, Tensas Detention Center (May 2004), Bates 8702 (mental health review after 30 days and every three months thereafter; one detainee with apparent severe mental health issues in administrative segregation for six months).

[21] AS § III.C.

[22] ICE Annual Review, Berks County Prison, Leesport, PA (May 2005), Bates 9764 (appeal after two weeks; rated deficient); ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3902 (no opportunity to appeal); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3397 (no opportunity to appeal); ICE Annual Review, Jefferson County Jail, Mt. Vernon, IL (Oct. 2004), Bates 3602 (no opportunity to appeal; rated deficient); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6877, 6878; ICE Annual Report, San Pedro Service Processing Center, San Pedro, CA (May 2002), Bates 18488 (no appeal after seven days; comment states, "NDS is followed").

[23] DS § III.A.

[24] ICE Annual Review, Bexar County GEO Detention Facility (Nov. 2005), Bates 9808 ("No" checked, but comment states, "case by case basis/ 30 days or less."); ICE Annual Review, Kenosha County Detention (June 2005), Bates 2300; ICE Annual Review, Lin County Jail (May 2005), Bates 12178 ("No" checked, but comment states, "meets standard."); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2858 ("90 days maximum"); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12826, 12828 ("The maximum sanction that a detainee can receive for a serious infraction is 90 days. This doesn't apply to ICE detainees, as they do not spend a significant amount of time at this facility. Long term detainees are not housed at the NCJ. Problem detainees are immediately removed from this facility."); ICE Annual Review, Nobles County Jail (May 2005), Bates 2698; ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12905; ICE Annual Review, Orleans County Jail (June 2005), Bates 12945 ("Some go up to 180 days."); ICE Annual Review, Polk County Jail (May 2005), Bates 3083 ("No" checked, but comment states, "meets standard."); ICE Annual Review, Bexar County Detention Center (July 2004), Bates 9267 ("No" checked, but comment states, "Handled on a case by case basis none over thirty days."); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10308 ("90 day maximum"); ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4032; ICE Annual Review, Minnesota Correctional Facility - Rush Facility (Oct. 2004), Bates 312; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 12001 ("Maximum disciplinary sanction at this facility is 90 days for serious infractions. ICE detainees that fail to abide by NCJ rules and regulations are required to leave, so these sanction[s] really don't apply to ICE detainees."); ICE Annual Review, Orleans County Jail (June 2004), Bates 7344 ("up to180 days"); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5262 ("90 days maximum"); ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5823 ("90-180 days").

[25] ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2858; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12826 (but it does not apply to ICE detainees); ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12905; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10308; ICE Annual Review, Minnesota Correctional Facility - Rush City (Oct. 2004), Bates 7126; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 12001 (but it does not apply to ICE detainees); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5262.

[26] ICE Annual Review, Orleans County Jail (June 2005), Bates 12945; ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5823; ICE Annual Review, Orleans County Jail (June 2004), Bates 7344; ICE Annual Review, Orleans County Jail (June 2005), Bates 12945.

[27] ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4170.

[28] AS § III.C; DS § III.A.

[29] ICE Annual Review, Bonneville County Jail (May 2005), Bates 9846 ("Will comply"); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15439, 15441 ("30 days maximum"); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12823; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3252 (no documentation that reviews are completed); ICE Annual Review, Passaic County Jail (June 2005), Bates 14503 ("30 days maximum"); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 195; ICE Annual Review, Atlanta City Detention Center (May 2004), Bates 7735; ICE Annual Review, Blount County Jail (July 2004, Aug. 2004) Bates 9307 ("NA" checked); ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8021 ("facility will implement"); ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11217 (detainee in administrative segregation for six months with no 30-day notice); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4925 ("Once the hearing is conducted there is an appeal process, but there is no further review"); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11997; ICE Annual Review, Onondaga County Justice Center (Dec. 2004), Bates 7841 ("NA" checked); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7159; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5258; ICE Annual Review, York County Prison (Dec. 2004), Bates 5309.

[30] ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16933 ("NA" checked); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10304 ("NA" checked); ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3750 ("NA" checked, but "yes" checked for whether the OIC reviews the case of detainees who object to segregation after 30 days.); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6465 ("NA" checked); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6877 ("NA" checked); ICE Annual Review, Smith County Jail (June 2004), Bates 5685, 14104 ("NA" checked, noting, "No detainees housed here." However, this statement contradicts the fact that the reviewer commented on other aspects of the administrative segregation unit at this facility); ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5595 ("NA" checked, but "yes" checked for whether the OIC reviews the case of every detainee who objects to administrative segregation after 30 days.); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11422 (no supporting documentation), Bates 11468; ICE Annual Review, Kenosha County Sheriff's Dept of Corrections (July 2002) Bates 18755 (comment states, "No detainees housed"); ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18487 ("NA" checked); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11480, 11489 (no documentation).

[31] AS § III.C.

[32] ICE Annual Review, Bonneville County Jail, Idaho Falls, ID (May 2005), Bates 9846 ("Will comply"); ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10507; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12823; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3249 ("Supervisory review only if the detainee files a grievance"); ICE Annual Review, Orleans County Jail (June 2005), Bates 12942; ICE Annual Review, Atlanta City Detention Center (May 2004), Bates 7735; ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10304; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8165; ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3902; ICE Annual Review, Orleans County Jail (June 2004), Bates 7340; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6465; ICE Annual Review, Bonneville

County Jail (May 2005), Bates 9846 ("Will comply"); ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10507; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12823; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3249 ("Supervisory review only if the detainee files a grievance"); ICE Annual Review, Orleans County Jail (June 2005), Bates 12942.

[33] ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5784; ICE Annual Review, Shawnee County Detention Center (Dec. 2004), Bates 14137; ICE Annual Review, Shawnee County Detention Center (Nov. 2003), Bates 14134.

[34] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10118; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3602 ("The decision is logged but there is no separate decision. Detainee is told verbally.").

[35] AS § III.C.

[36] AS § III.B (exception for when delivery of order "would jeopardize the safety, security, or orderly operation of the facility"); DS § III.B.

[37] AS § III.C; DS § III.C.

[38] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1466 (copy of order given to detainee within 72 hours); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 195; ICE Annual Review, Angelina County Detention Center (Sept. 2004), Bates 7686; ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3902 ("Facility does not use orders to place people in Admin Seg."); ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 155; ICE Annual Review, Culberson County Jail (Dec. 2004), Bates 3937 ("Upon request"); ICE Annual Review, Finney County Jail (May 2004), Bates 3285 ("[does] not use written orders"); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3606; ICE Annual Review, Morgan County Detention Center (May 2004), Bates 11898 ("Will implement"); ICE Annual Review, Morrison County Jail (Sept. 2004), Bates 11949 ("Yes" checked, but comment states, "If requested."); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6465 ("Verbal approval from supervisor"); ICE Annual Review, Reno County Jail (Sept. 2004), Bates 7252 ("when requested"); ICE Annual Review, Smith County Jail (June 2004), Bates 5689, 14108; ICE Annual Review, Union County Jail (Mar. 2004), Bates 6983 (copy of written order provided within 48 hours "due to classification processing"); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11422 (detainees do not receive a copy of segregation order; facility compliance rated at "at-risk" due to the lack of appropriate levels of supervision and lack of practice in accordance with current policy and procedure), Bates 11475; ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18491 ("inconsistent").

[39] ICE Annual Review, Bedford Heights City Jail (July 2005), Bates 9729; ICE Annual Review, Maple Heights City Jail (June 2005), Bates 2585; ICE Annual Review, Pottawattame County Jail (July 2005), Bates 2056 (detainees are informed but are not given a copy of the decision and justification for each review); ICE Annual Review, Solon City Jail (July 2005), Bates 1677; ICE Annual Review, Audrain County Detention Center, Chicago District (May 2004), Bates 7783 (detainee only spoken to, written copy is maintained in "ITI"); ICE Annual Review, Bannock County Jail (June 2004), Bates 9042 (in "disciplinary only" is a detainee given a copy); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9426; ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3902; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3397; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3602 (both disciplinary and administrative units rated deficient); ICE Annual Review, Mira Loma Detention Facility (July 2004), Bates 5129 ("Yes" checked, but comment states, "advised verbally not in writing."); ICE Annual Review, Morgan County Detention Center (May 2004), Bates 11898 ("Will implement"); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12099 (copies only provided if the detainee is requesting removal); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6465; ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6877; ICE Annual Review, York County Prison (Dec. 2004), Bates 5306; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3249 (notice of decision and justification for each review is given verbally); ICE Annual Review, Buffalo Federal Detention Facility (Sept. 2003), Bates 18172; Houston Contract Detention Facility (July 2003), Bates 15662 ("no supporting documentation"); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11422 (no supporting documentation); ICE Annual Review, York County Prison (Nov. 2003; Dec. 2004), Bates 13685; ICE Annual Review, Kenosha County Sheriff's Dept of Corrections (July 2002) Bates 18755 ("Verbal decision given at time of review. Can request written copy at time of review or receive copies of all reviews upon release."); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11480, 11489 (lack of documentation).

[40] DS § III.D.3.

[41] AS § III.D.12.

[42] ICE Annual Review, Carver County Jail (Nov. 2005), Bates 10217 ("Yes" checked, but comment states, "Health Care visits upon request."); ICE Annual Review, Chase County Jail, Cottonwood, Falls, KS (Sept. 2005), Bates 10425 ("Only if requested"); ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13206 ("Available daily, visits occur as needed"); ICE Annual Review, Department of Corrections (July 2005), Bates 12521, 13492; Hudson County Department of Corrections (Apr. 2005) Bates 539, 15439, 15721 ("Yes" checked, but comment states, "nurse visit[s] per medication or when called."); ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2896 ("Upon written request and according to scheduled visits"); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12824, 12825 (detainee must request in writing, then daily if needed); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 210 ("No medical staff at SCCJ, but SMU detainees have same access to medical care as other detainees."); ICE Annual Review, Scottsbluff County Jail (Apr. 2005, May 2005), Bates 10594 ("Twice a week and upon request."); ICE Annual Review, Brewster County Jail (Nov. 2004), Bates 9872 ("Health care available upon request. The facility takes the inmate to a local health clinic."); Annual Review, Carter County Detention Center (Nov. 2004), Bates 7947 ("Yes" checked, but comment states, "by request."); ICE Annual Review, Chase County Jail (July 2004), Bates 8076 ("Only if requested"); ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3849 ("Yes" checked, but comment states, "upon request."); ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3903 ("if needed"); ICE Annual Review, Culberson County Jail (Dec. 2004), Bates 3937 ("Upon request"); ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4077; ICE Annual Review, Finney County Jail (May 2004), Bates 3286 ("Only if requested by detainee or referred by staff"); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3399 ("Must be requested or suggested by staff"); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3604, 10740 ("This will be corrected once the new medical is in place"; visit at least every 15 days); ICE Annual Review, Kern County Sheriff's Office (Dec. 2004), Bates 4327 ("Detainees are afforded the same access to healthcare as the general population."); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4453 ("Yes" checked, but comment states, "Dr. visit[s] Tuesday and Thursday."); ICE Annual Review, McHenry County Jail (July 2004), Bates 4788, 4790 (nurse visits the SMU each day and is available "upon request"; rated acceptable); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5034 ("Two times a week if needed"); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5082 ("daily sick call, but not routinely visited"); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11999 ("When requested by detainee"); ICE Annual Review, Orleans County Jail (June 2004), Bates 7342 ("same medical schedule as

general pop as they are just kept on keep lock"); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6467 ("medical request form"); ICE Annual Review, Piscataquis County Jail (June 2004), Bates 1134 ("as needed"); ICE Annual Review, Saline County Jail (Aug., Sept. 2004), Bates 7085 ("Yes" checked, but comment states, "If necessary or requested."); ICE Annual Review, Shawnee County Detention Center (Dec. 2004), Bates 14137 ("only as requested"); ICE Annual Review, Smith County Jail (June 2004), Bates 5687, 14106 ("sick call request"); ICE Annual Review, Shawnee County Detention Center (Nov. 2003), Bates 14134 ("only as requested").

[43] DS § III.D.16.

[44] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10123 ("Yes" checked, but comment states, "3x weekly same as gen pop."); ICE Annual Review, Carver County Jail (Nov. 2005), Bates 10220 ("Yes" checked, but comment states, "Health Care visits upon request."); ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13209 ("Yes" checked, but comment states, "Available 7 days as needed, or upon request."); ICE Annual Review, Finney County Jail (June 2005), Bates 13402 ("Only if requested or on a watch"); ICE Annual Review, Grant County Jail (Feb. 2005), Bates 1286 ("three times a week and on call when needed"); ICE Annual Review, Department of Corrections (July 2005), Bates 12524, 13495; ICE Annual Review, Hill County Detention Center (Sept. 2005), Bates 2379 ("Tuesday, Thursday, and Friday and as needed on off days"); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1467 ("visits by nurse or supervisor are not documented"); ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2899; ICE Annual Review, Nobles County Jail (May 2005), Bates 2699 ("Medical staff does not specifically visit with each detainee in SMU. She will if they request but she doesn't visit just because they are in the SMU."); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12827–28 ("Written request is needed from detainee."); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3253 ("There is no documentation that medical reviews or see the detainees in SMU."); ICE Annual Review, Orleans County Jail (June 2005), Bates 12946 ("Still done via sick call—no SMU."); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 211 ("Yes" checked, but comment states that there is no medical staff at facility.); ICE Annual Review, Scottsbluff County Jail (Apr. 2005, May 2005), Bates 10595 ("Twice a week and upon request"); ICE Annual Review, Brewster County Jail (Nov. 2004), Bates 9873 ("Health care is available upon request. The inmate is taken to a local health clinic."); ICE Annual Review, Carter County Detention Center (Nov. 2004), Bates 7950 ("by request"); ICE Annual Review, Chase County Jail (July 2004), Bates 8079; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3852 ("Yes" checked, but comment states, "upon request of detainee."); ICE Annual Review, Finney County Jail (May 2004), Bates 3289 ("Yes" checked, but comment states, "Medical visits only on request of the detainee."); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3607; ICE Annual Review, Department of Corrections (Aug. 2004), Bates 3940, 3943 ("Correctional Officer, i.e. health care professional" visits only upon request and periodically throughout week; rated acceptable); ICE Annual Review, Kern County Sheriff's Office (Dec. 2004), Bates 4330 ("same access to medical care as the general population"); ICE Annual Review, Madison County Jail (July 2004), Bates 4599 ("Every day, all detainees are eligible for sick call by request. The nurse does not make 'house calls' except for medicine issues."); ICE Annual Review, McHenry County Jail (July 2004), Bates 4792, 4794 ("nurse visits SMU during MedPass each day, but interviews/examines detainees only upon request"; "this facility needs to mandate regular visits to the SMU by medical personnel, in order to specifically check the condition of each detainee"); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4926 ("Yes" checked, but comment states, "If a detainee completes a sick call form indicating that he needs to see the nurse, she will see him."); ICE Annual Review, Morrison County Jail, Little Falls, MN (Sept. 2004), Bates 11950 ("Yes" checked, but comment states, "If requested."); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 12002, 12004 ("Health care professionals visit segregation either as needed or when requested by the detainee"); ICE Annual Review, Orleans County Jail (June 2004), Bates 7345 ("same medical access as general population—sick call used for needed treatment"); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7390 ("Yes" checked, but comment states, "Medical staff visits on Saturday or Sunday."); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6470 (medical request form filled out); ICE Annual Review, Piscataquis County Jail (June 2004), Bates 1135 ("as needed"); ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5788; ICE Annual Review, Shawnee County Department of Corrections (Dec. 2004), Bates 5739; ICE Annual Review, Smith County Jail (June 2004), Bates 5690, 14109; ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5984 ("Yes" checked, but comment states, "Doctor available 2x Week, paramedics 5x week.").

[45] *See, e.g.*, Nina Bernstein, "Ill and In Pain, Detainee Dies in U.S. Hands," *New York Times*, Aug., 12, 2008; Nina Bernstein, "Detention Center Facing Inquiry will get no More Detainees," *New York Times*, Dec. 5, 2008.

[46] DS § III.D.11–12; AS § III.D.6–7.

[47] ICE Annual Review, Berks County Prison (May 2005), Bates 9768 (opportunity to shower and shave only every third day); ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10123 (no barbering; "max 10 days"); ICE Annual Review, Dickens County Jail (June 2005), Bates 13542 (barbering services must be requested and approved); DHA Annual Review, Dodge County Jail (May 2005), Bates 13578; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15439, 15441, 15724 ("Yes" checked, but comment states, "when needed"; detainees cut their own hair.); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1464 (no barbering); ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12616, 12620 ("No barbering service."); ICE Annual Review, Berks County Prison (July 2004, Sept. 2004), Bates 9188, 9225 (detainees are only allowed to shower twice a week); ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 156 ("Yes" checked, but comment states, "With the exception of Razors."); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3402 (no barbering services); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3606 (no barbering); ICE Annual Review, San Pedro Processing Center (July 2004), Bates 12368 (towels for showering not available but had been ordered; rated acceptable); ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15661 (detainee shaved own head because no barbering services); ICE Annual Review, Kenosha County Sheriff's Dept. of Corrections (July 2002), Bates 18759–60 (no barbering); ICE Annual Review, Pike County Prison (Dec. 2002), Bates 18298 (answer is blank).

[48] AS § III.D.4; DS § III.D.8.

[49] ICE Annual Review, Howard County Detention Center (July 2005), Bates 2388; ICE Annual Review, St. Mary's County Detention Center (July 2005), Bates 1755; ICE Annual Review, Dorchester County Detention Center (Sept. – Oct. 2004), Bates 4029; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4170; ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6878; ICE Annual Review, Elizabeth Contract Detention Facility (Sept. 2003), Bates 18169; Houston Contract Detention Facility (July 2003), Bates 15661; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18582.

[50] AS § III.D.3; DS § III.D.7.

[51] ICE Annual Review, Howard County Detention Center (July 2005), Bates 2338; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1464; ICE Annual Review, Northern Oregon Correctional Center

(June 2005), Bates 12903; ICE Annual Review, Northwest Detention Center (July 2005), Bates 10980; ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1755 (facility rated acceptable for administrative segregation unit); ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4029; ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11217 ("due to space limitations, one cell was being doubled up during the final day of our inspection"); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7442; ICE Annual Review, Union County Jail, Elizabeth, NJ (Mar. 2004), Bates 6980; ICE Annual Review, Worcester County Jail (Nov./Dec. 2004), Bates 5960; ICE Annual Review, Pike County Correctional Facility (Dec. 2003), Bates 18386; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17889 ("Too many detainees in one . . . cell. The TransGender males are in two cells. One has 8 beds and 8 detainees. The other cell has four beds and five detainees. A stackable bed is brought in for the other detainee."); ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18488 ("When space is a premium, a seg. cell is used as an 8-man pod." Bed bolted in middle of room.); UNHCR Report, Piedmont Regional Jail (July 2001), Bates 18893–94.

[52] ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12905 ("The OIC will look at each case by individual case."); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 14637 ("Over-population may occur due to number of detainees with similar offenses."); ICE Annual Review, Kenosha County Detention (June 2005), Bates 2300, 2302; ICE Annual Review, Lin County Jail (May 2005), Bates 12178 ("No" checked, but comment states, "meets standard."); ICE Annual Review, Northwest Detention Center (July 2005), Bates 10983; ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12619; ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4032; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7445; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17892 ("OIC has approved the extra transgender in the cell."); UNHCR Report, Piedmont Regional Jail (July 2001), Bates 18893–94.

[53] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1430 (mattresses taken away during the day and returned at night); ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8025 ("Sometimes they use mattress[es] for their detainees."); ABA report, Dodge County Detention Facility (June 2004), Bates 8655 (no beds in the SMU); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3398, 3401 (no beds in observation cell or beds not securely fastened); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4453. 4456 ("Most cells have beds, some overflow cells for suicide or medical have mattresses."). ICE Annual Review, McHenry County Jail (July 2004), Bates 4791 (no mattresses during the day).

[54] AS § III.D.2; DS § III.D.6.

[55] ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 17060 ("Lighting, ventilation, and sanitation are inadequate."); ICE Annual Review, Polk County Jail (May 2005), Bates 3047, 3052, 3081, 3083 (SMU dirty and "pervasive foul odor"; lack of cleanliness and pervasive bad smell may indicate poor ventilation; rated acceptable); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 210; ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 155; ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11215, 11217–18 (lights burned out, no lighting in shower, food trays left in cells for hours); ICE Annual Review, Smith County Jail (June 2004), Bates 5650, 5655, 5686–89, 14096, 14105 (poor lighting, cold, and "[t]errible sanitation"; bags of trash in cells, enormous amounts of mildew in showers); ICE Annual Review, Tangipahoa Parish Jail (June 2004), Bates 15890; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5552, 7854, 7891–97, 13858 ("SMU needs to be cleaned better"; almost every shower had black mold, black growth under bunks in cells, so think it resembled carpet; dangerously slippery shower area; 3 showers would not turn off; poor air quality, thick dust hanging from ventilation shafts; still rated "acceptable"); Houston Contract Detention Facility (July 2003), Bates 15661–62 (cells very cold, poor lighting, guards turn off lights without regard to detainees' needs, hot water became lukewarm after seven minutes); UNHCR Report, Avoyelles Parish Jail (Apr. 2001), Bates 18884 ("Lock-down areas with poor ventilation"); UNHCR Report, Piedmont Regional Jail (July 2001), Bates 18893 ("noticeably unclean").

[56] ICE Annual Review, Smith County Jail (June 2004), Bates 5650, 5655, 5686–89, 14096, 14105.

[57] AS § III.D.5.

[58] DS § III.D.10.

