

MEMORANDUM

To: (b)(6), (b)(7)E Deputy Executive Associate Commissioner Office of Detention and Removal

From: American Bar Association Delegation to Dallas County Detention Facility¹

Re: INS Compliance with Detention Standards at the Dallas County Detention Facility

This memorandum summarizes and evaluates information gathered at the Dallas County Jail System Facility (the “Facility”) located at 133 N. Industrial Boulevard, Dallas, Texas, through interviews of detainees, observation by delegation members, and interviews with INS and Facility personnel on March 7 and 8, 2002. The majority of information contained in this report was obtained from interviews of detainees, interviews of Captain (b)(6), (b)(7)c of the Dallas County Sheriff Department and INS SDDO (b)(6), (b)(7)c”), and the delegation’s tour of the Facility on March 7 and 8, 2002 (the _____

The delegation was particularly concerned with findings and detainee reports of:

- Inadequate legal access including, charges for phone calls to counsel and Consulates, a significantly incomplete legal library, lack of access to a photocopier and an unconscionable process of reading legal mail to determine whether in fact it is legal mail (Section IV);
- No group rights presentations (Section V);
- No outdoor recreation (Section VI);
- Inadequate medical access (Section VIII);
- The Facility’s inability and/or unwillingness to accommodate religious diets (Section IX); and
- A general feeling among the detainees that they were abandoned in the Facility with little or no contact with the INS and in several cases little or no understanding of the status of their cases (Section X (G)).

INS DETENTION STANDARDS

In November 2000, the Immigration and Naturalization Service in its Detention Operations Manual promulgated the “INS Detention Standards” (the “Standards”) to insure the “safe, secure and humane treatment of individuals detained by the INS.” The 36 Standards cover

¹ The delegation was comprised of (b)(6) all attorneys with Hughes & Luce, LLP, Dallas, Texas.

² Because virtually all of the information in this Report is from a source and is not generally known, the Report contains several footnotes detailing the source of the information. However, for ease of reference and efficiency throughout the Report, if all of the information in any one paragraph was obtained from the same source, only the first sentence of the paragraph will contain a citation to that source, and the reader can assume that the balance of the information in that paragraph (unless generally known) was provided by that source.

a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These Standards apply to INS Service Processing Centers, Contract Detention Facilities and state and local government facilities used by the INS through Intergovernmental Service Agreements. The Detention Operations Manual provided that by January 1, 2001, all INS Service Processing Centers needed to be in compliance with the Standards. For Contract Detention Facilities and other facilities utilized by the INS through Intergovernmental Service Agreement, the INS proposed to “phase in” the Standards over a two-year period, such that all facilities would be in compliance with the Standards by December 31, 2002. The Standards constitute a “floor,” not a “ceiling”; in other words, the Standards are meant to establish the minimal requirements that the INS must adhere to in its facilities for detainees. Each District Office or Officer in Charge (“OIC”) may, in his or her discretion, promulgate policies and practices affording INS detainees greater rights and protections than the Standards provide.

The Facility is a local government facility utilized by the INS through an Intergovernmental Service Agreement with Dallas County. The detainee population at the Facility is typically in the 200-detainee range, but varies drastically, with as few as 73 and as many as 473 detainees over the course of the last year. The maximum capacity for the Facility, which includes both inmates and detainees, is approximately 6,000.

This memorandum discusses INS compliance with the Standards at the Facility. The memorandum focuses on select portions of the Standards where INS compliance is of particular importance for the achievement of their stated goals. In particular, this memo focuses on INS facility compliance with the Standards: Legal Access; Telephone Access; Legal Materials; Group Rights Presentations; Recreation Issues; Classes; Medical Issues; and Religious Issues.

I. GENERAL INFORMATION

The Standards require that each facility “develop a site-specific detainee handbook to serve as an overview of and guide to the detention policies, rules, and procedures in effect at the facility. The handbook also will describe the “services, programs, and opportunities available through various sources including the facility.” The handbook is supposed to constitute a comprehensive guide to life in the facility and include, at a minimum, the information specified in Section III, A through J of the Standards. The purpose of the handbook requirement is to give detainees notice of all applicable rules, policies, and privileges at any given facility.

Based on our research conducted from our inspection of the Facility, it appears that inmate handbooks prepared by the Dallas County Jail System are being provided to all detainees. According to our interviews with (b)(6), (b)(7)c and the detainees, the Facility issues handbooks (the “Handbook”)³ to incoming detainees as a matter of course. The *Handbook* is given to detainees and criminal inmates; thus, the *Handbook* is not specifically addressed to INS detainees. Additionally, Spanish-language *Handbooks*⁴ are provided and readily available at the

³ Attached hereto as Appendix “A” (revised February 2002).

⁴ Attached hereto as Appendix “B” (revised February 2002). The country of origin represented most in the facility was Mexico, and a large percentage of the Mexican detainees speak only Spanish or very little English. *Interview of (b)(6), (b)(7)c on March 7, 2002 ((b)(6), (b)(7)c Interview”); Interview of (b)(6), (b)(7)c on March 7, 2002 (“(b)(6), (b)(7)c Interview”)*.

Facility (our group was provided a copy in less than a minute after asking for one). The *Handbook* is not provided in any languages other than English or Spanish.

The population count on the date of our inspection was 88 detainees, all males.⁵ The country of origin most represented in the Facility was, overwhelmingly, Mexico. With respect to the percentage of criminal aliens/non-criminal aliens/non-immigration cases, the Facility was not able to complete this task