[59] AS § III.D.5; DS § III.D.10.

[60] ICE Annual Review, Berks County Prison (May 2005), Bates 9767 ("'Food loaf' used for food related offences"); ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12906 ("Food deviates from the normal menu only if the detainee tries to use it against others, in that case he gets finger food."); ICE Annual Review, Berks County Prison, (July 2004, Sept. 2004), Bates 9188, 9221 ("'Nutri loaf' is served to detainees who spit or throw food."); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6406 ("Dessert is with held from detainees in disciplinary segregation."); ICE Annual Review, York County Prison (Dec. 2004), Bates 5272, 5310 (food loaf served for first 15 days; reviewed every 15 days); ICE Annual Review, Pike County Prison (Dec. 2002), Bates 18298 (answer is blank).

[61] AS § III.D.18–19.

[62] AS § III.D.16.

[63] AS § III.D.13.

[64] AS § III.D.8.

[65] ICE Annual Review, Dickens County Jail (June 2005), Bates 13538; ICE Annual Review, El Centro Processing Center (July 2005), Bates 10860 (no television like the rest of the general population); ICE Annual Review, Department of Corrections (July 2005), Bates 12521; 13448–13492 (no recreation, one personal phone call per month); ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 849; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16933 (first page of the checklist is blank (Bates 16932) so it is unclear whether there were additional violations; detainees "cannot watch TV whenever they want. The recreation area for the SHU is very small"); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1464 ("requires written policy"; no nonlegal reading materials provided except the Bible); ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2896; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3250 ("Some privileges limited"); ICE Annual Review, Orleans County Jail (June 2005), Bates 12943; ICE Annual Review, Angelina County Detention Center (Sept. 2004), Bates 7687 (no access to telephones, personal property, or television); ICE Annual Review, Audrain County Detention Center (May 2004), Bates 7784 (no television privileges or solo cells); ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8022 ("NA" checked); ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11215 (no TV); ICE Annual Review, Onondaga County Justice Center (Dec. 2004), Bates 7842 (do not enjoy the same privileges, as they are locked in their cells for 23 hours); ICE Annual Review, Orleans County Jail (June 2004), Bates 7341 (no personal calls); ICE Annual Review, San Pedro Processing Center (July 2004), Bates 12368 (no access to vending machines); ICE Annual Review, Shawnee County Detention Center (Dec. 2004), Bates 14137; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7442; ICE Annual Review, Denver Contract Detention Facility (Aug. 2003), Bates 11178 ("no day room, no tv"); ICE Annual Review, Shawnee County Detention Center (Nov. 2003), Bates 14134; ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17404 (segregated detainees "lose all privileges, including

visitation and phone use, thus preventing their ability to contact even their attorneys"); ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 18022 (no TV).

[66] ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17404.

[67] DS § III.D.2.

[68] DS § III.D.3.

[69] AS § III.D; DS § III.D.

[70] ICE Annual Review, Atlanta City Detention Center (June 2005), Bates 9686 ("This depends on if visitation is revoked."); ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10123 ("special access only"); ICE Annual Review, Dickens County Jail (June 2005), Bates 13542; ICE Annual Review, Dodge County Jail (May 2005), Bates 13578 (no visits unless approved in advance by supervisor); ICE Annual Review, Forsyth County Law Enforcement Center (June 2005), Bates 13119; ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2420; ICE Annual Review, Lincoln County Jail (June 2005), Bates 2542 ("Temp[orarily] suspended. ICE to be notified if any complaint is made by associate of detainee."); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1464, 1467 ("should be included in SMU policy"); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2005), Bates 1074 (only attorney visits are allowed, no family visits); ICE Annual Review, Wyatt Detention Center (Dec. 2004; Jan. 2005), Bates 12572 ("only legal visits"); ICE Annual Review, Finney County Jail (May 2004), Bates 3289 ("Yes" checked, but comment states, "Case by case basis."); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3402 (No place for visitation); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3607 ("Case by case basis"); ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3657 ("Only Professional Visitors"; acceptable rating); ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4292 (case-by-case review by supervisor); ICE Annual Review, Kern County Sheriff's Office (Dec. 2004), Bates 4330 ("Sometimes visitation is restricted as part of their assignment to the unit."); ICE Annual Review, Madison County Jail (July 2004), Bates 4596 ("Visitation is based on the reason for being in Seg."); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4926 ("DDU inmates are not allowed visitation." In rating the unit acceptable, the reviewer elaborates that "DDU is punitive in nature. Inmates are placed there as a result of rule violation(s). They are not allowed to have visitors until they get out of the DDU back into the general population."); ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4879 ("No personal visits. Only legal or religious."); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7392 (no visitation for first 24 hours on lock-down); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6406 ("Yes" checked, but comment states, "written request for visit approved by warden."); ICE Annual Review, Sherburne County Jail (Oct. 2004), Bates 5824 ("Yes" checked, but comment states, "Professional visits only."); ICE Annual Review, Smith County Jail (June 2004), Bates 5687, 14106 ("Wednesdays only"); ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6571 ("Yes" checked, but comment states, "unless specified in the seg order for security purposes."); ICE Annual Review, Union County Jail (Mar. 2004), Bates 6984; ICE Annual Review, York County Prison (Nov. 2003; Dec. 2004), Bates 5310, 13686 ("After 30 days in SMU allowed 1 visit per month"); ICE Annual Review, Buffalo Federal Detention Facility (Sept. 2003), Bates 18173; ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17404 (segregated detainees "lose all privileges, including visitation and phone use, thus preventing their ability to contact even their attorneys"); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12472–73 (question left blank, comment states that the facility needs to ensure same privileges as those in general population); ICE Annual Review, Kenosha County Sheriff's Dept of Corrections (July 2002), Bates 18757–59 ("Professional visits only"; case-by-case review by supervisor); ABA Report, Kern County Jail (Aug. 2002), Bates 17492.

[71] INS Detention Standard: Recreation, § III.B, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/recreat.pdf.

[72] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10123 (no recreation for "max 10 days"); ICE Annual Review, Dodge County Jail (May 2005), Bates 13578 ("Detainees can exercise in their cells, ie: push-ups, sit-ups, jumping jacks."); ICE Annual Review, Department of Corrections (July 2005), Bates 12524, 13495 ("One hour fresh air . . . six days a week"); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3250; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3398; 3402 (no recreation privileges); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3606 (no recreation); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12100 ("dayroom rec only" is noted, indicating detainees do not have outdoor recreation time); ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 14687, 15815,16830 ("Facility was advised that Disciplinary unit detainees are allowed recreation privileges as long as not deemed a security risk."); ICE Annual Review, Snyder County Jail (Sept. 2004), Bates 6828, 14069–14082 (no outdoor recreation privileges); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11314 (administrative segregation detainees receive same recreation as disciplinary detainees, but they are entitled to recreation similar to general population; rated acceptable); ICE Annual Review, Kenosha County Sheriff's Dept of Corrections (July 2002) Bates 18759–60 (but the reviewer commented that "[r]evocation of privileges do not overly affect detainees as ten days is the maximum time in disciplinary segregation for each violation"); ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17413 (segregated detainees lose all recreation privileges; only permitted to "walk around in a circle inside their unit for a few minutes after the first five days in which they are not allowed out of their cell at all").

[73] ICE Annual Review, Department of Corrections (July 2005), Bates 13493; ICE Annual Review, Howard County Detention Center (July 2005), Bates 2339 (rated acceptable); follow-up ICE inspection, Las Animas County Jail Center (Apr. 2005), Bates 4368–69 (rated acceptable); ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12904; ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1756 (rated acceptable); ICE Annual Review, Dorchester County Detention Center (Sept. - Oct. 2004), Bates 4030; ICE Annual Review, Mecklenberg County Jail (Apr. 2004), Bates 4923; ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5034; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7401, 7443 (no physical access and cannot request materials); ICE Annual Review, Union County Jail, Elizabeth, NJ (Mar. 2004), Bates 6981 ("No" checked; comment states, "Legal information/Material is brought to them per their request."); ICE Annual Review, Worcester County Jail (Nov./Dec. 2004), Bates 5961; ICE Annual Review, Elizabeth Contract Detention Facility (Sept. 2003), Bates 18170; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18583.

[74] Follow-up ICE inspection, Las Animas County Jail Center (Apr. 2005), Bates 4368–69 ("The library is void of the basic essentials required (typewriter, writing utensils, paper, etc.). Secondly, inadequate security measures are in place to physically monitor inmate presence inside the library, which prevents its usage. Thirdly, there is no written policy or procedure for ordering legal material not readily available. Finally, legal material that is present in the library is outdated or missing."); NGO Delegation to Miami/Dade Detention Facilities, Krome (Jan. 2004), Bates 14376 (no BIA decisions); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5260, 13646 ("no ICE law library materials"); UNHCR Report, Tangipahoa Parish Jail (Apr. 2001), Bates 18888, 18889–90 ("Inadequate library resources").

[75] ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3168, 3208 (Reviewer notes that facility does not provide administrative/disciplinary segregated detainees "with the same access to the legal library as detainees in general population. Access to legal materials has been downgraded to Deficient." However, "yes" is checked, indicating segregated detainees do have access, and the comment states, "Scheduled separately from the general population."); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6879 ("NA" checked).

[76] ICE Annual Review, Atlanta City Detention Center, Atlanta, GA (June 2005), Bates 9686; ICE Annual Review, Forsyth County Law Enforcement Center (June 2005), Bates 13119, 13120 (rated acceptable); ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3168 ("Access to legal materials has been downgraded to Deficient."); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3403 (no law library access; "Disc. Seg considered lock-down"); ABA report, Osborn Correctional Institution (July 2004), Bates 8358 (no library access and no library cart); ICE Annual Review, Turner Guilford Knight Correctional Center, Miami, FL (Mar. 2004), Bates 7401, 7403 (detainees "can neither physically go to the library or request materials from it"); ABA Report, Kern County Jail (Aug. 2002), Bates 17492.

[77] ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3853 ("Access to legal materials through atty. hired for legal research on habeas and civil cases."); ABA report, Dodge County Detention Facility (June 2004), Bates 8660 (detainees "must provide a statute citation in writing to receive a copy of the information"); Follow-up ICE inspection, Las Animas County Jail Center (Apr. 2005), Bates 4369, 4404–05 ("[T]he law library is inadequately equipped to provide a viable means for inmates to pursue meaningful legal research. The library is void of the basic essentials required (typewriter, writing utensils, paper, etc.). Secondly, inadequate security measures are in place to physically monitor inmate presence inside the library, which prevents its usage. Thirdly, there is no written policy or procedure for ordering legal material not readily available. Finally, legal material that is present in the library is outdated or missing." The facility was rated acceptable for the standard.); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6883 ("access to legal issues via other means"); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5264 ("facility has no ICE law library materials").

[78] ICE Annual Review, Dickens County Jail (June 2005), Bates 13538 ("must request telephone"); ICE Annual Review, Department of Corrections (July 2005), Bates 12489, 13453 ("one personal phone call per month"; maximum security housed in SMU and segregated detainees are treated like maximum security inmates re phone calls); ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16935 ("Detainees in the SHU can make legal and emergency phone calls. The detainees in administrative segregation are not allowed to call family and friends anytime they want to—they do not have the same phone access as the general population."); ICE Annual Review, Angelina County Detention Center (Sept. 2004), Bates 7687 (no access to telephones); ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8166 ("Not authorized to use phones for personal calls"); ICE Annual Review, Orleans County Jail (June 2004), Bates 7341 (no personal calls); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7401 ("[D]etainees do not have the ability to place calls to their respective consulates/embassies or to contact legal service providers. This is of special concern since TGK acts as a hearing site for the female detainees housed here."); ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17404 (segregated detainees "lose all privileges, including visitation and phone use, thus preventing their ability to contact even their attorneys").

[79] DS § III.D.19.

[80] ICE Annual Review, Department of Corrections (July 2005), Bates 13453 (one personal call per month; treated like maximum security inmates housed with them); ICE Annual Review, Howard County Detention Center (July 2005), Bates 2341 (rated acceptable); ICE Annual Review, Linn County Jail (May 2005), Bates 12179 ("No" checked, but comment states, "meets standard."); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1467 ("written SMU policy should include this"); ICE Annual Review, Orleans County Jail (June 2005), Bates 12946 ("One 5 minute legal call per week"); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1758; ICE Annual Review, Berks County Prison (July 2004, Sept. 2004), Bates 9224 (no phone calls unless given special permission by the supervisor); ABA report, Dodge County Detention Facility (June 2004), Bates 8641 ("Detainees at DCDF placed in the SMU for disciplinary reasons do not have access to the telephones."); ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4033; ICE Annual Review, McHenry County Jail (July 2004), Bates 4791 (one five-minute telephone call per week); ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7392 (no telephone for first 24 hours on lock-down); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6882; ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5788, 14166 ("NA" checked, but comment states, "No phone for OSU if taken away."); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7401 ("[D]etainees do not have the ability to place calls to their respective consulates/embassies or to contact legal service providers. This is of special concern since TGK acts as a hearing site for the female detainees housed here."); ICE Annual Review, Williamson County Jail (Aug. 2004), Bates 5599, 13889 (no phone); ICE Annual Review, Worcester County Jail (Nov./Dec. 2004), Bates 5963 (rated acceptable); ICE Annual Review, Kenosha County Sheriff's Dept of Corrections (July 2002) Bates 18759 ("Any calls not completed during the allotted time require supervisor approval."); ABA Report, Kern County Jail (Aug. 2002), Bates 17479 (detainees *not on disciplinary isolation* will be allowed reasonable access to collect call only telephones).

[81] AS § III.A; DS § III.C.

[82] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1434 (finding of "deficient"); ICE Annual Review, Broward Transition Center (Oct. 2004), Bates 166; ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 145, 155 ("major difficulties" related to lack of segregation policy); ICE Annual Review, Phelps County Jail (Mar., Apr. 2004), Bates 6190, 6231–34 ("There is no comprehensive policy on (SMU)."); Annual Review, Pettis County Detention Center (July 2004), Bates 6434; ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18491, 18493 ("written Policy and Procedures needs to be created").

[83] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1468; ICE response to UNHCR Report, Cottonport Women's Facility and Tangipahoa Parish Jail (Aug. 2004), Bates 145, 154 ("No written seg plan."); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6468; ICE Annual Review, Phelps County Jail (Mar., Apr. 2004), Bates 6230; ICE Annual Review, Tangipahoa Parish Jail, Amite, LA (June 2004), Bates 15890.

[84] ICE Annual Report, San Pedro Service Processing Center, San Pedro, CA (Jan. 2003), Bates 18499.

[85] AS § III.E.1; DS § III.E.1.

[86] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10120; ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13207 ("Medical visits recorded"); ICE Annual Review, Dodge County Jail (May 2005), Bates 13574, 13575 ("Shift logs are maintained as part of the facility's Tiburon program. Only significant events or occurrences that are not part of the normal operating standard for the unit are recorded. If an unusual event, e.g. meal refusal, occurs for an inmate in Special Management, an entry would be made in the detainee's individual file in Tiburon. As such, separate logs are not maintained for the individual's stay in Special Management."); ICE Annual

Review, Finney County Jail (June 2005), Bates 1340003 (comments states general information is kept except "when meals are served, meds passed, etc."); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15443 ("Everything" recorded, except phone calls); ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 17060 (log book poorly maintained); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1430, 1465, 1468 (consistent activity log not maintained; no comprehensive segregation policies in place); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2860 ( "One log"); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3254 (rated acceptable); ICE Annual Review, Orleans County Jail (June 2005), Bates 12944, 12947 (no separate SMU, regular log book); ICE Annual Review, Pomona City Jail. (June 2005), Bates 2079 (rated acceptable); ICE Annual Review, Scottsbluff County Jail (Apr. 2005, May 2005), Bates 10595; ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1841 ("Yes" checked, but comment says, "[On] cell check sheets." It is unclear whether "cell check sheets" are equivalent to a permanent log.); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2650; ICE Annual Review, Berks County Prison (July 2004, Sept. 2004), Bates 9185, 9222 (no records kept for showers); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10310; ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3904; ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3438; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3604–08; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4454–58 (consistent activity log not maintained for showers; door log is checked); ICE Annual Review, Madison County Jail (July 2004), Bates 4600 ("Yes" checked, but comment states, "Health records are kept in the med dept. There aren't many separate records kept specifically for Seg."); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 5034 ("NA" checked); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 12000–03 ("[S]taff only records when a detainee takes his/her medication and engages in recreational activities. Detainee meal consumption and showering is not recorded."); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12053 ("Log does not show when they showered. It only shows out time. The Medical personnel logs [*sic*] all the medical services. This is not logged in the SMU log."); ICE Annual Review, Orleans County Jail (June 2004), Bates 7342–46 (No separate SMU, but "yes" checked and comment states, "No special log — all entries in regular floor logbook."); ICE Annual Review, Passaic County Jail (Nov. 2004), Bates 17060 (logbook poorly maintained; "inability to document activities and actions taken for detainees installed in these housing environments, places staff and detainees at risk"); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6467, 6471; ICE Annual Review, Plaquemines Parish Detention Center (Aug. 2004), Bates 999 (no separate logbook); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6883 ("NA" checked); ICE Annual Review, Smith County Jail (June 2004), Bates 5691; ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6663–68; 13997 ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18801 ("Yes" checked, but comment states, "Log is generic, not individualized.").

[87] ICE Annual Review, Krome Service Processing Center, Miami, FL (Feb. 2005), Bates 17060 (as the reviewer noted, "The inability to document activities and actions taken for detainees installed in these housing environments, places staff and detainees at risk.").

[88] AS § III.E.2.

[89] ICE Annual Review, Atlanta City Detention Center (June 2005), Bates 9685 ("There is only one file, however it is updated weekly with the weekly review."); ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10120; ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10509 ( "All events recorded in logbook."); ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13207; ICE Annual Review, Dickens County Jail (June 2005), Bates 13539; ICE Annual Review, Dodge County Jail (May 2005), Bates 13574, 13575 ("separate logs are not maintained for the individual's stay in Special Management"); ICE Annual Review, Hudson County Department of Corrections, Kearny, NJ (Apr. 2005), Bates 15439, 15722 ("Yes" checked, but comment is, "log book only."); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1465; ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2897 (one record is kept for entire stay in segregation); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2857 ("One log"); ICE Annual Review, Orleans County Jail (June 2005), Bates 12944 ("All events recorded in logbook."); ICE Annual Review, Passaic County Jail (June 2005), Bates 14502 ("Yes" checked, but comment is, "log book only."); ICE Annual Review, Twin Falls Criminal Justice Facility (Aug. 2005), Bates 12985; ICE Annual Review, Bannock County Jail (June 2004), Bates 9044; ICE Annual Review, Berks County Prison (July 2004, Sept. 2004), Bates 9185, 9222; ( "Other than medical records no other record in kept in the admin seg."); ICE Annual Review, Cayuga County Jail (Aug. 2004), Bates 10306; ICE Annual Review, Chautauqua County Jail (Apr. 2004), Bates 8167; ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3904; ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4168 ("Yes" checked, but comment is, "records kept in log book."); ICE Annual Review, Finney County Jail (May 2004), Bates 3287 ("Yes" checked, but comment states, "Daily log is used."); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3399 ("Ongoing computer file with no hard copy"); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3438; ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 3537; ICE Annual Review, Harris County Jail (Mar. - Apr. 2004), Bates 3475 ("NA" checked); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3604; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4454 ("1 continuous file"); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5082; ICE Annual Review, Minnesota Correctional Facility - Rush Facility (Oct. 2004), Bates 310 ("Up-dated info is placed in the original file."); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12053; ICE Annual Review, Orleans County Jail (June 2004), Bates 7342; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6467; ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 6179 (one record is kept for entire stay in segregation); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7161 ("NA" checked, but comment states, "ongoing record."); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6879; ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6663; ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6568 ("A monthly segregation log (broken down weekly) is used."); ICE Annual Review, Torrance County Detention, Estancia, NM (June 2004; July 2004), Bates 13942–51 ("A monthly segregation log (broken down weekly) is used."); ICE Annual Review, Buffalo Federal Detention Facility (Sept. 2003), Bates 18170; ICE Annual Review, Kenosha County Detention Center, Kenosha, WI (May 2003), Bates 18801; ICE Annual Report, San Pedro Service Processing Center (May 2002), Bates 18490.

[90] ABA report, Berks County Prison (July 2004), Bates 16600.

[91] ICE Annual Review, Berks County Prison (Sept. 2004), Bates 9222, 9225.

[92] ABA report, INS Processing Center, San Pedro, CA (Mar. 2002), Bates 17468.

[93] ICE Annual Review, San Pedro Service Processing Center (May 2004), Bates 18487.

[94] *Id.*

[95] ICE Annual Review, San Pedro Service Processing Center (May 2004), Bates 18491.

[96] ABA report, Kenosha County Detention Facility (July 2004), Bates 8279.

[97] *Id.*

[98] *Id.*

[99] ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3654, 3657.

[100] ABA report, Kenosha County Detention Facility (Sept. 2005), Bates 8590.

[101] *Id.*

[102] ICE Annual Review, Kenosha County Detention Center (June 2005), Bates 2301.

## DISCIPLINARY POLICY

[1] INS Detention Standard: Disciplinary Policy (hereinafter "DP") § III (Standards and Procedures), subsections A–C (Guidelines, Incident Reports, and Investigations), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/disciplinary.pdf.

[2] DP § III.D–J (Unit Disciplinary Committee, Staff Representation, Institutional Disciplinary Panel, Postponement of Disciplinary Proceedings, Duration of Punishment, Disciplinary Severity Scale and Prohibited Acts, and Documents).

[3] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[4] DP, Disciplinary Policy Monitoring Instrument form.

[5] *E.g.*, ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 7887.

[6] *Id.*, Disciplinary Policy Monitoring Instrument form (No. 3). *See also, e.g.*, No. 14, which addresses two unrelated items: the handling of information from confidential informants and the criteria for "substantial evidence" as related to disciplinary hearings. Without comments, it is impossible to determine which of these elements of the standard was violated.

[7] ICE Annual Review, Minnehaha Co. Jail (June 2005), Bates 2853.

[8] ICE Annual Review, Grant Co. Jail (February 2005), Bates 1278 (marked as compliant); ICE Annual Review, Hardin Co. Correctional Center (October 2005), Bates 1369 (marked as noncompliant).

[9] DP § III (Standards and Procedures), subsection A.5 (noting the posting requirement for SPCs and CDFs, and noting in § II that IGSAs must meet or exceed the objective represented by each standard).

[10] ICE Annual Review, Manatee Co. Jail (July 2005), Bates 622; ICE Annual Review, Monroe Co. Jail (July 2004), Bates 672; ICE Annual Review, Grant Co. Jail (Feb. 2005), Bates 1278 (marked not applicable or comments showed violation); ICE Annual Review, Hardin Co. Correction Center (Feb. 2005), Bates 1369; ICE Annual Review, Rollins Plains Regional Detention Center (Feb. 2005), Bates 1921; ICE Annual Review, Colquit Co. Jail (Mar. 2004), Bates 3899; ICE Annual Review, Clinton Co. Jail (Aug. 2005), Bates 3792; ICE Annual Review, Ramsey (Co. Jail (aka Ramsey Co. Adult Detention Center) (Nov. 2005), Bates 2110; ICE Annual Review, Minnehaha Co. Jail (June 2005), Bates 2852; ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3246; ICE Annual Review, Garvin Co. Detention Center (aka Garvin Co. Jail) Dec. 2004), Bates 3374; ICE Annual Review, Genesee Co. Jail (Nov. 2004), Bates 3434; ICE Annual Review, Jefferson Co. Jail (Oct. 2004), Bates 3599; ICE Annual Review, Las Animas Co. Jail Center (Dec. 2004), Bates 4375; ICE Annual Review, McHenry Co. Jail (July 2004), Bates 4783; ICE Annual Review, Mecklenburg Co. Jail (North) (Apr. 2004), Bates 4871 (marked not applicable or comments showed violation); ICE Annual Review, Pettis Co. Detention Center (July 2004), Bates 6462; ICE Annual Review, St. Francois Co. Detention Center (June 2004), Bates 6658; ICE Annual Review, St. Mary's Co. Detention Center (July 2004), Bates 6741 (marked not applicable or comments showed violation); ICE Annual Review, (Salt Lake Co. Adult Detention Complex (Sept. 2004), Bates 6874; ICE Annual Review, Saline Co. Jail (Aug. - Sept. 2004), Bates 7080; ICE Annual Review, Sacramento Co. Jail (Aug. 2004), Bates 7156 (marked not applicable or comments showed violation); ICE Annual Review, Rockingham Co. Department of Corrections (May 2004), Bates 7195; ICE Annual Review, Reno Co. Jail (Sept. 2004), Bates 7245; ICE Annual Review, Orleans Parish (Community Corrections Center) (Sept. 2004), Bates 7290; ICE Annual Review, Orleans Co. Jail (June 2004), Bates 7337; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7488; ICE Annual Review, Charleston Co. Detention Center (May 2004), Bates 8018 (marked not applicable or comments showed violation); ICE Annual Review, Chautauqua Co. Jail (Apr. 2004), Bates 8162; ICE Annual Review, Bannock Co. Jail (June 2004), Bates 9039; ICE Annual Review, Berks Co. Prison (July 2004), Bates 9180 (marked not applicable or comments showed violation); ICE Annual Review, Berks Co. Prison (July 2004 & Sept. 2004), Bates 9217; ICE Annual Review, Blount Co. Jail (July 2004 & Aug. 2004), Bates 9304; ICE Annual Review, Boone Co. Detention Center (Dec. 2004), Bates 9386; ICE Annual Review, Carbon Co. Correctional Facility (May 2004), Bates 9536; ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9680 (marked not applicable or comments showed violation); ICE Annual Review, Brewster Co. Jail (Nov. 2004), Bates 9870; ICE Annual Review, Butler Co. Jail (Apr. 2005), Bates 9950; ICE Annual Review, Carbon Co. Correctional Facility (May 2005), Bates 10173; ICE Annual Review, Cayuga Co. Jail (Aug. 2004), Bates 10301; ICE Annual Review, El Centro Processing Center (July 2005), Bates 10856; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11464; ICE Annual Review, Pennington Co. Jail (June 2004), Bates 11799; ICE Annual Review, Morrison Co. Jail (Sept. 2004), Bates 11942; ICE Annual Review, Niagara Co. Jail (Oct. 2004), Bates 11994; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12447; ICE Annual Review, Niagara Co. Jail (Dec. 2005), Bates 12820; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12939; ICE Annual Review, St. Francois Co. Detention Center (May 2005), Bates 13069; ICE Annual Review, Citrus Co. Jail (Nov. 2005), Bates 13159; ICE Annual Review, Crawford Co. Jail (Mar. 2005), Bates 13257; ICE Annual Review, Berks Co. Prison (July 2004), Bates 15308; ICE Annual Review, Tangipahoa Parish Jail (June 2004), Bates 15888; ICE Annual Review, Krome Service Processing Center (June 2005), Bates 16929; ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 17019; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17884; ICE Annual Review, Denver Contract Detention Facility (Oct. 2004), Bates 18381; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18482; ICE Annual Review, Tensas Parish Detention Center (Aug. – Sept. 2002), Bates 18578; ICE Annual Review, Kenosha Co. Sheriff's Dept. Corrections (July 2002), Bates 18752 (marked not applicable or comments showed violation); ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18796 (marked not applicable or comments showed violation).

[11] ICE Annual Review, Pettis Co. Detention Center (July 2004), Bates 6462; ICE Annual Review, Chautauqua Co. Jail (Apr. 2005), Bates 10504; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12447; ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 12611; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12939; ICE Annual

Review, San Pedro Service Processing Center (May 2002), Bates 18483 (no written disciplinary system with clearly defined and progressive levels of review and appeals).

[12] ICE Annual Review, Monroe Co. Jail (July 2005), Bates 672; ICE Annual Review, St. Martin Parish Jail (Aug. – Sept. 2004), Bates 940; ICE Annual Review, Colquit Co. Jail (Mar. 2004), Bates 3899; ICE Annual Review, Pennington Co. Jail (Aug. – Sept. 2005), Bates 3010; ICE Annual Review, Monroe Co. Jail (July 2004), Bates 8949; ICE Annual Review, Bonneville Co. Jail (June 2004), Bates 9349; ICE Annual Review, Cambria Co. Prison (Oct. 2004), Bates 9467 (marked not applicable or comments showed violation); ICE Annual Review, Berks Co. Prison (July 2005), Bates 9761; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11063; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18482.

[13] ICE Annual Review, St. Martin Parish Jail (Aug. – Sept. 2004), Bates 940; ICE Annual Review, Harris Co. Jail (Mar. 2005), Bates 2413; ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6874; ICE Annual Review, Monroe Co. Jail (July 2004), Bates 8949; ICE Annual Review, Bonneville Co. Jail (June 2004), Bates 9349; ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9680.

[14] ICE Annual Review, Madison Co. Jail (Sept. 2005), Bates 1546; ICE Annual Review, Dorchester Co. Detention Center (June 2004), Bates 4026; ICE Annual Review, Erie Co. Holding Center (Nov. 2004), Bates 4164; ICE Annual Review, Clinton Co. Jail (Aug. 2004), Bates 3793; ICE Annual Review, Howard Co. Detention Center (June July 2005), Bates 2335; ICE Annual Review, Minnehaha Co. Jail (June 2005), Bates 2853 (marked not applicable or comments showed violation); ICE Annual Review, Polk Co. Jail (May 2005), Bates 3078; ICE Annual Review, Minnesota Correctional Facility – Rush City (Oct. 2004), Bates 4738; ICE Annual Review, Orleans Co. Jail (June 2004), Bates 7338; ICE Annual Review, Chautauqua Co. Jail (Apr. 2005), Bates 10505; ICE Annual Review, Monterey Park City Jail (Aug. 2004), Bates 8993 (marked not applicable or comments showed violation); ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9681; ICE Annual Review, Cayuga Co. Jail (Aug. 2004), Bates 10302; ICE Annual Review, ), Bates 10505; ICE Annual Review, Niagara Co. Jail (Oct. 2004), Bates 11995; ICE Annual Review, Linn Co. Jail (May 2005), Bates 12173; ICE Annual Review, Niagara Co. Jail (Dec. 2005), Bates 12821.

[15] ICE Annual Review, Madison Co. Jail (July 2004), Bates 4590 (marked not applicable or comments showed violation); ICE Annual Review, Monterey Park City Jail (August 2004), Bates 8992 (marked not applicable or comments showed violation); ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9680; ICE Annual Review, San Pedro Service Processing Center (January 2003), Bates 18530; ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18752.

[16] ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12939.

[17] ICE Annual Review, Colquit Co. Jail (Mar. 2004), Bates 3899; ICE Annual Review, Mini-Cassia Criminal Justice Center (August 2005), Bates 2892; ICE Annual Review, Dorchester Detention Center (July 2004), Bates 8262.

[18] ICE Annual Review, Montery Park City Jail (August 2004), Bates 8993; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12448; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18483.

[19] ICE Annual Review, St. Martin Parish Jail (Aug. – Sept. 2004), Bates 940; ICE Annual Review; Harris Co. Jail (Mar. 2005), Bates 2413; ICE Annual Review, Nobles Co. Jail (May 2005), Bates 2691; ICE Annual Review, Macomb Co. Sheriff's Dept. (Mar. 2004), Bates 4549; ICE Annual Review, Madison Co. Jail (July 2004), Bates 4590 (marked not applicable or comments showed violation); ICE Annual Review, Orleans Parish (Community Corrections Center) (Sept. 2004), Bates 7290; ICE Annual Review, Orleans Co. Jail (June 2004), Bates 7337; ICE Annual Review, Monterey Park City Jail (Aug. 2004), Bates 8992 (marked not applicable or comments showed violation); ICE Annual Review, Boone Co. Detention Center Boone Co. Detention Center (Dec. 2004), Bates 9386; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12447; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12939; ICE Annual Review, Kenosha Co. Sheriff's Dept. Corrections (July 2002), Bates 18752 (marked not applicable or comments showed violation).

[20] ICE Annual Review, Madison Co. Jail (July 2004), Bates 4590 (marked not applicable or comments showed violation); ICE Annual Review, Orleans Parish Comm. Corrections Center (Sept. 2004), Bates 7290; ICE Annual Review, Monterey Park City Jail (August 2004), Bates 8992 (marked not applicable or comments showed violation); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9423.

[21] ICE Annual Review, Tri-Co. Detention Center (Mar. 2005), Bates 1834; ICE Annual Review, Mira Loma Detention Facility (July 2004), Bates 5127; ICE Annual Review, Pottawattame Co. Jail (July 2005), Bates 2054; ICE Annual Review, Harris Co. Jail (Mar. 2005), Bates 2414; ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 2893 (marked not applicable or comments showed violation); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3247; ICE Annual Review, Garvin Co. Detention Center (aka Garvin Co. Jail) (Dec. 2004), Bates 3395; ICE Annual Review, Genesee Co. Jail (Nov. 2004), Bates 3435; ICE Annual Review, Harris Co. Jail (Mar. 2004 – Apr. 2004), Bates 3471; ICE Annual Review, Jefferson Co. Jail (Oct. 2004), Bates 3600; ICE Annual Review, Madison Co. Jail (July 2004), Bates 4592 (marked not applicable or comments showed violation); ICE Annual Review, McHenry Co. Jail (July 2004), Bates 4784; ICE Annual Review, Pettis Co. Detention Center (July 2004), Bates 6463; ICE Annual Review, Monterey Park City Jail (Aug. 2004), Bates 8993 (marked not applicable or comments showed violation); ICE Annual Review, Berks Co. Prison (July 2004 & Sept. 2004), Bates 9181; ICE Annual Review, Berks Co. Prison (July 2004 & Sept. 2004), Bates 9218; ICE Annual Review, Blount Co. Jail (July & Aug. 2004), Bates 9305; ICE Annual Review, Cambria Co. Prison (Oct. 2004), Bates 9468; ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9681; ICE Annual Review, Denver Contract Detention Facility (Aug. 2003), Bates 11177; ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11465; ICE Annual Review, Seattle Contract Detention Center (aka Seattle Immigration Detention (Sept. 2002), Bates 11498 (marked not applicable or comments showed violation); ICE Annual Review, Morrison Co. Jail (Sept. 2004), Bates 11943; ICE Annual Review, Linn Co. Jail (May 2005), Bates 12173; ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12448; ICE Annual Review, Colquitt Co. Jail (Mar. 2005), Bates 13203; ICE Annual Review, Berks Co. Prison (July 2004), Bates 15309; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18483; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18629; ICE Annual Review, Kenosha Co. Detention Center (May 2003), Bates 18797.

[22] ABA Report, Kenosha Co. Detention Facility (Sept. 2005), Bates 8604; Letter from UNHCR re UNHCR report, Avoyelles Women's Correctional Center and Tangipahoa Parish Prison (May 2004), Bates 15025; Summary of UNHCR reports, Various locations (various dates), Bates 15031; ABA report, Bergen Co. Jail (August 2003), Bates 17371; ABA report, ACI-Cranston Intake Service Center (May 2002), Bates 17415; ABA report, Mira Loma Detention Center (June 2002), Bates17446; ABA report, Kern County Jail (August 2002), Bates 17489; ABA report El Centro Service Processing Center (January 2003), Bates 17533; ABA report, Corrections Corporation of America (January 2003), Bates 17578; UNHCR report, Otay Mesa Adult Detention Facility (October 2002), Bates 17813; UNHCR report, Otay Mesa Adult Detention Facility (February 2001), Bates 18848.

[23] ABA report, Middlesex Co. Jail, Middlesex, NJ (July 2003), Bates 17772.

[24] ABA report, Wackenhut Corrections Corporation (Apr. 2002), Bates 17646.

[25] Summary of UNHCR, various locations (various dates), Bates 15031.

[26] ABA report, Santa Ana Detention Facility (July 2004), Bates 8471.

[27] Letter from UNHCR re UNHCR report, Avoyelles Women's Correctional Center and Tangipahoa Parish Prison (May 2004), Bates 15026.

[28]ABA report, Corrections Corporation of America (Jan. 2003), Bates 17578 (physical restraints may be used under certain circumstances).

[29] ABA report, Kenosha Co. Detention Facility (Sept. 2005), Bates 8613, ABA report, Dodge Co. Detention Facility (June 2004), Bates 8657, ABA report, Kern Co. Jail (Lerdo Pretrial Facility) (Aug. 2002), Bates 17489, ABA report, Wackenhut Corrections Corporation (Apr. 2002), Bates 17646, ABA report, Yuba Co. Jail (Dec. 2003), Bates 17687, ABA report 17772.

[30] ABA report, Montgomery Co. Correctional Facility (July 2004), Bates 8342, ABA report, Ozaukee Co. Jail (July 2004), Bates 8384, ABA Chart Detention Standards Implementation Initiative (various), Bates 8520, ABA report, Passaic Co. Jail (Aug. 2005), Bates 8543, ABA report, El Centro Service Processing Center (Jan. 2003), Bates 17551, ABA report, Oakland City Jail (July 2003), Bates 17659, ABA report, Yuba Co. Jail (Dec. 2003), Bates 17688, ABA report, Elizabeth Detention Center (July 2001), Bates 18842.

[31] ABA report Kern Co. Jail (Lerdo Pretrial Facility) (Aug. 2002), Bates 17488, ABA report, Middlesex Co. Jail, Middlesex, NJ (July 2003), Bates 17772.

[32] ABA report, Ozaukee Co. Jail (July 2004), Bates 8384, ABA report, Kern Co. Jail (Lerdo Pretrial Facility) (Aug. 2002), Bates 17488-17489, ABA report, Santa Ana Detention Facility (Oct. 2002), Bates 17519.

[33] ABA report, Wackenhut Corrections Corporation (Apr. 2002), Bates 17646.

[34] ABA report, Montgomery Co. Correctional Facility (July 2004), Bates 8342; ABA report, Keogh Dwyer Correction Facility (aka "Sussex County Jail") (July 2004), Bates 8488; ABA report, Ozaukee Co. Jail (July 2004), Bates 8384.

[35] ABA report, Montgomery Co. Correctional Facility (July 2004), Bates 8342.

[36] ABA report, Oakland City Jail (July 2003), Bates 17658.

[37] ABA report, Oakland City Jail (July 2003), Bates 17658, ABA report, Yuba Co. Jail (Dec. 2003), Bates 17687, ABA report, Monmouth Co. Correctional Institute (July 2003), Bates 17758; ICE Annual Review, Orleans Co. Jail (June 2005), Bates 12939.

[38] ABA report, Dallas Co. Jail System Facility (Mar. 2002), Bates 17401.

[39] ABA report, Ozaukee County Jail (July 2004), Bates 8384.

[40] ABA report, St. Mary's Co. Detention Center (June 2003), Bates 17614.

[41] ATA report, Middlesex Co. Jail, Middlesex, NJ (July 2003), Bates 17772.

[42] ABA report, Kenosha Co. Detention Center (Sept. 2003), Bates 17840; UNHCR Report, Otay Mesa Detention Facility (Feb. 2001), Bates 18848.

[43] UNHCR Report, Otay Mesa Detention Facility (Feb. 2001), Bates 18848.

## DETAINEE HANDBOOK

[1] INS Detention Standard: Detainee Handbook (hereinafter "Handbook Standard") § I, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/handbook.pdf.

[2] Handbook Standard § I.

[3] Handbook Standard § III.H.

[4] Handbook Standard § III.E.

[5] Handbook Standard § III.D.

[6] Handbook Standard § III.B.

[7] Handbook Standard § III.B. The standard does not specifically require that information on barbering hours and group legal rights presentations be listed, but these requirements are implicit and are specifically monitored on ICE review forms.

[8] Handbook Standard § III.C.

[9] Handbook Standard § III.D.

[10] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[11] ICE Annual Review, Berks County Prison, (May 2005), Bates 9749 (English only); ICE Annual Review, Carbon County Correctional Facility (May 2005), Bates 10158 (English only); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13241 (English only); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15424 (English only); ICE Annual Review, Orleans County Jail (June 2005), Bates 12927 (English only); ICE Annual Review, St. Francois County Detention Center (May 2005; June 2005), Bates 13055 (English only); ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 7574 (English only); ICE Annual Review, Berks County Prison (July 2004), Bates 9145, 9162 (English only; "translation services are available through the treatment counselor assigned to the dormitory"); ICE Annual Review, Carbon County Correctional Facility (May 2004), Bates 9500–01, 9521 (English only); ICE Annual Review, Clinton County Jail (Aug. 2004), Bates 3777 (English only); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3379 (English only); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3584 (English only); ICE Annual Review, Madison County Jail (July 2004), Bates 4578 (English only); ICE Annual Review, Orleans County Jail (June 2004), Bates 7312; ICE Annual Review, Saline County Jail (Aug. 2004), Bates 7065 (reviewer indicated that facility is "in process of translating highlights"); ICE Annual Review, Santa Clara Main Jail Complex (Oct. 2004), Bates 5767 (English only); ICE Annual Review, Tangipahoa Parish Jail (June 2004), Bates 15882 (English only); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7401, 7421 (English only; notes indicated that Spanish and Creole translations are needed); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781–82 (English only); ICE Annual Review, Pamunkey Regional Jail (Aug. 2003), Bates 18696 (English only); ICE Annual Review, Pamunkey Regional Jail (Aug. 2002), Bates 18655 (English only); ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18545, 18565 (English only).

[12] ICE Annual Review, Monroe County Jail (May 2005), Bates 2759 (review form checked as noncompliant with standard; only translated into Spanish only; phone service used when facility has questions in other languages).

[13] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10101; ICE Annual Review, Charleston County Detention Center (May 2005), Bates 10372; ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13189 (only the library location is provided); ICE Annual Review, Lincoln County Jail (June 2005), Bates 2523; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12202; ICE Annual Review, St. Francois County Detention Center (May 2005), Bates 13055; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2634 (information only covered in orientation); ICE Annual Review, Blount

County Jail, (July 2004, Aug. 2004) Bates 9290 (incorrectly checked "N/A"); ICE Annual Review, Bonneville County Jail (June 2004) Bates 9335; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9409; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8004; ICE Annual Review, Finney County Jail (May 2004), Bates 4230 (information only available in housing pod); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4186; ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 3520 (incorrectly checked "N/A"); ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3635 (No); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4383; ICE Annual Review, Manatee County Detention Center (June 2004), Bates 4630 (reviewer indicated that handbook incorrectly says that use of law library is only by written request); ICE Annual Review, Middlesex County Jail (Oct. 2004), Bates 4949; ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5158; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12061–133; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6448; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 15616 (information is only posted in housing pods); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6860 (incorrectly checked "N/A"); ICE Annual Review, Santa Clara County Main Jail Complex (Oct. 2004), Bates 5839 (incorrectly checked "N/A"); ICE Annual Review, Smith County Jail (June 2004), Bates 5668; ICE Annual Review, Washington County Purgatory Detention Facility (Nov. 2004), Bates 6917; ICE Annual Review, Yakima County Jail, (Dec. 2004), Bates 7873; ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11245; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18782; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16896 (incorrectly marked as in compliance, information only available in housing units); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18466; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18565.

[14] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10101; ICE Annual Review, Atlanta City Detention Center, (May 2004), Bates 7716; ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9116 (incorrectly marked as in compliance; detainees only receive pro bono list from ICE); ICE Annual Review, Berks County Prison (July 2004), Bates 9203 (none are described); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9409 (visitation information only listed on visitation forms); ICE Annual Review, Cambria County Prison (Oct. 2004) Bates 9456 (none of this information is provided); ICE Annual Review, Clarke, Fauquier, Frederick, and Winchester Regional ADC (Apr. 2004), Bates 3683 (inappropriately checked "N/A" because information posted in cell block); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3380 (information not provided and notes indicate that group legal presentations are not allowed); ICE Annual Review, Harris County Jail (Mar. 2004), Bates 3457 (incorrectly marked as in compliance, notes indicate that pro bono lists are only provided to the detainee when arrested by immigration); ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3635; ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4536 (incorrectly marked as in compliance; pro bono lists only provided by ICE); ICE Annual Review, Madison County Jail (July 2004), Bates 4579 (pro bono services and group legal services not in handbook; only provided by ICE); ICE Annual Review, McHenry County Jail (July 2004), Bates 4769 (no information on legal rights presentations; information is only given as presentations are scheduled); ICE Annual Review, Monroe County Jail (July 2004), Bates 8935 (pro bono list given by ICE / CBP); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12031 (information only posted in housing units); ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 11740 (ICE detainees receive lists of pro bono lists only from ICE); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6448; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 15616 (information not described, only posted in housing pods); ICE Annual Review, Pottawattami County Jail (Aug. 2004), Bates 6058 (group presentations not covered as facility has never had a request for one); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7142 (incorrectly marked as in compliance; pro bono lists provided by ICE); ICE Annual Review, Salt Lake County Adult Detention Complex (Sept. 2004), Bates 6860; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7422 (pro bon lists and group legal presentations not described); ICE Annual Review, Elizabeth Contract Detention Facility (Sept. 2003), Bates 18147; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18782; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11283 (pro bono list only provided with Notice to Appear document); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16896 (information not described, only posted in housing pods; unclear if group rights information is provided, review says no group rights presentations); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18466; ICE Annual Review, Tensas Parish Jail (Aug. 2002), Bates 18565 (legal visitation is not described).

[15] ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9116 (incorrectly marked as in compliance; detainees only receive pro bono list from ICE); ICE Annual Review, Macomb County Sheriff's Department (Mar. 2004), Bates 4536 (incorrectly marked as in compliance; pro bono lists only provided by ICE); ICE Annual Review, Madison County Jail (July 2004), Bates 4579 (pro bono services and group legal services not in handbook; only provided by ICE); ICE Annual Review, Monroe County Jail (July 2004), Bates 8935 (pro bono list given by ICE / CBP); ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 11740 (ICE detainees receive lists of pro bono lists only from ICE); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7142 (incorrectly marked as in compliance; pro bono lists provided by ICE).

[16] ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13146 (does not cover guarantees against staff retaliation or how to file a complaint about officer misconduct); ICE Annual Review, Lincoln County Jail (June 2005), Bates 2524 (does not cover how to file complaint of officer misconduct); ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2960 (No guarantee against staff retaliation; no information on how to file a complaint against officer misconduct); ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3189; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3145 (information only given to detainee when problem occurs; disciplinary policy used instead); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2634 (does not cover how to file complaint of officer misconduct, posted in all housing areas); ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7611 (no information listed; reviewer indicated that when there is a problem ICE is notified immediately); ICE Annual Review, Bonneville County Jail (June 2004) Bates 9335; ICE Annual Review, Cambria County Prison (Oct. 2004) Bates 9456 (does not cover appeals to ICE personnel, does not provide information on civil rights complaints); ICE Annual Review, Canadian county Jail (Jan. 2005), Bates 101000 (does not cover step-by-step procedures); ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3830 (reviewer indicated that because there are currently no ICE detainees currently held for over 72 hours, some of these procedures are not followed); ICE Annual Review, Ector County Correctional Center (Nov. 2004), Bates 4104 (reviewer indicated that updated information is needed); ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4149 (No set grievance procedures; jail contacts ICE with any possible grievances); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4186 (does not cover notification of DOJ); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3585 (incorrectly marked as in

compliance; does not cover procedures for filing a complaint with Department of Justice); ICE Annual Review, Kern County Sheriff's Office (Dec. 2004), Bates 4311 (does not cover ICE appeals); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4383 (not covered at all); ICE Annual Review, Mecklenburg County Jail (North) (Apr. 2004), Bates 4857 (does not cover procedures for filing an appeal with ICE); ICE Annual Review, Mira Loma Detention Facility (July 2004), Bates 5112 (information only posted in barracks); ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5137–58; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12030; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12061–133 (does not cover appeals process, guarantee against retaliation, ability to obtain staff/detainee help to file grievance, or step-by-step process); ICE Annual Review, Pennington County Jail (June 2004), Bates 11785 (incorrectly marked as in compliance; does not cover guarantee against employee retaliation and filing of DOJ complaint); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6448; ICE Annual Review, Pottawattamie County Jail (May 2004), Bates 6058 (does not cover step-by-step appeals process and staff availability to assist with complaint with DOJ); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5237; ICE Annual Review, Smith County Jail (June 2004), Bates 5668; ICE Annual Review, Summit County Jail (Nov. 2004), Bates 6686 (incorrectly marked as in compliance; does not cover appeals process); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7422 (does not cover guarantee against staff retaliation or how to file a complaint with DOJ); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5530 (does not cover filing an appeal with ICE); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18782.

[17] ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3145.

[18] ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7611.

[19] ICE Annual Review, Central Arizona Detention Center (Aug. 2005), Bates 10330; ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13144; ICE Annual Review, Dickens County Jail (June 2005), Bates 13522; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15424; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12202; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12807 (does not cover appeals process for classification levels); ICE Annual Review, Nobles County Jail (May 2005), Bates 2676; ICE Annual Review, Pennington County Jail (Aug. - Sept. 2005), Bates 2998; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3144; ICE Annual Review, St. Francois County Detention Center (May 2005), Bates 13055; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2633 (does not explain each level); ICE Annual Review, Berks County Prison (July 2004), Bates 9164; ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8003; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4434; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471; ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3379; ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4055; ICE Annual Review, El Centro Service Process Center (Jan. 2004), Bates 12648; ICE Annual Review, Harris County Jail (Mar.- Apr. 2004), Bates 3456; ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3584; ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3634 (ICE detainees arrive already classified by ICE); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4382; ICE Annual Review, Madison County Jail (July 2004), Bates 4578; ICE Annual Review, McHenry County Jail (July 2004), Bates 4768; ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5157; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12061–133; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7275; ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7367; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, Phelps County Jail (Mar., Apr. 2004), Bates 6209 (no classification section at all); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5236; ICE Annual Review, Smith County Jail (June 2004), Bates 5667; ICE Annual Review, St. Mary's County Detention Center (July 2004), Bates 6726; ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7421; ICE Annual Review, Washington County Purgatory Detention Facility (Nov. 2004), Bates 6917; ICE Annual Review, Worcester County Jail (Nov. 2004), Bates 5944.

[20] ICE Annual Review, Chase County Jail (Sept. 2005), Bates 10411; ICE Annual Review, Mississippi ICE Annual County Detention Center (Aug. 2005), Bates 2959; ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 11831; ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3144 (gives rules for sick call); ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9371; ICE Annual Review, Bonneville County Jail (June 2004) Bates 9334; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471; ICE Annual Review, Harris County Jail (Mar. 2004), Bates 3456; ICE Annual Review, Madison County Jail (July 2004), Bates 4578; ICE Annual Review, Orleans Parish Community Corrections Center, (Sept. 2004), Bates 7275; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 11048; ICE Annual Review, Kenosha County Sheriff's Department Corrections (July 2002), Bates 18737 (notes indicate exams are "not conducted unless a need presents").

[21] ICE Annual Review, Bonneville County Jail (May 2005), Bates 9831; ICE Annual Review, Lincoln County Jail (June 2005), Bates 2523; ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2959 (does not describe direct and emergency calls); ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 11831; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12807 (does not describe emergency messaging); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2633 (only posted housing areas); ICE Annual Review, Berks County Prison, (July 2004), Bates 9202 (does not specify emergency call procedure and phone message system); ICE Annual Review, Finney County Jail (May 2004), Bates 4229 (incorrectly marked as in compliance; does not describe emergency phone calls and detainee message system); ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3419 (incorrectly marked in compliance; no description of message system); ICE Annual Review, Kern County Sheriff's Office(Dec. 2004), Bates 4310 (policy only posted by phones); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4382 (emergency phone call procedure not described); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4903 (information only provided by staff); ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5157 (does not describe direct and free calls, emergency calls or message system); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, Smith County Jail (June 2004), Bates 5667; ICE Annual Review, St. Francois County Detention Center (May 2005), Bates 13055 (does not describe direct, free, or emergency phone calls); ICE Annual Review, Worcester County Jail (Nov./Dec. 2004), Bates 5944; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18614; ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 180001; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18465 (does not describe debit cards, phone locations, and message system).

[22] ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13145; ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15425 (information included even though ICE detainees cannot participate); ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12202; ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2633

(only covered in orientation); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9409; ICE Annual Review, Coconino County Detention Facility (Feb. 2004), Bates 3830 (information only given to detainees involved in program); ICE Annual Review, Douglas County Jail (Dec. 2004), Bates 4056; ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4186; ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3420 ("No" marked; review indicates "Trustee program" with no additional explanation.); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4382 (information included even though ICE detainees cannot participate in program); ICE Annual Review, Madison County Jail (July 2004), Bates 4579 (information included in proposed handbook even though ICE detainees cannot participate in program); ICE Annual Review, Manatee County Detention (June 2004), Bates 4614, 4630 (information is only provided verbally during intake); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6448; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5237; ICE Annual Review, Smith County Jail (June 2004), Bates 5668; ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11245; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11283 (no mention of pay procedures); ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18615.

[23] ICE Annual Review, Atlanta City Detention Center (May 2004), Bates 7715; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 9409 (only listed on "visitation forms"); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7472; ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3635; ICE Annual Review, Keogh Dwyer Correctional Facility (Aug. 2004), Bates 7013 (hours not listed); ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 15616 (only posted in pods); ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11244; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16896 (only posted in housing units).

[24] ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13145; ICE Annual Review, Garfield County Detention Center (June 2005), Bates 13427 (posted in housing units); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 15424; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12807; ICE Annual Review, St. Francois County Detention Center (May 2005), Bates 13055; ICE Annual Review, Berks County Prison (June 2004), Bates 15293; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471; ICE Annual Review, Dorchester County Detention Center (Sept. 2004), Bates 4010; ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4185; ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3634; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7275; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 6142 (posted in housing units); ICE Annual Review, Turner Guilford Knight Correctional Center, (Mar. 2004), Bates 7421; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18614.

[25] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10100; ICE Annual Review, Central Arizona Detention Center (Aug. 2005), Bates 10330 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Citrus County Jail (Nov. 2005), Bates 13145 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Dickens County Jail (June 2005), Bates 13522 (this element is marked acceptable, but remarks on form indicate deficiency for count times and smoking policy); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2401 (count information was not described clearly); ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 12202 (no count or meal times); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3233; ICE Annual Review, Polk County Jail (May 2005), Bates 3065 (times not provided because of "security reasons"); ICE Annual Review, Bannock County Jail (June 2004), Bates 9026 (no official count times or meal times listed); ICE Annual Review, Bonneville County Jail (June 2004) Bates 9334; ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3634 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4382 (official count times and procedures and special diets not listed); ICE Annual Review, Madison County Jail (July 2004), Bates 4578 (count times and procedures and special diets are not addressed); ICE Annual Review, Monroe County Jail (July, 2004), Bates 8934 (not marked deficient, but indicated by comments on form); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12081; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7275 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Smith County Jail (June 2004), Bates 5667 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Washington County Purgatory Detention Facility (Nov. 2004), Bates 6917 (count times, meals times, religious diets, smoking policy, clothing exchange, and hygiene procedures are all missing); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5529; ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11244 (this element marked deficient without specifying whether count times is included); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781 (this element marked deficient without specifying whether count times is included).

[26] ICE Annual Review, Harris County Jail (Mar. 2005), Bates 2401 (initial issuance not addressed; marked as "acceptable"; noncompliance indicated by comments on form); ICE Annual Review, Bonneville County Jail (June 2004) Bates 9334; ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4434 (initial issuance of clothing not covered); ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12081; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7275; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, West Carroll Detention Center (Sept. 2004), Bates 5619; ICE Annual Review, Elizabeth Contract Detention Center (Sept. 2003), Bates 11244; ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18781; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 11331 (does not list personal items permitted); ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18614.

[27] ICE Annual Review, Community Corrections Center (Sept. 2004), Bates 7471; ICE Annual Review, Kenosha County Detention Center (May 2004), Bates 3634; ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7275; ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447; ICE Annual Review, Tensas Parish Detention Center (Aug. 2003), Bates 18614.

[28] ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6447–49.

[29] ICE Annual Review, Madison County Jail (July 2004), Bates 4578–80.

[30] ICE Annual Review, Charleston County Detention Center (May 2004), Bates 8003–05.

[31] ABA Annual Review, Passaic County Jail (July 2004), Bates 8410–27.

[32] ABA Annual Review, Passaic County Jail (July 2004), Bates 8422.

[33] *Id.*

[34] ABA Annual Review, Passaic County Jail (July 2004), Bates 8426.

[35] ABA Annual Review, Passaic County Jail (July 2004), Bates 8424.

[36] ABA Annual Review, Passaic County Jail (July 2004), Bates 8422.

[37] ABA Annual Review, Passaic County Jail (July 2004), Bates 8414.

[38] ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 15775–818.

[39] ABA Annual Review, Passaic County Jail (Aug. 2005), 8524–57.

[40] ICE Annual Review, Passaic County Jail (June 2005), 14460–617.

[41] UNHCR Annual Review, Dodge County Jail (June 2004), Bates 8634–61.

[42] ABA Annual Review, Dodge County Detention Facility (June 2004), Bates 8634–61.

[43] ICE Annual Review, Dodge County Detention Center (June 2004), Bates 3945–3989.

[44] Summary of ABA Annual Reviews, Bates 8519.

[45] Summary of ABA Annual Reviews, Bates 8519–20.

[46] ICE Annual Review, Dodge County Jail, (May 2005), Bates 13557–58; ICE Annual Review, El Centro Service Processing Center (July 2005), Bates 10843–44; ICE Annual Review, San Pedro Processing Center (2005), Bates 12296–97.

[47] Summary of ABA Annual Reviews, Bates 8519.

[48] Summary of ABA Annual Reviews, Bates 8519–20.

[49] ABA Annual Review, Dorchester County Jail (July 2004), Bates 8255–73.

[50] ICE Annual Review, Dorchester County Jail (Sept. 2004), 3990–4036.

## HOLD ROOMS IN DETENTION FACILITIES

[1] INS Detention Standard: Hold Rooms in Detention Facilities (hereinafter "HRDF") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/holdrooms.pdf.

[2] HRDF § II (Applicability) ("Within the [HRDF] document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics.").

[3] *Id.*

[4] HRDF § III.A (Standards and Procedures: Physical Conditions/Time Limit). The design specifications standards emerged from the Hold Room Design Standards Workshop held in 1999 in Fort Worth, TX, and became effective immediately upon their promulgation. The checklist used to monitor SPCs and CDFs, which contains the additional design specification elements, states that these elements apply to "SPCs constructed after 1998."

[5] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[6] G-324A Detention Inspection Form Worksheet for IGSAs, Rev: 09/25/03 ("G-324A Form").

[7] HRDF § III.D.3 (Standards and Procedures: Basic Operational Procedures). (In the HRDF standard posted at www.ice.gov/doclib/pi/dro/opsmanual/holdrm.pdf (last visited Mar. 25, 2009), the section titled "Basic Operational Procedures" is mislettered. The section title is preceded by the letter "C" despite the fact that the title of the immediately preceding section also is preceded by the letter "C." Hereinafter, citations to "§ III.D" refer to the "Basic Operational Procedures" section in the posted HRDF standard.)

[8] HRDF § III.D.2.

[9] *See, e.g.*, ICE Annual Review, Rolling Plains Detention Center (Mar. 2004), Bates 21195.

[10] HRDF § III.D.5.

[11] ICE Annual Review, Houston Processing Center (Feb. 2006), Bates 21852–53; ICE Annual Review, Aquadilla Service Processing Center (Nov. 2005), Bates 21792; ICE Annual Review, El Centro Service Processing Center (July 2005), Bates 21797; ICE Annual Review, Elizabeth Contract Detention Facility (Sept.-Oct. 2004), Bates 21816; ICE Annual Review, Laredo Contract Facility (Oct. 2004), Bates 2182; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2004), Bates 21748–49; ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 21764–69 (reviewers used the correct SPC/CDF checklist in 18 instances); ICE Annual Review, Port Isabel Service Processing Center (Feb. 2006), Bates 21854–57; ICE Annual Review, Aquadilla Service Processing Center (Mar. 2005), Bates 21768–70; ICE Annual Review, El Paso Service Processing Center (Mar. 2005), Bates 21774–75; ICE Annual Review, Florence Service Processing Center (May 2005), Bates 21992–93; ICE Annual Review, Houston Processing Center (Aug. 2005), Bates 21963–65; ICE Annual Review, Denver Contract Detention Facility (Aug. 2004), Bates 21811–14; ICE Annual Review, Florence Service Processing Center (May 2005), Bates 21802–03; ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 21821–24; ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 21780–82; ICE Annual Review, Port Isabel Service Processing Center (Feb. 2005), Bates 21804–06; ICE Annual Review, San Pedro Service Processing Center (Aug. 2005), Bates 21784–86; ICE Annual Review, Aguadilla Service Processing Center (Mar. 2004), Bates 21732–34; ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736–38; ICE Annual Review, El Paso Service Processing Center (Mar. 2004), Bates 21756–58; ICE Annual Review, Florence Processing Center (May 2004), Bates 21742–44; ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 21761–63; ICE Annual Review, Broward Transitional Center (Mar. 2003), Bates 21807–10; ICE Annual Review, Elizabeth Contract Detention Facility (date unknown), Bates 21960–61.

[12] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 21380 (detainees "placed on wall under constant supervision"); ICE Annual Review, Department of Corrections (DEPCOR) (July 2005), Bates 21430, 21433; ICE Annual Review, Garvin County Jail (Dec. 2004), Bates 20957 (answer marked: "N/A"; accompanying remark: "No hold room. Benches with handcuffs."); ICE Annual Review, Lufkin Detention Facility (Feb. 2004), Bates 21029 (most elements marked "N/A" because "facility has no holding room"); ICE Annual Review, Broward Transitional Center (Mar. 2003), Bates 21808–10 (standard not rated; all boxes marked "N/A").

[13] *Id.*

[14] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 21380 (detainees "placed on wall under constant supervision.").

[15] ICE Annual Review, Garvin County Jail (Dec. 2004), Bates 20957 (answer marked: "N/A"; accompanying remark: "No hold room. Benches with handcuffs.").

[16] ICE Annual Review, Lufkin Detention Facility (Feb. 2004), Bates 21029.

[17] ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780 ("No modesty panels"); ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736 (answer marked: "Yes"; accompanying remark: "Very minor observation: Hold Room A has a sign on the

door that states capacity of 15 [which is above the 1-14 limit] but that room has only 1 toilet.").

[18] HRDF § III.B (Standards and Procedures: Unprocessed Detainees).

[19] ICE Annual Review, Butler County Jail (Mar. 2006), Bates 21690 ("New facility"); ICE Annual Review, NORCOR (June 2005), Bates 21582 ("Not an older facility."); ICE Annual Review, Columbia County Jail (Jan. 2004), Bates 21421 ("Facility opened in 2001."); ICE Annual Review, La Salle County Regional Detention Center (Dec. 2004), Bates 21017 ("This facility is 'NEW,' all conditions are very new."); ICE Annual Review, Onondaga County Justice Center (Dec. 2004), Bates 21120 ("Built in 19995 [*sic*]"); ICE Annual Review, Rolling Plains Detention Center (Mar. 2004), Bates 21199 ("Facility is considered a newer facility."); ICE Annual Review, Val Verde County Detention Facility (June 2004) (answer marked: "No"; accompanying remark: "Facility is still in very new conditions [*sic*].").

[20] ICE Annual Review, Eloy Detention Center (Mar. 2006), Bates 21703; ICE Annual Review, Erie County Prison (Mar. 2006), Bates 21708; ICE Annual Review, Jefferson County Jail (Jan. 2006), Bates 21718; ICE Annual Review, Cambria County Prison (Oct. 2005), Bates 21377; ICE Annual Review, Carbon County Correctional Facility (May 2005), Bates 21383; ICE Annual Review, Dickens County Correctional Center (June 2005), Bates 21436; ICE Annual Review, Dodge County Jail (May 2005), Bates 21439; ICE Annual Review, Erie County Prison (Mar. 2005), Bates 21451; ICE Annual Review, Garfield County Jail (June 2005), Bates 21460; ICE Annual Review, Hill County Detention Center (June 2005), Bates 21478; ICE Annual Review, Jefferson County Justice Center (Oct. 2005), Bates 21490; ICE Annual Review, Mini-Cassia Criminal Justice Center (Aug. 2005), Bates 21539; ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 21548; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 21569 ("Newer facility"); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 21579; ICE Annual Review, Plaquemines Parish Detention Center (Apr. 2005), Bates 21612; ICE Annual Review, West Texas Detention Facility (Jan. 2005), Bates 21672; ICE Annual Review, Yavapai County Detention Center (June 2005), Bates 21681; ICE Annual Review, Las Animas City Jail (Dec. 2005), Bates 21014; ICE Annual Review, Otero County Prison Facility (Jan. 2005), Bates 21147; ICE Annual Review, Allegheny County Jail (Oct. 2004), Bates 20804; ICE Annual Review, Blount County Jail (July 2004), Bates 20834; ICE Annual Review, Chase County Jail (Sept. 2004), Bates 20885; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 20903; ICE Annual Review, Etowah County Detention Facility (June 2004), Bates 20942; ICE Annual Review, Hill County Detention Center (Oct. 2004), Bates 20987; ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 21822 ("Facility was constructed in 1983 [before 1998]," and "N/A" indicated for "older facilities standard"); ICE Annual Review, Jefferson County Detention Facility (Oct. 2004), Bates 20996; ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 21075; ICE Annual Review, Monroe County Jail (July 2004), Bates 21084; ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 21102; ICE Annual Review, Northwest Detention Center (July 2004), Bates 21831; ICE Annual Review, North Las Vegas Detention Center (Oct. 2004), Bates 21105; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 21117; ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 21126; ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 21165; ICE Annual Review, Platte County Detention Center (Apr. 2004), Bates 21168; ICE Annual Review, Regional Correctional Facility (Aug. 2004), Bates 21839; ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 21205; ICE Annual Review, Saline County Jail (Aug.-Sept. 2004), Bates 21208; ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 21214; ICE Annual Review, Summit County Jail (Nov. 2004), Bates 21255; ICE Annual Review, Washington County Purgatory Correction Facility (Nov. 2004), Bates 21299; ICE Annual Review, Washington County Jail (Oct. 2004), Bates 21302 ("Newer facility"); ICE Annual Review, Williamson County Sheriff Department (Aug. 2004), Bates 21317; ICE Annual Review, Dodge County Detention Facility (June 2003), Bates 20927 ("New facility"); ICE Annual Review, Utah County Jail (date unknown), Bates 21281.

[21] HRDF § III.A.5. This specific requirement applies only to SPCs and CDFs, but IGSAs must meet the objective of the standard. This element is also included on the IGSA checklist.

[22] ICE Annual Review, Harris County Jail (Mar. 2006), Bates 21713 (answer marked: "No"; accompanying remark: "[H]old rooms double as Seg cells for females."); ICE Annual Review, Jefferson County Jail (Jan. 2006), Bates 21718 (answer marked "N/A"); ICE Annual Review, Bonneville County Jail (May 2005), Bates 21359; ICE Annual Review, Harris County Jail (Mar. 2005), Bates 21475 (answer marked: "No"; accompanying remark: "Hold rooms are used for ISO."); ICE Annual Review, Howard County Detention Center (July 2005), Bates 21481; ICE Annual Review, Jefferson County Justice Center (Oct. 2005), Bates 21490 (answer marked: "Yes/No"; accompanying remark: "Hold cells also used for seg and detox."); ICE Annual Review, Kenosha County Detention Center (June 2005), Bates 21502; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 21529; ICE Annual Review, Nobles County Jail (May 2005), Bates 21572; ICE Annual Review, NORCOR (June 2005), Bates 21582; ICE Annual Review, Orleans County Jail (June 2005), Bates 21588 (answer marked: "No"; accompanying remark: "Each single cell has a bunk."); ICE Annual Review, St. Mary's County Detention Center (July 2005), Bates 21657; ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 21663 (answer marked: "No"; accompanying remark: "Hold rooms can be used for emergency bed space if necessary. Beds can be quickly moved in or out as needed."); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 20849; ICE Annual Review, Caldwell County (Nov. 2004), Bates 20852 (answer marked: "No"; accompanying remark: "Padded bench which could double as a cot"); ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 20963; ICE Annual Review, Harris County Jail (Mar.-Apr. 2004), Bates 20981 (answer marked: "No"; accompanying remark: "The hold rooms also double as segregation rooms due to the facility being small."); ICE Annual Review, Jefferson County Detention Facility (Oct. 2004), Bates 20996 (answer marked: "Yes/No"; accompanying remark: "Not when used as holding cell. Can also be use a seg cell or a detox tank."); ICE Annual Review, McLennan County Detention Center (Nov. 2004), Bates 21051; ICE Annual Review, Orleans County Jail (June 2004), Bates 21123 (answer marked: "No"; accompanying remark: "[T]here are bunks in the individual cells."); ICE Annual Review, Salt Lake County Adult Detention Center (Sept. 2004), Bates 21211 (answer marked: "No"; accompanying remark: "only blankets"); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 21214; ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 21244, 21246; ICE Annual Review, Tri-County Detention Center (Mar. 2004), Bates 21269 (answer marked: "No"; accompanying remark: "Holding rooms can be used for emergency bed space if necessary."); ICE Annual Review, Trumbull County Jail (May 2004), Bates 21272 (answer marked: "No"; accompanying remark: "Holding rooms can be used for emergency bed space if necessary."); ICE Annual Review, Worchester County Jail (Nov.-Dec. 2004), Bates 21320; ICE Annual Review, Utah County Jail (date unknown), Bates 21281; ICE Annual Review, Weber County Jail Facility (date unknown), Bates 21308.

[23] ICE Annual Review, Houston Processing Center (Feb. 2006), Bates 21852 (answer marked: "N/A"; accompanying remark: "Do not use."); ICE Annual Review, Finney County Jail (June 2005), Bates 21454 (answer marked: "Yes"; accompanying remark: "Unless emergency situation"); ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736, 21740 (answer

marked: "Yes"; accompanying remark: "Bunk beds are located in the holding rooms."); ICE Annual Review, Grayson County Detention Center (Feb. 2004), Bates 20966 (answer marked: "Yes"; accompanying remark: "An elevated floor is located in the back of the holding room for mat placement if needed."); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 21069 (answer marked: "Yes"; accompanying remark: "This area has beds . . ."); ICE Annual Review, Madison County Jail (July, year unknown), Bates 21038 (answer marked: "Yes"; accompanying remark: "The 'holdrooms' are 2-4 man individual cells in the booking area. Beds have been added.").

[24] ICE Annual Review, Harris County Jail (Mar. 2006), Bates 21713 (answer marked: "No"; accompanying remark: "[H]old rooms double as Seg cells for females."); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 21475 (answer marked: "No"; accompanying remark: "Hold rooms are used for ISO."); ICE Annual Review, Jefferson County Justice Center (Oct. 2005), Bates 21490 (answer marked: "Yes/No"; accompanying remark: "Hold cells also used for seg and detox."); ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 21663 (answer marked: "No"; accompanying remark: "Hold rooms can be used for emergency bed space if necessary. Beds can be quickly moved in or out as needed."); ICE Annual Review, Harris County Jail (Mar.-Apr. 2004), Bates 20981 (answer marked: "No"; accompanying remark: "The hold rooms also double as segregation rooms due to the facility being small."); ICE Annual Review, Jefferson County Detention Facility (Oct. 2004), Bates 20996 (answer marked: "Yes/No"; accompanying remark: "Not when used as holding cell. Can also be use a seg cell or a detox tank."); ICE Annual Review, Tri-County Detention Center (Mar. 2004), Bates 21269 (answer marked: "No"; accompanying remark: "Holding rooms can be used for emergency bed space if necessary."); ICE Annual Review, Trumbull County Jail (May 2004), Bates 21272 (answer marked: "No"; accompanying remark: "Holding rooms can be used for emergency bed space if necessary.").

[25] Again, this element is identified by the hold room standard as being only for SPCs and CDFs. HRDF § III.A.8. However, it is also contained on the ISGA checklist.

[26] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687; ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232.

[27] ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232.

[28] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687 (answer marked: "No"; accompanying remark: "Glass in holding room broken and detainee left unattended, time log sheet on desk, no staff around to monitor detainees.").

[29] ICE Annual Review, Boone County Detention (Dec. 2004), Bates 20840 (answer marked: "Yes"; accompanying remark: "Area does have a drop ceiling in hallways."); ICE Annual Review, Warren County Regional Jail (Feb. 2004), Bates 21296 (answer marked: "Yes"; accompanying remark: "Area does have a drop ceiling.").

[30] HRDF § III.A. Although this element of the standard is applicable only to SPCs and CDFs, it is also included on the IGSA checklist for monitoring hold rooms.

[31] ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232 (answer marked: "No"; accompanying remark: "Poor lighting"; "Very poor light in hold rooms."); ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21778–80 ("Lavatory switch is inside." Comments indicate this is a repeat deficiency.); ICE Annual Review, Blount County Jail (July 2004), Bates 20834 (answer marked: "Yes"; accompanying remark: "One room has a light switch inside the cell. This room is not used except in emergency situations."); ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 21760 ("Female holding area does not have sufficient ventilation."); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 21069–70 (answer marked: "Yes"; accompanying remark: "Not well lit or ventilated per new jail standards.").

[32] *See, e.g.*, ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 21760 ("Female holding area does not have sufficient ventilation."); ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232 (answer marked: "No"; accompanying remark: "Poor lighting"; "Very poor light in hold rooms."); ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780 ("Lavatory switch is inside").

[33] ICE Annual Review, Blount County Jail (July 2004), Bates 20834–35 (answer marked: "Yes"; accompanying remark: "One room has a light switch inside the cell. This room is not used except in emergency situations."); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 21069–70 (answer marked: "Yes"; accompanying remark: "Not well lit or ventilated per new jail standards.").

[34] This element is identified as being for SPCs and CDFs; however, it is also included on the IGSA checklist. HRDF § III.A.4. On both checklists the element states, "The hold rooms contain sufficient seating for the number of detainees held."

[35] ICE Annual Review, Eloy Detention Center (Mar. 2006), Bates 21703, 21706 (answer marked: "No"; accompanying remark: "Over crowding visual observation" [*sic*].); ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232 (answer marked: "No"; accompanying remark: "Inmates lying on floor in overcrowded cell."); ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780; ICE Annual Review, Pueblo County Detention Center (Mar. 2004), Bates 21180 (answer marked: "No"; accompanying remark: "On occasion during peak hours cells are crowded."); ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 21244, 21246 (answer marked: "No"; accompanying remark: "NO SEATING").

[36] ICE Annual Review, Eloy Detention Center (Mar. 2006), Bates 21703, 21706 (answer marked: "No"; accompanying remark: "Over crowding visual observation" [*sic*].)ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232 (answer marked: "No"; accompanying remark: "Inmates lying on floor in overcrowded cell."); ICE Annual Review, Pueblo County Detention Center (Mar. 2004), Bates 21180 (answer marked: "No"; accompanying remark: "On occasion during peak hours cells are crowded.").

[37] ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 21244, 21246 (answer marked: "No"; accompanying remark: "NO SEATING").

[38] ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21232.

[39] HRDF § III.A.2. This element is identified by the hold room standard as applying only to SPCs and CDFs.

[40] ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 21760 ("Hold rooms are too small for the number of detainees housed and processed through Krome."); ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780 ("Current Hold Rooms are not in compliance to standard. New construction of Hold Rooms that will be in compliance is underway.").

[41] This element of the hold room standard applies only to SDFs and CDFs.

[42] ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780 ("Doors swing inward."); ICE Annual Review, San Pedro Service Processing Center (Aug. 2005), Bates 21778.

[43] This element of the hold room standard applies only to SDFs and CDFs.

[44] ICE Annual Review, El Paso Service Processing Center (Mar. 2005), Bates 21774, 21776 ("Not in compliance because hold room was constructed before standard was in place."); ICE Annual Review, Krome Processing Center (Feb. 2005), Bates 21780; ICE Annual Review, San Pedro Service Processing Center (Aug. 2005), Bates 21778 ("There are no floor drains in the Hold Rooms."); ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736 (answer marked: "No"; accompanying remark: "Two of these rooms do not have drains.").

[45] ICE Annual Review, El Paso Service Processing Center (Mar. 2005), Bates 21774,

21776 ("Not in compliance because hold room was constructed before standard was in place.").

[46] Handicap rails are not an element on the SPC/CDF checklist; however, the element setting forth the design specifications for hold room toilet facilities states that toilet facilities must be compliant with the American Disabilities Act.

[47] ICE Annual Review, El Paso Service Processing Center (Mar. 2004), Bates 21754, 21756 (answer marked: "No"; accompanying remark: "Need handrail in rest rooms.").

[48] HRDF § III.B (Standards and Procedures: Unprocessed Detainees). This requirement applies to all facilities.

[49] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687; ICE Annual Review, Eloy Detention Center (Mar. 2006), Bates 21703, 21706 (answer marked: "No"; accompanying remark: "In accurate [*sic*] records"); ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21233 (answer marked: "No"; accompanying remark: "Held overnight until 8 am the next morning."); ICE Annual Review, Aquadilla Service Processing Center (Nov. 2005), Bates 21790 ("Log showed 5 detainees held for over 55 hrs 7/23/05 thru 7/25/05."); ICE Annual Review, Caldwell County Jail (July 2005), Bates 21371 (answer marked: "No"; accompanying remark: "MO. Statute allows for 20 hour investigative hold."); ICE Annual Review, Calhoun County Jail (Feb. 2005), Bates 21374 (answer marked: "No"; accompanying remark: "No longer than 8 hours except in female holding. On the Weekend the females can be in Holding tanks for 24 to 48 hours. Space availability"); ICE Annual Review, El Centro Service Processing Center (July 2005), Bates 21795 ("Detainees are held longer than twelve hours in hold rooms. . . . The facility was previously found deficient in this standard."); ICE Annual Review, Harris County Jail (Mar. 2005), Bates 21475; ICE Annual Review, Howard County Detention Center (July 2005), Bates 21481; ICE Annual Review, Kenosha County Detention Center (June 2005), Bates 21502; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 21529, 21532, 21534 (answer marked: "No"; accompanying remark: "No policy for 12 hour standard."); ICE Annual Review, Monroe County Jail (Main) (May 2005), Bates 21551; ICE Annual Review, Nobles County Jail (May 2005), Bates 21572, (answer marked: "No"; accompanying remark: "One was in during review for 14 hrs for detox."); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 21579 (answer marked: "No"; accompanying remark: "Occasionally some inmates held for over 12."); ICE Annual Review, NORCOR (June 2005), Bates 21582; ICE Annual Review, Orleans County Jail (June 2005), Bates 21588 (answer marked: "No"; accompanying remark: "Sometimes used as overflow or short stays."); ICE Annual Review, St. Mary's County Detention Center (July 2005), Bates 21657; ICE Annual Review, Bannock County Jail (June 2004), Bates 20819; ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 20849; ICE Annual Review, Caldwell County (Nov. 2004), Bates 20852 ("Individuals may be held on 20 hr. investigative holds in the State of Missouri."); ICE Annual Review, Cass County Jail (Jan. 2004), Bates 20873 (answer marked: "No"; accompanying remark: "Not generally, but these rooms are also used to monitor detainees who require close monitoring, i.e. suicidal, etc."); ICE Annual Review, Dorchester County Detention Facility (Sept. 2004), Bates 20930; ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736, 21738, 21740 (answer marked: "No"; accompanying remark: "Hold Room logs show some detainees spending up to 17 hours in the holding room area."); ICE Annual Review, Grand Fork County Correctional Facility (Dec. 2004), Bates 20963; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 21117 (answer marked: "No"; accompanying remark: "ICE no/state and fed. May be [*sic*] on occasion."); ICE Annual Review, Orleans County Jail (June 2004), Bates 21123; ICE Annual Review, Port Isabel Service (Feb. 2004), Bates 21746, 21748 ("Detainees are currently being held in hold rooms for more than 12 hours. . . . Several hold room logs reviewed demonstrated that detainees were held in hold rooms as long as 20 hours."); ICE Annual Review, Rolling Plains Detention Center (Mar. 2004), Bates 21197, 21199 ("A detainee was held from 7:00 p.m. until 11:00 a.m. in a hold room during our inspection."); ICE Annual Review, Salt Lake County Adult Detention Center (Sept. 2004), Bates 21211 (answer marked: "No"; accompanying remark: "On occasion, if jail is crowded."); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 21214; ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 21244, 21246 (answer marked: "No"; accompanying remark: "HELD FOR MAXIMUM OF 72 HOURS"); ICE Annual Review, Worchester County Jail, (Nov.-Dec. 2004), Bates 21320; ICE Annual Review, Madison County Jail (July, unknown year), Bates 21038 (answer marked: "No"; accompanying remark: "Detainees can/are held in these rooms for up to 48 hours for observation."); ICE Annual Review, Utah County Jail (date unknown), Bates 21281 (answer marked: "No"; accompanying remark: "Up to 24 hours on rare occasions.").

[50] ICE Annual Review, Port Isabel Service (Feb. 2004), Bates 21746, 21748 ("Detainees are currently being held in hold rooms for more than 12 hours. . . . Several hold room logs reviewed demonstrated that detainees were held in hold rooms as long as 20 hours.").

[51] ICE Annual Review, Utah County Jail (date unknown), Bates 21281 (answer marked: "No"; accompanying remark: "Up to 24 hours on rare occasions."); ICE Annual Review, Calhoun County Jail (Feb. 2005), Bates 21374 (answer marked: "No"; accompanying remark: "No longer than 8 hours except in female holding. On the Weekend the females can be in Holding tanks for 24 to 48 hours. Space availability").

[52] ICE Annual Review, Aquadilla Service Processing Center (Nov. 2005), Bates 21790 ("Log showed 5 detainees held for over 55 hrs 7/23/05 thru 7/25/05.").

[53] ICE Annual Review, St. Martin Parish Jail (Aug.-Sept. 2004), Bates 21244, 21246 (answer marked: "No"; accompanying remark: "HELD FOR MAXIMUM OF 72 HOURS").

[54] ICE Annual Review, Harris County Jail (Mar. 2006), Bates 21713 (answer marked: "Yes"; accompanying remark: "Hold rooms in booking/intake serve double duty as SEG cells for female inmates."); ICE Annual Review, Crawford County Sheriff's Department (Mar. 2005), Bates 21424 (answer marked: "Yes"; accompanying remark: "HOLD ROOMS ALSO USED FOR SUICIDE WATCH."); ICE Annual Review, Hardin County Correctional Center (Oct. 2005), Bates 21472 (answer marked: "Yes"; accompanying remark: "Except when cells are used as a segregation unit."); ICE Annual Review, Las Animas County Jail (Dec. 2005), Bates 21014 (answer marked: "Yes"; accompanying remark: "Exception: Medical/Psychiatric observations – suicidal observation."); ICE Annual Review, Park County Detention Center (May 2005), Bates 21594 (answer marked: "Yes"; accompanying remark: "exception suicide behaviorial [*sic*] observation"); ICE Annual Review, Kenosha County Pretrial Detention Center (June 2004), Bates 21005 (answer marked: "Yes"; accompanying remark: "If detainee is noncooperative, booking would be slowed, so 12 hours could be passed [*sic*]."); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 21105 (answer marked: "Yes"; accompanying remark: "Detainees awaiting court, etc, ICE's hold rooms are housed there for longer than 12 hours."); ICE Annual Review, Pennington County Jail (June 2004), Bates 21135 (answer marked: "Yes"; accompanying remark: "Jail Cmdr. must be notified if over 12 hours."); ICE Annual Review, Pueblo County Detention Center (Mar. 2004), Bates 21180 (answer marked: "Yes"; accompanying remark: "Exception: Medical/Psychiatric observations — suicidal [*sic*] observation."); ICE Annual Review, Rockingham County Department of Correction (May 2004), Bates 21192; (answer marked: "Yes"; accompanying remark: "unless level 1 suicide"); ICE Annual Review, Saline County Jail (Aug.-Sept. 2004), Bates 21208 (answer marked: "Yes"; accompanying remark: "Except that intoxicated persons may be held in detoxt [*sic*] up to 18 hours."); ICE Annual Review, San Diego Correctional Facility (Aug. 2004), Bates 21842 (answer marked: "Yes";

accompanying remark: "Still awaiting contract modification."); ICE Annual Review, Southern Ute Detention Center (Oct. 2004), Bates 21241 (answer marked: "Yes"; accompanying remark: "Exception: Medical/Psychiatric observations — suicidal [*sic*] observation.").

[55] ICE Annual Review, El Paso Service Processing Center (Oct. 2004), Bates 21112 ("The facility needs to consistently log detainees in and out of hold rooms.").

[56] *See, e.g.*, ICE Annual Review, Rolling Plains Detention Center (Mar. 2004), Bates 21195.

[57] The standard provides that "each facility shall maintain a detention log . . . for every detainee placed in a hold cell. HRDF § III.D.2. However, the IGSA checklist does not contain this element. The IGSA checklist does state that, as a part of the close and direct supervision required by an officer, "[u]nusual behavior or complaints are noted."

[58] ICE Annual Review, Aquadilla Service Processing Center (Nov. 2005), Bates 21790–93 (facility rated "acceptable" for the standard despite this violation); ICE Annual Review, El Paso Service Processing Center (Mar. 2004), Bates 21754–58 (facility rated "acceptable" for the standard despite this violation); ICE Annual Review, Port Isabel Service (Feb. 2004), Bates 21746–49 ("Unusual behavior or complaints of detainees housed in the hold rooms are not recorded."); ICE Annual Review, Queens-Geo Group (Oct. 2004), Bates 21836 (answer marked: "Yes"; accompanying remark: "One discrepancy on 9/21/04 that was corrected by COB today."); ICE Annual Review, Rolling Plains Detention Center (Mar. 2004), Bates 21195–97 (facility does not maintain logs that indicate arrival and departure of detainees from hold room, so reviewer was unable to find specific documentation corroborating evidence indicating that detainees are generally processed in under 6 hours).

[59] HRDF § III.B.2. This requirement applies to all facilities.

[60] ICE Annual Review, Boone County Detention (Dec. 2004), Bates 20840 (answer marked: "No"; accompanying remark: "In same room for booking purposes[,] then separated."); ICE Annual Review, Bristol County Sheriff's Dept. (Apr. 2004), Bates 20843 ("They occasionally interact."); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 21069 (answer marked: "No"; accompanying remark: "Inmates in this temporary intake area are not separated by sex at this time."); ICE Annual Review, Warren County Regional Jail (Feb. 2004), Bates 21296 (answer marked: "No"; accompanying remark: "In same room for booking purposes then sperated [*sic*]."); ICE Annual Review, Rolling Plains Detention Center (Mar. 2006), Bates 21723 (answer marked: "No"; accompanying remark: "Movements witnessed with males and females moving in same area."); ICE Annual Review, Port Isabel Service (Feb. 2004), Bates 21746, 21748 ("Male and females are not always segregated from each other at all times."); ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 21760 ("Sight and sound separation of males and females and [*sic*] is not conducted."); ICE Annual Review, Florence Service Processing Center (May 2005), Bates 21800 ("A male officer was observed supervising female detainees in the Florence Staging Facility, segregated holding room."); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 21105 (answer marked: "Yes"; accompanying remark: "With the exception of intake when officers bring them into the facility."); ICE Annual Review, Salt Lake County Adult Detention Center (Sept. 2004), Bates 21211 (answer marked: "Yes"; accompanying remark: "After booking male/females share a 'pit' area, awaiting housing, clothing issue, etc. Lt. Sorensen reported no incidents ever, inmates closely monitored."); ICE Annual Review, Sherbourne County Jail (Oct. 2005), Bates 21645 (answer marked: "Yes"; accompanying remark: "females to not wander the halls"); ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687 (answer marked: "Yes"; accompanying remark: "During inspection saw that females were taken to library and no lock on that door with males allowed to move in hall way [*sic*]. Males would be able to enter the library no resistance [*sic*].").

[61] HRDF § III.B.3.

[62] ICE Annual Review, Caldwell County Jail (July 2005), Bates 21371 (answer marked: "No"; accompanying remark: "State of MO. 17 is considered adult."); ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 21406; ICE Annual Review, Forsyth County Law Enforcement and Detention Center (June 2005), Bates 21457 (answer marked: "Yes"; accompanying remark: "Will house 16-18 w/in facility."); ICE Annual Review, Orleans County Jail (June 2005), Bates 21588 (answer marked: "No"; accompanying remark: "Mixed in recreation only."); ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 21642 (answer marked: "Yes"; accompanying remark: "Housing of juveniles is extremely rare."); ICE Annual Review, Caldwell County (Nov. 2004), Bates 20852 (answer marked: "No"; accompanying remark: "17 YOA is adult in Missouri"); ICE Annual Review, Jefferson County Detention Facility (Oct. 2004), Bates 20996 (answer marked: "Yes"; accompanying remark: "17 year olds can be held on adult charges."); ICE Kenosha County Detention Center (May 2004), Bates 21002 (answer marked: "Yes"; accompanying remark: "Only if Judge adjudicates as an adult."); ICE Annual Review, Pointe Coupee Parish Detention Center (May 2004), Bates 21174 (answer marked: "Yes"; accompanying remark: "ONLY WHEN TRIED AS AN ADULT"); ICE Annual Review, Salt Lake County Adult Detention Center (Sept. 2004), Bates 21211 (answer marked: "Yes"; accompanying remark: "Based on court orders"); ICE Annual Review, Utah County Jail (date unknown), Bates 21281 (answer marked: "Yes"; accompanying remark: "Unless court ordered.").

[63] ICE Annual Review, Jefferson County Detention Facility (Oct. 2004), Bates 20996 (answer marked: "Yes"; accompanying remark: "17 year olds can be held on adult charges."); ICE Kenosha County Detention Center (May 2004), Bates 21002 (answer marked: "Yes"; accompanying remark: "Only if Judge adjudicates as an adult."); ICE Annual Review, Pointe Coupee Parish Detention Center (May 2004), Bates 21174 (answer marked: "Yes"; accompanying remark: "ONLY WHEN TRIED AS AN ADULT"); ICE Annual Review, Salt Lake County Adult Detention Center (Sept. 2004), Bates 21211 (answer marked: "Yes"; accompanying remark: "Based on court orders."); ICE Annual Review, Utah County Jail (date unknown), Bates 21281 (answer marked: "Yes"; accompanying remark: "Unless court ordered."); ICE Annual Review, Forsyth County Law Enforcement and Detention Center (June 2005), Bates 21457 (answer marked: "Yes"; accompanying remark: "Will house 16-18 w/in facility."); ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 21642 (answer marked: "Yes"; accompanying remark: "Housing of juveniles is extremely rare.").

[64] ICE Annual Review, Jefferson County Jail (Jan. 2006), Bates 21718 (answer marked: "N/A"); ICE Annual Review, Smith County Jail (June 2006), Bates 21229 (answer marked: "N/A"; accompanying remark: "Texas age 17 is an adult.").

[65] The standard requires that detainees in hold rooms be provided with basic personal hygiene items such as water, disposable cups, soap, toilet paper, feminine hygiene times, diapers, and sanitary wipes. HRDF § III.B.4.

[66] ICE Annual Review, Carver County Jail (Nov. 2005), Bates 21386 (answer marked: "Yes"; accompanying remark: "As needed or requested."); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 21579 (answer marked: "Yes"; accompanying remark: "Can be requested by detainee, or if officer observes a need."); ICE Annual Review, Kern County Sheriff's Office (Dec. 2004), Bates 21008 (answer marked: "No"; accompanying remark: "Drinking fountain no cups."); ICE Annual Review, Smith County Jail (June 2006), Bates 21229, 21233 (answer marked: "No"; accompanying remark: "No soap, cups, or toilet paper."); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 21264, 21266 (answer marked: "No"; accompanying remark: "While there was a toilet available, there was no toilet paper and the detainees did not have the opportunity to wash their hands, due to lack of handwashing equipment.").

[67] ICE Annual Review, Orleans Parish Criminal Sheriffs Office (Community Corrections Center) (Sept. 2004), Bates 21141 (answer marked: "N/A"; accompanying remark: "Detainees are never in hold rooms over 1 hour.").

[68] HRDF § III.E.2 (Standards and Procedures: Fire, Building Evacuations, and Medical Emergencies). This requirement applies to all facilities.

[69] ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 21642 (answer marked: "Yes"; accompanying remark: "Clinic is in close proximity to hold rooms."); ICE Annual Review, Pennington County Jail (June 2004), Bates 21135 (answer marked: "Yes"; accompanying remark: "Jail Medical staff, when on duty."); ICE Annual Review, Warren County Regional Jail (Feb. 2004), Bates 21296 (answer marked: "Yes"; accompanying remark: "Fire alarm is routed through a contractor and 911 services."); ICE Annual Review, Pottawattamie County Jail (July [year not provided]), Bates 21177 (answer marked: "Yes"; accompanying remark: "Jail Medical staff, when on duty.").

[70] HRDF § III.D.4.

[71] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687 (answer marked: "No"; accompanying remark: "In processing booking detainee left alone in holding room, without officer within visual or hearing range. Log sheet noted last round made was 35 minutes prior."); ICE Annual Review, Eloy Detention Center (Mar. 2006), Bates 21703, 21706; ICE Annual Review, Berks County Prison (July 2005), Bates 21353 (answer marked: "Yes"; accompanying remark: "Not documented"); ICE Annual Review, Dorchester Detention Center (Sept. 2005), Bates 21445 (answer marked: "No"; accompanying remark: "30 minutes"); ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 21560 (answer marked: "Yes"; accompanying remark: "Cameras"); ICE Annual Review, Audrain County Jail (May 2004), Bates 20816) (answer marked: "No"; accompanying remark: "Via camera"); ICE Annual Review, Calcasieu Parish Correctional Center (June 2004), Bates 20849 (answer marked: "No"; accompanying remark: "The facility has constant visual monitoring and performs physical checks every 30 minutes."); ICE Annual Review, Cass County Jail (Jan. 2004), Bates 20873 (answer marked: "No"; accompanying remark: "No specific requirement to monitor at specific intervals."); ICE Annual Review, Charleston County Detention Center (May 2004), Bates 20882 (answer marked: "Yes"; accompanying remark: "Cameras and rounds every hour."); ICE Annual Review, Montgomery County Jail (Oct. 2004), Bates 21090 (answer marked: "Yes"; accompanying remark: "Cameras"); ICE Annual Review, Grayson County Detention Facility (Feb. [year unknown]), Bates 20966 (answer marked: "Yes"; accompanying remark: "The control center operates and monitors the holding cell via cameras."); ICE Annual Review, Pennington County Jail (June 2004), Bates 21135 (answer marked: "No"; accompanying remark: "Every 30 minutes"); ICE Annual Review, Pottawattamie County Jail (July [year unknown]), Bates 21177 (answer marked: "No"; accompanying remark: "Every 30 minutes.").

[72] ICE Annual Review, Montgomery County Jail (Oct. 2005), Bates 21560 (answer marked: "Yes"; accompanying remark: "Cameras"); ICE Annual Review, Charleston County Detention Center (May 2004), Bates 20882 (answer marked: "Yes"; accompanying remark: "Cameras and rounds every hour"); ICE Annual Review, Montgomery County Jail (Oct. 2004), Bates 21090 (answer marked: "Yes"; accompanying remark: "Cameras"); ICE Annual Review, Grayson County Detention Facility (Feb. [year unknown]), Bates 20966 (answer marked: "Yes"; accompanying remark: "The control center operates and monitors the holding cell via cameras.").

[73] HRDF § III.C (Standards and Procedures: Detainee Search).

[74] ICE Annual Review, Donald Wyatt Detention Center (Jan. 2006), Bates 21700 (answer marked: "No"; accompanying remark: "strip search"); ICE Annual Review, Bristol County Sheriff's Dept. (Apr. 2004), Bates 20843 (answer marked: "Yes"; accompanying remark: "metal detection chair").

[75] *Id.*.

[76] HRDF § III.D.7.

[77] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687 ("No cleaning"); ICE Annual Review, Cass County Jail (Jan. 2004), Bates 20873; ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21737 (answer marked: "No"; accompanying remark: "Staff states that the areas are cleaned by workers once emptied but failed to specifically mention a security inspection after cleaning."); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 21264, 21266 (answer marked: "No"; accompanying remark: "The ICE detainee hold room was filthy, no toilet paper, feces were evidence [*sic*] on the walls.").

[78] ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 21264, 21266; ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21687.

[79] ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 21264, 21266 (answer marked: "No"; accompanying remark: "The ICE detainee hold room was filthy, no toilet paper, feces were evidence [*sic*] on the walls.").

[80] ICE Annual Review, Yakima County Department of Correction (Dec. 2004), Bates 21678 (answer marked: "Yes"; accompanying remark: "The hold room is seldom empty, but the corrections staff periodically inspect the hold rooms.").

[81] ICE Annual Review, Brooks County Detention Center (Jan. 2006), Bates 21688 (answer marked: "No"; accompanying remark: "No post orders [*sic*] this area is not posted only during book in [*sic*] and release and then not staffed when detainees are in holding area."); ICE Annual Review, Orleans County Jail (June 2005), Bates 21588; ICE Annual Review, Cass County Jail (Jan. 2004), Bates 20873; ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736, 21740 (answer marked: "Yes"; accompanying remark: "There is not a written evacuation plan that addresses removing detainees from Hold Rooms in case of fire and/or building evacuation."); ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 21165 (answer marked: "Yes"; accompanying remark: "plan calls for removal of all detainees, doesn't specifically address hold rooms").

[82] ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736, 21740 (answer marked: "Yes"; accompanying remark: "There is not a written evacuation plan that addresses removing detainees from Hold Rooms in case of fire and/or building evacuation."); ICE Annual Review, Plaquemines Parish Detention Center (Mar. 2004), Bates 21165 (answer marked: "Yes"; accompanying remark: "plan calls for removal of all detainees, doesn't specifically address hold rooms").

[83] ICE Annual Review, El Centro Service Processing Center (July 2004), Bates 21736 (answer marked: "No"; accompanying remark: "Property is not inventoried until later in processing after detainee is accepted.").

## DETAINEE GRIEVANCE PROCEDURES

[1] INS Detention Standard: Detainee Grievance Procedures (hereinafter "Grievance") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/grievance.pdf.

[2] Grievance § III.A.1 (Informal/Oral Grievance).

[3] Grievance § III.A.2 (Formal/Written Grievance).

[4] Grievance § III.C (Appeal).

[5] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No.

107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[6] Grievance § III.B (Emergency Grievances).

[7] Grievance § III.E (Recordkeeping and File Maintenance).

[8] Grievance § III.G (Detainee Handbook).

[9] The most recent version of the ICE Inspection Worksheet available (Oct. 18, 2004) does not have questions about whether facility handbooks have adequate sections on the detainee grievance process in the grievance procedure section. The 2003 and 2002 versions of the Inspection Worksheet did contain a question on handbooks in the grievance procedure section.

[10] Reviewers indicated confusion about the question. For example, some reviewers checked "yes," then went on to comment: "There are no cases." ICE Annual Review, Keogh Dwyer Correctional Facility (Sussex County Jail) (Aug. 2004) Bates 380.

[11] ICE Annual Review, El Paso Service Processing Center, El Paso, TX (June 2002), Bates 12464–65.

[12] Follow-up ICE inspection, Las Animas County Jail Center (Apr. 2005), Bates 4369 (Repeat finding of failure to include grievance information in detainee handbook; review notes that while the facility indicates "that there has not been a grievance by ICE detainees in the last 4 years, it is because detainees are unaware a grievance process exists. There is no written guidance for the resolution of informal or formal grievances. Staff is unaware or has not been trained in the handling of grievances nor has a log been established to annotated dispositions. Inmates have no recourse in addressing their concerns."); ICE Annual Review, Montgomery County Jail, Montgomery, MO (Oct. 2005), Bates 12203; ICE Annual Review, Plaquamines Parish Detention Center (Apr. 2005), Bates 3189 (standard still rated acceptable despite this omission); ICE Annual Review, Reno County Jail (Sept. 2005), Bates 3145 (no grievance policy listed in handbook, remarks indicate that the policy is "given to detainee when problem occurs"; standard is still rated acceptable); ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1826 (no grievance information in handbook); ICE Annual Review, Erie County Holding Center (Nov. 2004), Bates 4149 (standard still rated acceptable despite this omission); ICE Annual Review Las Animas County Jail Center (Dec. 2004), Bates 4383; ICE Annual Review, Mira Loma Detention Facility (July 2004), Bates 734, 5092, 5112–13 (noting that during the prior review, the facility failed to include grievance procedures in its handbook and that this information was still missing from the handbook); ICE Annual Review, Mississippi County Detention Center (Aug. 2004), Bates 5140, 5148 (Handbook does not include and/or describe the following: "grievance procedures, to include formal/informal procedures, how to file an appeal with ICE, staff/detainee assistance during the grievance process, guarantee against retaliation and how to contact DOJ with an officer misconduct complaint."); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6448 (comments state that "'handbook'" consists of a two sheets of paper describing visitation and detainee responsibilities; handbook standard rated "at risk"); ICE Annual Review, Pottawattamie County Jail (May 2004), Bates 6058–59 (facility handbook does not cover "step-by-step appeals process, staff/detainee availability to help, how to file complaint with DOJ," nonetheless the standard rated acceptable); ICE Annual Review, El Paso Service Processing Center, El Paso, TX (June 2002), Bates 12464–65.

[13] ICE Annual Review, Canadian County Jail, El Reno, OK (Jan. 2005), Bates 10101 (does not provide information on grievance steps; standard still rated acceptable); ICE Annual Review, Citrus County Jail (Nov. 2005; Dec. 2005), Bates 13146 (does not cover procedures for filing an appeal with ICE or guarantees against staff retaliation); ICE Annual Review, Krome Service Processing Center, Miami, FL (Feb. 2005), Bates 17005 (does not cover appeals with ICE, availability of help during grievance, guarantee against retaliation, or how to file complaint with DOJ); ICE Annual Review, Lincoln County Jail (June 2005), Bates 2524 (does not include instructions on filing a complaint about officer misconduct with the Dept. of Homeland Security, or DHS); ICE Annual Review, Linn County Correctional Facility, Cedar Rapids, IA (May 2005), Bates 12158 (does not cover the appeals process to ICE, availability of staff or other detainees to help with a grievance, or mention a guarantee against retaliation for filing or pursuing a grievance); ICE Annual Review, Manatee County Jail (July 2005), Bates 610 (insufficient explanation of the appeals process; no mention of protection from retaliation or DOJ officer complaint process); ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2946, 2960 (does not include a guarantee against staff retaliation for filing/pursuing a grievance or instructions for filing a complaint about officer misconduct with the DHS); ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 1848, 1851 ("grievance section is brief and basic and does not provide details such as: appeals process, grievance assistance, guarantee against staff retaliation, or filing complaints with DHS"; grievance standard still marked acceptable, although handbook standard marked deficient); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2634 (does not include instructions on filing a complaint about officer misconduct with DHS, but indicates this information is posted in the housing areas); ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7611; ICE Annual Review, Bonneville County Jail, Idaho Falls, ID (June 2004), Bates 9335 (standard rated acceptable); ICE Annual Review, Cambria County Prison (Oct. 2004), Bates 9456 (does not address appeals to ICE personnel and does not provide information to contact the Department of Justice for civil rights complaints; standard still rated acceptable); ICE Annual Review, Forsyth County Detention Center (June 2004), Bates 4186 (does not include notification of Department of Justice); ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11199 (does not include procedures for filing an appeal with ICE); ICE Annual Review, Jefferson County Jail, Mt. Vernon, IL (Oct. 2004), Bates 3585 (does not include instructions on filing a complaint with the Department of Justice); ICE Annual Review, Kern County Sheriff's Office, Lerdo Pre-Trial Facility (Dec. 2004), Bates 4311 (does not include instructions for appealing to ICE appeals); ICE Annual Review, Mecklenburg County Jail (Central) (Apr. 2004), Bates 4904, 4911 (does not include procedures for filing an appeal with ICE; handbook and grievance procedure standard still rated acceptable); ICE Annual Review, Pennington County Jail, Rapid City, SD (June 2004), Bates 11785 (does not cover staff retaliation or filing a DOJ complaint); ICE Annual Review, Polk County Jail (Mar. 2004), Bates 6100 (does not include the ability to get help from another inmate, a guarantee against staff retaliation, or follow-up with ICE); ICE Annual Review, St. Francois County Detention Center (June 2004), Bates 6648 (handbook does not include information on filing an appeal with INS or a complaint with the Department of Justice; standard rated acceptable); ICE Annual Review, Santa Ana City Jail (Aug. 2004), Bates 5238; ICE Annual Review, Smith County Jail (June 2004), Bates 5668; ICE Annual Review, Summit County Jail (Nov. 2004), Bates 6686 (does not contain information on appeal process); ICE Annual Review, Tensas Parish Detention Center (Aug. 2004), Bates 6551 (although handbook section was marked as compliant, comments indicate that handbook does not contain a statement against retaliation for filing/pursuing a grievance); ICE Annual Review, Turner Guilford Knight Correctional Center (Mar. 2004), Bates 7422 (does not contain a guarantee against staff retaliation or instructions on filing a complaint of officer

misconduct with the Department of Justice); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5530 (does not include information on filing an appeal with ICE); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18788; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16859 (does not cover procedures for filing an appeal with ICE, availability of help during grievance, guarantee against retaliation, or how to file complaint with DOJ; handbook standard still rated acceptable despite violations of other standard elements); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18474.

[14] ICE Annual Review, Manatee County Jail (June 2004), Bates 1199, 1223–24 (noting "significant drop" in grievances from the previous year and "numerous complaints from detainees that forms are not being given out"); ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18522–23 (random interviews with female detainees indicated that they did not know how to file a grievance).

[15] ICE Annual Review, Karnes County Correctional Center (Feb. 2005), Bates 1298 (noting that the total grievances for the facility, which houses nearly 600 detainees, seemed low (39 in 12 months)); ICE Annual Review, Houston Contract Detention Facility, Houston, TX (Aug. 2004), Bates 11205 (noting that there were an "unusually low number of grievances again this year).

[16] The monitoring form asks "Do procedures include maintaining a Detainee Grievance Log? If not, what is the record keeping system?" *Compare* Grievance § III.E (Record Keeping and File Maintenance).

[17] Maintaining detainee grievances in each detainee's file for three years is a separate requirement of the standard.

[18] ICE Annual Review, Platte County Detention Center (Sept. 2004), Bates 1139.

[19] ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13247 (no log; grievances kept in detainee files); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1453 (checked "yes" for this element, but comments reveal that there is no log and that grievances are kept in "intake files"); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2845 (no log; grievances kept in detainee files); ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3891 (no log; grievances are logged into the daily logbook for the pods); ICE Annual Review, Jefferson County Jail (Oct. 2004), Bates 3591 (no log); ICE Annual Review, McHenry County Jail (July 2004), Bates 4775 (no log); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5068 (no log; grievances kept in detainee files); ICE Annual Review, Mira Loma Detention Facility (July 2004), Bates 5118 (checked "yes" for this element but comments reveal that there is no log and grievances are kept in the detainee files); ICE Annual Review, Passaic County Jail, (Nov. 2004), Bates 10881 (no log); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6454–55 (no log); ICE Annual Review, Sacramento County Jail (Aug. 2004), Bates 7148 (checked "yes" for this element, but comments reveal no log kept and grievances are in "inmate custody file"); ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18523 (grievance logs and databases not complete or up-to-date).

[20] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1453 (checked "yes" for this element, but comments reveal that there is no log and that grievances are kept in "intake files"); ICE Annual Review, McHenry County Jail (July 2004), Bates 4775 (no log); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2845 (no log; grievances kept in detainee files); ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5068 (no log; grievances kept in detainee files).

[21] ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3239 (noting that there was no documentation of a substantiated grievance against one officer).

[22] ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18522–23; ICE Annual Review, Buffalo Federal Detention Center (Aug. 2002), Bates 18009; ICE Annual Review, Houston Contract Detention Facility, Houston, TX (Aug. 2004), Bates 11205.

[23] ICE Annual Review, Krome Service Processing Center (Feb. 2005) Bates 11007 (standard rated acceptable, but comments indicated that contract workers untrained in proper procedures for identifying and handling emergency grievances); ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3891 (emergency grievances treated the same as nonemergency grievances); ICE Annual Review, McHenry County Jail (July 2004), Bates 4774–75 (not marked as a violation, but comments indicate that emergency grievances treated the same as nonemergency grievances); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6455 ("Staff need to be trained on how to identify emergency grievances and how to deal with them."); ICE Annual Review, Smith County Jail (June 2004), Bates 5674 (medical grievances not handled appropriately); ICE Annual Review, Buffalo Federal Detention Center (Aug. 2002), Bates 18009 (policy for staff is not "specific enough" to cover emergency grievances).

[24] ICE Annual Review, Linn County Correctional Facility, Cedar Rapids, IA (May 2005), Bates 12158 (no informal grievance process).

[25] ICE Annual Review, Houston Contract Detention Facility, Houston, TX (Aug. 2004), Bates 11204.

[26] ABA Report, Passaic County Jail (July 2004), Bates 8426 (one detainee reported it can take up to a month to receive a response to a formal grievance; other detainees reported that informal grievances often do not receive any response, or when they do responses are not prompt); ABA Report, Queens Detention Center (Mar. 2004), Bates 8448; ABA Report, Clay County Jail (Aug. 2003), Bates 17709–10 (grievances not answered promptly; detainees are sometimes told their forms cannot be found); ABA Report, Kern County Jail (Aug. 2002), Bates 17495.

[27] ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8603; ABA Report, Passaic County Jail (Aug. 2005), Bates 8544 (detainees reported that grievances are ignored despite repeated submissions); ABA Report, Aurora Contract Detention Facility (Sept. 2004), Bates 8232 (facility stopped responding at all if more than one grievance was filed); ABA Report, Kenosha County Detention Facility (July 2004), Bates 8289 (several detainees noted that they had never received responses to their complaints); ABA Report, York County Prison (July 2004), Bates 8509 (detainees report nonresponse to grievances); ABA Report, San Pedro Service Processing Center (Mar. 2002), Bates 17465 (detainees reported that nothing would be done if grievance forms were submitted and that officers tore up grievance forms after receiving them).

[28] ABA Report, Kenosha County Detention Facility (July 2004), Bates 8289; ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8603.

[29] ABA Report, Passaic County Jail (Aug. 2005), Bates 8544; ABA Report, Passaic County Jail (July 2004), Bates 8426.

[30] ABA Report, Bristol County Jail (Aug. 2004), Bates 8250 and 8251.

[31] ABA Report, Pamunkey Regional Jail (Aug. 2004), Bates 8407 (response would indicate a denial without explanation or that grievance was "not a grievable offense" without further explanation); ABA Report, Clay County Jail (Aug. 2003), Bates 17709–10. (some detainees reported that no reason is provided for grievance denials).

[32] ABA Report, Queens Detention Center (Mar. 2004), Bates 8449–51.

[33] ABA Report, Bristol County Jail (Aug. 2004), Bates 8250 & 8251 (does not cover procedures for appealing decisions to ICE or the opportunity to file a complaint about officer misconduct directly with the Justice Department); ABA Report, Dodge County Detention Facility (June 2004), Bates 8653 (does not cover information on filing a complaint about officer misconduct directly with the Justice Department); ABA Report, Dorchester Detention Center (July 2004), Bates 8271 (does not cover information on filing a complaint about officer misconduct directly with the Justice Department); ABA Report, Ozaukee County Jail (July 2004), Bates 8383 (does not include the grievance form and does not cover grievance review

procedures or the ability of obtaining assistance to file or appeal a grievance); ABA Report, Passaic County Jail (July 2004), Bates 8426 (handbook does not cover procedures for appealing decisions to ICE or the opportunity to file a complaint about officer misconduct directly with the Justice Department); ABA Report, Queens Detention Center (Mar. 2004), Bates 8448 (detainees not informed of ability to file complaints about officer misconduct directly with the Department of Justice); ABA Report, Clay County Jail (Aug. 2003), Bates 17709–10 (does not cover procedures for appealing decisions to ICE or filing a complaint about officer misconduct directly with the Justice Department).

[34] ICE Annual Review, Bristol County Jail (June 2005), Bates 9895–96; ICE Annual Review, Dodge County Detention Facility (June 2004), Bates 3945–78; ICE Annual Review, Dorchester Detention Center (June 2004), Bates 4011–12. In discovery the government only produced information on the Hold Room standard from the annual ICE reviews for the Clay County Jail, Ozaukee County Jail, Passaic County Jail, and Queens Detention Center.

[35] ABA Report, Passaic County Jail (July 2004), Bates 8426(several detainees never received the handbook and were unfamiliar with grievance procedures; most detainees had never filed a grievance and did not know who to file a grievance with).

[36] ABA Report, Queens Detention Center (Mar. 2004), Bates 8449–51; ABA Report, Kern County Jail (Aug. 2002), Bates 17495 (to get a form detainees must request them from the floor officer, which they are often hesitant to do).

[37] ABA Report, Bergen County Jail (Aug. 2003), Bates 17370.

[38]ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8603; ABA Report, Passaic County Jail (Aug. 2005), Bates 8545 (detainee reported that retaliation was a problem, but would not elaborate); ABA Report, York County Prison (July 2004), Bates 8509 (detainees reported that filing a grievance can result in retaliation); ABA Report, Kern County Jail (Aug. 2002), Bates 17495 (detainees reported fear to file grievances because officers will take away their privileges).

[39]ABA Report, Kenosha County Detention Facility (Sept. 2005), Bates 8603.

[40] ABA Report, Bristol County Jail (Aug. 2004), Bates 8250 and 8251; ABA Report, Passaic County Jail (July 2004), Bates 8426; ABA Report, Clay County Jail (Aug. 2003), Bates 17709–10.

[41] ABA Report, Bristol County Jail (Aug. 2004), Bates 8250 and 8251; ABA Report, Dodge County Detention Facility (June 2004), Bates 8653; ABA Report, Clay County Jail (Aug. 2003), Bates 17709–10.

**DETAINEE TRANSFER**

[1] ICE Detention Standard: Detainee Transfer (approved by ICE Sept. 9, 2004) (hereinafter "DT"), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/detainee-transfer.pdf. ICE reviews of this standard are fewer in number because of its relatively recent adoption.

[2] DT § III.B (Types of Transfers).

[3] DT § III.A.3 (Notification Procedure: Detainee).

[4] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[5] ICE Annual Review, Bexar County GEO Detention Facility (July 2005), Bates 9773–9813 (Detainee Transfer Notification Sheet (hereinafter "DTNS")); ICE Annual Review, Cass County Jail (June 2005, July 2005), Bates 10225–10266 (detainee not provided with a completed DTNS); ICE Annual Review, Dickens County Jail (June 2005), Bates 13507–13546 (detainee not provided with a completed DTNS); ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13277–13367 (detainee not provided with a completed DTNS); ICE Annual Review, Finney County Jail (June 2005), Bates 13374–13411 (detainee not provided with a completed DTNS); ICE Annual Review, Forsyth County Law Enforcement Center (June 2005), Bates 13082–13123 (detainee not provided with a completed DTNS); ICE Annual Review, Howard County Detention Center (July 2005), Bates 2306–2345 (detainee not provided with a completed DTNS); ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 14618–14647 (detainee not provided with a completed DTNS); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3215–3257 (detainee not provided with a completed DTNS); ICE Annual Review, Passaic County Jail (June 2005), Bates 858–904 (detainee not provided with a completed DTNS); ICE Annual Review, Pottawattame County Jail (July 2005), Bates 2024–2064 (detainee not provided with a completed DTNS; only verbal notification provided); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1723–1762 (detainee not provided with a completed DTNS); ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7600–7646 (detainee not provided with a completed DTNS); ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 3511–3551 (detainee not provided with a completed DTNS); ICE Annual Review, Kern County Sheriff's Office, Lerdo Pre-Trial Facility (Dec. 2004), Bates 4299–4336 (detainee not provided with a completed DTNS); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12061–12133 (detainee not provided with a completed DTNS); ICE Annual Review, Summit County Jail (Nov. 2004), Bates 6675–6714 (detainee not provided with a completed DTNS); ICE Annual Review, Washington County Purgatory Detention Facility (Nov. 2004), Bates 6909–6948 (detainee not provided with a completed DTNS); ICE Annual Review, Lin County Jail (May 2005), Bates 12134–12183 (detainee notification of detainee transfer to another detention facility has not been taking place; facility does not provide any information to detainees about pending transfers).

[6] DT § III.A.2 (Notification Procedure: Family).

[7] ICE Annual Review, Cass County Jail (June 2005, July 2005), Bates 10225–10266 (attorney and the detainee are not notified that it is their responsibility to notify family members regarding a transfer); ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2824–2863 (attorney and detainee are not notified that it is their responsibility to notify family members regarding a transfer); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2613–2656 (attorney and detainee are not notified that it is their responsibility to notify family members regarding a transfer); ICE Annual Review, Lin County Jail (May 2005), Bates 12134–12183 (attorney and the detainee are not notified that it is their responsibility to notify family members regarding a transfer).

[8] DT § III.A.1 (Notification Procedure: Attorney).

[9] ICE Annual Review, Lin County Jail (May 2005), Bates 12134–12183 (attorneys not notified of detainee transfer to another detention facility); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2613–2656 (attorney notification not noted in detainee's ICE file or in ICE database).

[10] ICE Annual Review, Erie County Prison (Mar. 2005), Bates 13277–13367 (notification

does not include the reason for the transfer or the location of the new facility); ICE Annual Review, Forsyth County Law Enforcement Center (June 2005), Bates 13082–13123 (notification does not include the reason for the transfer or the location of the new facility); ICE Annual Review, Howard County Detention Center (July 2005), Bates 2306–2345 (notification does not include the reason for the transfer or the location of the new facility); ICE Annual Review, Polk County Jail (May 2005), Bates 3022–3089 (facility does not notify detainees or attorneys of transfers to another jail within the Omaha area); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1723–1762 (notification does not include the reason for the transfer and the location of the new facility); ICE Annual Review, Yuba County Jail (Nov. 2005), Bates 2613–2656 (notification does not include the reason for the transfer or the location of the new facility); ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 3511–3551 (no deportation office at facility to oversee notifications).

[11] DT § III.D.8 (Preparation and Transfer of Records: G-391, "Official Detail"); ICE Annual Review, Dickens County Jail (June 2005), Bates 13507–13546 (a G-391 form or equivalent authorizing the removal of a detainee from a facility is not used); ICE Annual Review, Finney County Jail (June 2005), Bates 13374–13411 (a G-391 form or equivalent authorizing the removal of a detainee from a facility is not used); ICE Annual Review, Anchorage Jail Complex (Dec. 2004), Bates 7600–7646 (a G-391 form or equivalent authorizing the removal of a detainee from a facility is not used); ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12061–12133 (a G-391 form or equivalent authorizing the removal of a detainee from a facility is not used).

[12] DT § III.D.6 (Medical Procedures and Information Required for Transfer).

[13] *Id.*

[14] ICE Annual Review, Bexar County GEO Detention Facility (Nov. 2005), Bates 9773–9813 (detainees with medical needs are not transferred with a completed transfer summary sheet in a sealed envelope with the detainee's name and A-number and the envelope marked "Medical Confidential"); ICE Annual Review, Howard County Detention Center (July 2005), Bates 2306–2345 (detainees with medical needs are not transferred with a completed transfer summary sheet in a sealed envelope with the detainee's name and A-number and the envelope marked "Medical Confidential"); ICE Annual Review, St. Mary Detention Center (July 2005), Bates 1723–1762 (detainees with medical needs are not transferred with a completed transfer summary sheet in a sealed envelope with the detainee's name and A-number and the envelope marked "Medical Confidential").

[15] ICE Annual Review, Dickens County Jail (June 2005), Bates 13507–13546 (medical transfer standards are not in place).

## FUNDS AND PERSONAL PROPERTY

[1] INS Detention Standard: Funds and Personal Property (hereinafter "FPP") § III.C (Standards and Procedures: Admission), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/fundprop.pdf.

[2] FPP §§ III.D (Standards and Procedures: Officer Processing of Funds and Valuables) and III.E (Standards and Procedures: Officer Processing of Baggage and Personal Property Other Than Funds and Valuables).

[3] FPP § III.G (Standards and Procedures: Release or Transfer).

[4] FPP § II (Applicability).

[5] FPP §§ III.D and E.

[6] FPP § III.A (Standards and Procedures: General).

[7] FPP § III.F (Standards and Procedures: Inventory and Audit).

[8] FPP § III.B (Standards and Procedures: Limitations on Possession of Detainee Personal Property).

[9] *Id.*

[10] FPP § III.A.

[11] FPP § III.C.

[12] FPP § III.H (Standards and Procedures: Lost/Damaged Property - General).

[13] FPP § III.C.

[14] FPP § III.J (Standards and Procedures: Notice to Detainees).

[15] FPP § III.B.

[16] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[17] *See* FPP § III.D.

[18] *See* FPP § II.

[19] *Compare* ICE Annual Review, Orleans County Jail (June 2005), Bates 12929 (IGSA), *and* ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243 (IGSA), *with* ICE Annual Review, Port Isabel Service Processing Center (Feb. 2005), Bates 11648–49 (SPC), *and* ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10763–64. No CDF reviews from 2005 were provided in discovery in the *Orantes* case, and thus none were available to this study for comparison with 2004.

[20] ICE Annual Review, El Centro Service Processing Center (July 2005), Bates 10845–46.

[21] *See id.*

[22] ICE reviewers noted violations of this element at the following facilities: ICE follow-up inspection, Las Animas County Jail Center (Apr. 2005), Bates 4369; ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2842 (if at facility, but not at ICE office—accessible by any staff); ICE Annual Review, Nobles County Jail (May 2005), Bates 2679–80; ICE Annual Review, Rolling Plains Detention Center (Feb. 2005), Bates 1908–09 (valuables being stored with regular property); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86 (only inmate funds are secured; storage room, including valuables, is easily accessible to all); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6450–51 (accessible by all jail officers); ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71 (book-in officers have access to valuables at all times); ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5532–33 (accessible to line officers); ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17870–72 (funds and personal property unsecured, uninventoried in property room); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18740–41 (valuables retained by INS; funds deposited and receipt issued).

In addition, ICE reviewers' comments indicated violations at the following facilities: ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243 (accessible to all staff); ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 12348–49 (secured entrance, accessible only to supervisors, opened several times to allow access to IEAs instead of conducting business through pass-through window).

[23] ICE follow-up inspection, Las Animas County Jail Center (Apr. 2005), Bates 4369; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 12348–

49; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17870–72.

[24] ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243-44; ICE Annual Review, Nobles County Jail (May 2005), Bates 2679–80; ICE Annual Review, Rolling Plains Detention Center (Feb. 2005) Bates 1908–09; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5532–33; ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18740–41.

[25] An ICE reviewer noted a violation of this element at the following facility: ICE Annual Review, Carter County Detention Center (Nov. 2004), Bates 7902 ("The storage area for personal property has no restricted access to staff members and is not locked. There is no written tracking of notification for property that is left behind."). In addition, an ICE reviewer's comments indicated a violation at the following facility: San Pedro Service Processing Center (July 2004), Bates 12348–49 (funds and property located unsecured in property room; safe and cash drawer found unlocked).

[26] ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15660–63 (facility keeping funds and not returning to detainees; funds not being deposited into commissary accounts; facility has taken more than $3,290 from detainees since 1997; detainee in custody at time of review had $40 taken from him following visitation with his wife).

[27] *Id.*

[28] ICE Annual Review, Minnehaha County Jail (Aug. 2005) (Headquarters review, containing comments), Bates 2828; *see also* ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2842 (same; comments partially redacted).

[29] *Id.*

[30] FPP § III.A.

[31] ICE reviewers noted violations of this element at the following facilities: ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10763-64; ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9670 (large valuables not stored — handled by Atlanta Field Office); ICE Annual Review, Forsyth County Detention Center (June 2005), Bates 13100 (placed on shelf); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1449–50; ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2842; ICE Annual Review, Nobles County Jail (May 2005), Bates 2679–80); ICE Annual Review, Port Isabel Service Processing Center (Feb. 2005), Bates 11648–49 (large valuables mailed to family members); ICE Annual Review, Rolling Plains Detention Center (Feb. 2005), Bates 1908–09 (valuables being stored w/regular property); ICE Annual Review, Scottsbluff County Jail (Apr.-May 2005), Bates 10590–91 (large valuables not allowed); ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7968-69 (detainees are required to mail large valuables to family); ICE Annual Review, El Centro Processing Center (Jan. 2004), Bates 12655 (due to construction, incoming property stored in unsecured area); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; Minnehaha County Jail (May 2004), Bates 5064–65 (not secured; any staff can get in); ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 12348–49; ICE Annual Review, Sussex County Jail (aka Keogh Dwyer Correctional Facility) (Aug. 2004), Bates 7015–16 (ICE only).

In addition, ICE reviewers' comments indicated violations at the following facilities: ICE Annual Review, Genesee County Jail (Nov. 2004), Bates 3422 (ICE retains property and valuables); ICE Annual Review, Grand Forks County Correctional Center (Dec. 2004), Bates 3522; ICE Annual Review, Middlesex County Jail (Oct. 2004), Bates 4951–52 (ICE maintains all large items); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18740–41 (large items not accepted).

[32] ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2842; ICE Annual Review, Minnehaha County Jail (May 2004), Bates 5064–65.

[33] ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2842; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, San Pedro Service Processing Center (July 2004), Bates 12348–49.

[34] ICE Annual Review, Atlanta City Detention Center (May 2005), Bates 9670 (large valuables not stored — handled by Atlanta Field Office); ICE Annual Review, Catahoula Parish Detention Center (Aug. 2004), Bates 7968-69 (detainees are required to mail large valuables to family); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18740–41 (large items not accepted); ICE Annual Review, Middlesex County Jail (Oct. 2004), Bates 4951–52 (ICE maintains all large items); ICE Annual Review, Port Isabel Service Processing Center (Feb. 2005), Bates 11648–49 (large valuables mailed to family members); ICE Annual Review, Scottsbluff County Jail (Apr.-May 2005), Bates 10590–91 (large valuables not allowed).

[35] FPP §§ III.A and B.

[36] FPP §§ III.D and E.

[37] At SPCs and CDFs, two officers must be present to receive the detainee's funds or valuables and to inventory this property on a property-receipt form, to be completed in front of the detainee. The officers must give a copy of the completed form to the detainee and also place a copy of the form in the detainee's file and another in the envelope containing the detainee's property. Finally, the officers must record each receipt form in a log book and add their initials and identification numbers to the relevant entries before placing the items in a designated safe.

[38] ICE Annual Review, Aguadilla Service Processing Center (Mar. 2005), Bates 10763-64; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6384–85; ICE Annual Review, Worcester County Jail (Nov.-Dec. 2004), Bates 5946-48; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63.

[39] ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63.

[40] ICE reviewers noted violations of this element at the following facilities: ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11200–02; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Elizabeth Detention Center (Dec. 2002), Bates 18101–03. In addition, the ICE reviewers' comments indicated a violation at the following facility: San Pedro Service Processing Center (Jan. 2003), Bates 18517–19 (marked "Y" for this element, but remarks state that "[l]arge valuables need to be tagged with a G-589 and I-77"); *see also* Memorandum from Reviewer-In-Charge to Anthony Tangeman, Deputy Executive Associate Commissioner, Review Summary Report for San Pedro Service Processing Center (Jan. 21, 2003), Bates 18497 ("The facility does not tag large valuable[s] with a G-589 and I-77.").

[41] ICE Annual Review, Houston Contract Detention Facility (Aug. 2004), Bates 11200–02.

[42] ICE monthly report, Houston Contract Detention Facility (Mar. 2004), Bates 15667; ICE monthly report, Houston Contract Detention Facility (Feb. 2004), Bates 15654; ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15660–63 (facility lacks sufficient staff); ICE Annual Review, Elizabeth Detention Center (Dec. 2002), Bates 18101–03.

[43] ICE monthly report, Houston Contract Detention Facility (Mar. 2004), Bates 15667; ICE monthly report, Houston Contract Detention Facility (Feb. 2004), Bates 15654; ICE Review Summary Report for Houston INS Detention Facility (Aug. 30, 2003), Bates 15660–63.

[44] ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87.

[45] ICE Annual Review, Krome Service Processing Center (Feb. 2004), Bates 11109–11; ICE Annual Review, Denver Contract Detention Facility (Aug. 2003), Bates 11158–61; ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15660–63; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87; ICE Annual Review, Queens Contract Facility (Oct. 2003), Bates 11390–92; ICE

Annual Review, Denver Contract Detention Facility (Oct. 2002), Bates 18367-69; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Elizabeth Detention Center (Dec. 2002), Bates 18101–03); ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[46] ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15660–63; ICE Annual Review, Queens Contract Facility (Oct. 2003), Bates 11391–92; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Elizabeth Detention Center (Dec. 2002), Bates 18101–03; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[47] *See* FPP § III.F.

[48] *See id.*

[49] *See id.*

[50] ICE reviewers noted violations of this element at the following facilities: ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15660–63; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87; ICE Annual Review, Queens Contract Facility (Oct. 2003), Bates 11390–92; ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18497, 18517–19; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18468–70; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

In addition, an ICE reviewer's comments indicated a violation at the following facility: ICE Annual Review, El Centro Processing Center (July 2005), Bates 10845–46 (current method is to count funds and match amount to total on G-589s, but no record of how many G-589s there are supposed to be; better accountability if logbook were kept).

[51] ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18497, 18517–19; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18468–70.

[52] ICE Annual Review, El Centro Processing Center (July 2005), Bates 10845–46; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18468–70.

[53] ICE Annual Review, Queens Contract Facility (Oct. 2003), Bates 11390–92; ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18468–70; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[54] ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18468–70 (rating the standard acceptable, but adding in remarks, "DOS needs to log all weekly audits of detainee funds. Needs to develop a quarterly baggage and non valuable inventory.").

[55] *Id.*

[56] ABA report, Kern County Jail (Aug. 2002), Bates 17498–99 (detainees not allowed to keep photographs or religious items, and doubt as to whether detainees were allowed to keep correspondence or legal papers); ABA report, Wackenhut Corrections Corp. (Apr. 2002), Bates 17645 (detainees not allowed to retain any jewelry, including wedding rings).

[57] *See* FPP § III.C.

[58] ICE Annual Review, Phelps County Jail (Apr. 2004), Bates 6212–13; ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17870–72 (detainee medication found in property room).

[59] ICE Annual Review, San Pedro Service Processing Center (Nov. 2003), Bates 17870–72.

[60] FPP § III.G.

[61] ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243 (marked "no," but stating in remarks: "TRY TO CONTACT, THEN AFTER 30 DAYS DESTROY."); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6450–51; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6384–85; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71.

[62] ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243; ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6384–85.

[63] ICE Review Summary Report for Houston INS Detention Facility (Aug. 30, 2003), Bates 15660–63 (facility keeping funds and not returning them to detainees; funds not being deposited into commissary accounts; facility has taken more than $3,290 from detainees since 1997; detainee in custody at time of review had $40 taken from him following visitation with his wife. The reviewer observed, "[I]t is curious to note that the majority of funds taken have been from Spanish speaking nationals.").

[64] FPP § III.I (Standards and Procedures: Abandoned Property).

[65] FPP § III.C.

[66] FPP § III.I.

[67] *Id.*

[68] *Id.*

[69] ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13243; ICE Annual Review, Colquitt County Jail (Mar. 2004), Bates 3887–88; ICE Annual Review, Colquitt County Jail (Mar. 2005), Bates 13190; ICE Annual Review, Culberson County Jail (Dec. 2004), Bates 3932–33; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, Passaic County Jail (Mar. 2004), Bates 14669–70; ICE Annual Review, Phelps County Jail (Apr. 2004), Bates 6212–13; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71 (property room had massive unclaimed property); ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[70] ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[71] ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87; ICE Annual Review, El Paso Processing Center (June, 2002), Bates 12461–63.

[72] ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87.

[73] ICE reviewers noted violations of this element at the following facilities: ICE Annual Review, Chautauqua County Jail (Apr. 2005), Bates 10494; ICE Annual Review, Dickens County Correctional Facility (June 2005), Bates 13524; ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1449–50; ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12809; ICE Annual Review, Orleans County Jail (June 2005), Bates 12929; ICE Annual Review, Carter County Detention Center (Nov. 2004), Bates 7902 (no written tracking); ICE Annual Review, City of Las Vegas Detention Center (Sept. 2004), Bates 4437; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3721 (policy needs to include forwarding of commissary order); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, Oklahoma County Detention Center (Dec. 2004), Bates 12084–85 (notification via telephone numbers given at intake, but no written notification); ICE Annual Review, Orleans Parish Community Corrections Center (a/k/a Community Corrections Center) (Sept.-Oct. 2004), Bates 7474–75; ICE Annual Review, Point Coupee Parish Detention Center (May 2004), Bates 10616; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71; ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5430–31 (notification done by phone call; call logged in logbook); ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11285–87; ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18740–41; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

In addition, ICE reviewers' comments indicated violations at the following facilities: ICE Annual Review, Boone County Detention Center (Dec. 2004), Bates 9374–75; ICE Annual Review, Garvin

County Detention Center (Dec. 2004), Bates 3382–83 (not by certified mail); ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18784–85.

[74] ICE Annual Review, Carter County Detention Center (Nov. 2004), Bates 7902; ICE Annual Review, Clay County Jail (Sept. 2004), Bates 3721; ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, Point Coupee Parish Detention Center (May 2004), Bates 10616; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[75] ICE reviewers noted violations of this element at the following facilities or incorrectly noted that this element of the standard was "not applicable": ICE Annual Review, Dickens County Correctional Facility (June 2005), Bates 13524; ICE Annual Review, Nobles County Jail (May 2005), Bates 2679–80 (unwritten policy); ICE Annual Review, Plaquemines Parish Detention Center (Apr. 2005), Bates 3191–92 (element marked "not applicable"); ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12034–35 (ICE office usually not notified about unclaimed property unless detainee has made it known to ICE office that he/she is missing property and wants it back); ICE Annual Review, Orleans Parish Community Corrections Center (a/k/a Community Corrections Center) (Sept.-Oct. 2004), Bates 7474–75 (no written policy); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6384–85; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71; ICE Annual Review, Yakima County Jail (Dec. 2004), Bates 5532–33 (no written policy); ICE Annual Review, Pike County Correctional Facility (Dec. 2003), Bates 18322–23 (no written policy; ICE contacted); ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18497, 18518–19 (staff thinks donating property to charity is permitted, but policy forbids it); ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16; ICE Annual Review, Tensas Parish Detention Center (Aug.-Sept. 2002), Bates 18566–67.

In addition, ICE reviewers' comments indicated violations at the following facilities: ICE Annual Review, Plaquemines Parish Detention Center (Apr. 2005), Bates 3191–92 (element marked "not applicable"); ICE Annual Review, North Las Vegas Detention Center (July 2004), Bates 12034–35.

[76] ICE Annual Review, Las Animas County Jail Center (Dec. 2004), Bates 4385–86; ICE Annual Review, Smith County Jail (June 2004), Bates 5670–71; ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18497, 18518–19; ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[77] FPP § III.H (Standards and Procedures: Lost/Damaged Property - General).

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] FPP § III.H (Standards and Procedures: Lost/Damaged Property in CDFs and IGSAs).

[82] ICE review summary report for Carter County Detention Center (Nov. 2004), Bates 7902; ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16 (no procedure); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6450–51 (marked "N/A" for this element); ICE Annual Review, San Pedro Service Processing Center (Jan. 2003), Bates 18497, 18518–19 (marked "N/A" for this element).

[83] ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63.

[84] Memo from ICE reviewer-in-charge to Victor Cerda, acting director, Office of Detention and Removal, "Plan of Action and Request for Closure: Point Coupee Parish Detention Center" (July 2004), Bates 10616 (no lost property claim form); ICE Annual Review, Seattle Contract Detention Center (Sept. 2002), Bates 11514–16.

[85] ICE Annual Review, El Paso Processing Center (June 2002), Bates 12461–63.

## ADMISSION AND RELEASE

[1] INS Detention Standard: Admission and Release (hereinafter "AR") § I (Policy), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009). A copy of this standard is available also at www.nilc.org/immlawpolicy/arrestdet/dom/admission-release.pdf.

[2] AR § III (Standards and Procedures), subsections A–K.

[3] AR § III.J (Orientation).

[4] AR § III.L (Releases).

[5] AR § III.J (Orientation).

[6] The Immigration and Naturalization Service (INS), formerly an agency within the U.S. Department of Justice, was abolished and replaced by parts of the newly formed U.S. Department of Homeland Security (DHS) on Mar. 1, 2003, as a result of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Many of the INS's enforcement-related duties, including responsibility for detention, were transferred to the newly formed Bureau of Immigration and Customs Enforcement, which subsequently came to be known as "U.S. Immigration and Customs Enforcement," or "ICE." Any reference in this report to "Immigration and Customs Enforcement" or "ICE" refers to the immigration enforcement agency that was operating at the time the events associated with the particular reference took place. So, for example, a reference to an "ICE review" that took place in 2002 should be understood to mean an "INS review," since the INS was the U.S.'s immigration enforcement agency during all of 2002.

[7] AR § III.J (Orientation).

[8] *Id.* subsection c (detailing portions of SPC / CDF orientation video).

[9] ICE Annual Review, Lin County Jail (May 2005), Bates 12134–12183 (no in-process orientation exists); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3215–3257 (no orientation provided during processing procedure and no orientation video used); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3355–3405 (facility count procedures and times are not covered during orientation); ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4249–4298 (no formal orientation program and no orientation video); Las Animas County Jail Center (Dec. 2004), Bates 4371–4406 (in-process orientation not conducted on an ongoing basis); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6363–6414 (no orientation session); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (not all detainees receive an orientation during intake).

[10] ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2944–2982 (ICE review indicates compliance with the standard, but orientation does not discuss the availability of or ways to obtain pro bono legal services.); ICE Annual Review, Niagara County Jail (Dec. 2005), Bates 12788–12831 (pro bono legal services not addressed by facility staff); ICE Annual Review, Madison County Jail (July 2004), Bates 4560–4603 (noting ICE must provide a list of pro bono services and a list of officers' names and telephone numbers); ICE Annual Review, Niagara County Jail (Oct. 2004), Bates 11956–12005 (facility's in-processing orientation does not address pro bono immigration legal services).

[11] ICE Annual Review Las Animas County Jail Center (Dec. 2004), Bates 4371–4406 (handbooks are not issued to all incoming inmates/detainees); ICE Annual Review, Madison County Jail (July 2004), Bates 4560–4603 (detainee handbook was not yet completely translated into Spanish); ABA report, Bergen County Jail (Aug. 2003), Bates 17360–17372 (handbooks available only in English and Spanish, and not provided to detainees at arrival); ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15657–15664 (as confirmed by detainee interviews, not all detainees receive a handbook during intake).

[12] ICE Annual Review, Houston Processing Center (Aug. 2005), Bates 10898–10942 (admissions paperwork often incomplete, with data information and signatures were missing in several admission files; noting that First Line Supervision is not reviewing completed paperwork as required).

[13] ICE Annual Review, Kenosha County Detention Center (May 2003), Bates 18761–18806 (in-processing is conducted at another facility, and detainees are not provided with instructions on how to contact their deportation officer).

[14] ICE Annual Review, Krome Service Processing Center (Feb. 2005), Bates 15729–15773 (the amount of physical space in processing area does not accommodate all of the traffic that flows through).

[15] AR § III.I (Missing Detainee Property) (requiring completion and transmission of Form I-387 to ICE, for every claim of missing property by newly arrived detainee); ICE Annual Review, Crawford County Jail (Mar. 2005), Bates 13223–13266 (staff does not complete Form I-387 or similar form for every lost or missing property claim); ICE Annual Review, Nobles County Jail (May 2005), Bates 2657–2701 (staff does not complete Form I-387 or similar form for every lost or missing property claim); ICE Annual Review, Culberson County Jail (Dec. 2004), Bates 3919–3938 (staff does not complete Form I-387 or similar form for every lost or missing property claim); ICE Annual Review, Penobscot County Jail (Mar. 2004), Bates 6474–6495 (staff uses an in-house form for lost or missing property rather than an I-387 form, but does not forward the in-house form to ICE).

[16] ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1421–1471 (there is no missing property form identified); ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 178–212 (missing property claims referred to jail administrator or arresting agency, but not ICE); ICE Annual Review Las Animas County Jail Center (Dec. 2004), Bates 4371–4406 (facility does not have a form for tracking lost property); ICE Annual Review, Orleans Parish Community Corrections Center (Sept. 2004), Bates 7254–7301 (there is no I-387 property form); ICE Annual Review, Pennington County Jail (June 2004), Bates 11766 – 11810 (no form used for lost or missing property claims); ICE Annual Review, Rockingham County Department of Corrections (May 2004), Bates 7168–7212 (detainees must review and sign the completed inventory form, but receive a copy only upon request); ICE Annual Review, Wyoming County Jail (Aug. 2004), Bates 5410–5453 (detainees fill out letters concerning missing property claims rather than staff filling out I-387 forms); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11476–11536 (no form used for lost or missing property claims).

[17] AR § III.C (Search of Detainee and Property).

[18] *Id.*

[19] ICE Annual Review, Berks County Prison (July 2005), Bates 9732–9772 (all detainees are strip-searched); ICE Annual Review, Central Arizona Detention Center (Aug. 2005), Bates 10313–10353 (all detainees/inmates are strip-searched as routine policy) ICE Annual Review, Dale G. Haile Detention Center (Sept. 2005), Bates 6323–6362 (all incoming detainees are strip-searched regardless of security class upon intake); ICE Annual Review, Mississippi County Detention Center (Aug. 2005), Bates 2944–2982 (all detainees are strip-searched upon initial booking, and strip searches occur as detainees remove their clothing and dress into jail clothes); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3215–3257 (all detainees are strip-searched before they are placed in general population, and a detainee's failure to agree to strip search will delay his housing assignment).

[20] ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 1845–1887 (all detainees are strip-searched upon entry only if coming from a custodial setting, and reasonable suspicion for search is based on detainees' arrival from another custodial setting).

[21] ICE Annual Review, Kenosha County Pre-Trial Facility (June 2005), Bates 815–857 (Detainees are not routinely strip-searched unless there is probable cause. A visual observation is conducted when they change into their uniforms.); ICE Annual Review, McHenry County Jail (Nov. 2005), Bates 1421–1471 (Strip searches are conducted only when articulable circumstances warrant. The searches are more of a pat-down/hygiene search than a strip search.); ICE Annual Review, Santa Ana City Jail (Aug. 2005), Bates 1845–1887 (All detainees are strip-searched upon entry only if coming from a custodial setting. Reasonable suspicion is established based on detainees arriving from custodial settings.).

[22] ICE Annual Review, Kenosha County Pre-Trial Detention Center (June 2004), Bates 4249–4298 (A visual search is done on all detainees when they remove their clothing in exchange for jail uniforms. Strip searches are done only when needed.); ICE Annual Review, Mini-Cassia County Jail (June 2004), Bates 4995–5040 (a visual search of detainees is conducted during the clothing exchange to jail uniforms).

[23] ICE Annual Review, Northern Oregon Correctional Center (June 2005), Bates 12872–12910 (under Oregon law, anyone charged with a felony is strip-searched).

[24] ICE Annual Review, Ozaukee County Jail (Oct. 2004), Bates 7349–7395 (noting only that not all new detainees are strip-searched); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (the revised strip search policy has not been instituted at this facility); ICE Annual Review, Torrance County Correctional Facility (July 2003), Bates 17938–17979 (noting that all new arrivals are not strip-searched).

[25] AR § III.A (New Arrivals), subsection 3; INS Detention Standard: Medical Care § III.D (Medical Screening: New Arrivals), in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009).

[26] *Id.*

[27] ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (although the admissions process includes classification and medical screening, neither is conducted as required by the standards).

[28] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10085–10140 (medical screenings based solely on questions asked by admitting jailer); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6427–6473 (medical screenings are done by booking questionnaire not by medical staff); ICE Annual Review, Kenosha County Sheriff's Dept. Corrections (July 2002), Bates 18719–18760 (noting that correctional staff could use additional medical screening training).

[29] ICE Annual Review, Canadian County Jail (Jan. 2005), Bates 10085–10140; ICE Annual Review, Santa Cruz County Jail (Sept. 2005), Bates 178–212 (The facility has no medical staff. Intake officers complete a medical form and all medical problems are referred to the local hospital for clearance to be detained.); ICE Annual Review, Tri-County Detention Center (Mar. 2005), Bates 1808–1844 (no specialized training for jail staff for conducting medical screenings); ICE Annual Review, Culberson County Jail (Dec. 2004), Bates 3919–3938 (no specialized medical staff to perform medical screenings); ICE Annual Review, Garvin County Detention Center (Dec. 2004), Bates 3355–3405 (there is no medical staff in the jail); ICE Annual Review, Pettis County Detention Center (July 2004), Bates 6427–6473.

[30] ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (Medical screenings are not performed in a timely manner. Screenings may not occur for up to 48 hours after admission.).

[31] AR §§ III.F (Clothing and Bedding Issued to New Arrivals) and III.G. (Personal Hygiene Items); *see also* INS Detention Standard: Issuance and Exchange of Clothing, Bedding, and Towels, in U.S. Immigration and Customs Enforcement's *Detention Operations Manual*, www.ice.gov/pi/dro/opsmanual/index.htm (last visited Mar. 24, 2009).

[32] ICE Annual Review, Minnehaha County Jail (June 2005), Bates 2824–2863 (nonindigent detainees are charged for

replenishment of personal hygiene items); ICE Annual Review, Bergen County Jail (Aug. 2004), Bates 9096–9141 (jail charges the detainees for personal hygiene items).

[33] ICE Annual Review, Hudson County Department of Corrections (Apr. 2005), Bates 506–585 (initial hygiene items given, but certain replenishment items will be charged).

[34] ICE Annual Review, Manatee County Jail (June 2004), Bates 1198–1242 (several detainees had never been issued pillow cases or towels, and the facility offers only soap and not shampoo).

[35] ICE Annual Review, Madison County Jail (July 2004), Bates 4560–4603 ("Socks and underwear are not issued by the facility. They may be brought in by visitors or purchased at the commissary.").

[36] ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (A number of detainees are placed in temporary cots on the floor. They were located in the visitation waiting area and the basement holding room. Conditions were not sanitary.).

[37] AR §§ III.B (Classification) and III.H. (Admissions Documentation).

[38] ICE Annual Review, Colquit County Sheriff's Office and Jail (Mar. 2004), Bates 3864–3910 (facility has no contraband policy); ICE Annual Review, McHenry County Jail (July 2004), Bates 4749–4795 (facility has no contraband policy); ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15657–15664 (facility does not issue color-coded uniforms or wristbands); ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11263–11311 (no classification system; all wristbands in the same color); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16844–16918 (all detainees have same color of uniforms); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (all the wristbands white; only uniforms color-coded); ICE Annual Review, Buffalo Federal Detention Facility (Aug. 2002), Bates 17980–18027 (clothes and wristbands not color-coded); ICE Annual Review, El Paso Service Processing Center (June 2002), Bates 12430–12477 (clothes and wristbands not color-coded).

[39] ICE Annual Review, Cass County Jail (June 2005 , July 2005), Bates 10225–10266; ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11263–11311; ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16844–16918; ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11476–11536.

[40] ICE Annual Review, Cass County Jail (June 2005, July 2005), Bates 10225–10266 (ICE does not routinely provide I-213 forms to identify and classify each new arrival.); ICE Annual Review, Houston Processing Center (Aug. 2005), Bates 10898–10942 (the classification system is not consistent); ICE Annual Review, North Las Vegas Detention Center (Aug. 2005), Bates 3215–3257 (some classification files did not have any documentation regarding reassessment/ reclassification); ICE Annual Review, El Centro Service Processing Center (Jan. 2004), Bates 15487–15536 (when staff does not have adequate classification documents for arriving detainees, those detainees are automatically classified as level 2); ICE Annual Review, Pine Prairie Correctional Center (Nov. 2004), Bates 6363–6414 (all detainees are classified medium security unless ICE notifies the facility that they should be classified otherwise); ICE Annual Review, Houston Contract Detention Facility (July 2003), Bates 15657–15664 (although the admissions process includes classification, this is not conducted as required per the standards); ICE Annual Review, Laredo Contract Detention Facility (Sept. 2003), Bates 11263–11311 (all uniforms are blue; there is no classification system in place); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16844–16918 (All ICE detainees receive the same color uniform. Detainees are given a blue wristband at intake only to indicate that they have been medically cleared. Such band is taken off upon arrival at the unit.); ICE Annual Review, San Diego Correctional Facility (Aug. 2003), Bates 16844–16918 (The admissions process does not include classification. Detainees are classified by ICE prior to arrival at CCA. All detainees are sent to one unit for classification once the admission process is over.); ICE Annual Review, Seattle Contract Detention Center (July 2003), Bates 11415–11475 (noting that files do not accompany detainees to the facility from the arresting authority, making proper identification and classification difficult); ICE Annual Review, Seattle INS Detention Facility (Sept. 2002), Bates 11476–11536 (the facility fails to classify detainees during intake processing).

[41] ICE Annual Review, Denver Contract Detention Facility (Oct. 2002), Bates 18345–18392 (there is no supporting documentation used to identify and classify each new arrival).

[42] AR § III.L (Releases).

[43] ICE Annual Review, Torrance County Detention Center (June 2005), Bates 1763–1807 (no ICE staff at facility to perform database updates); ICE Annual Review, Brewster County Jail (Nov. 2004), Bates 9855–9873 (no ICE staff at facility to perform database updates); ICE Annual Review, San Pedro Service Processing Center (May 2002), Bates 18442–18493 (staff does not complete required paperwork for release, and I-77s are not logged out).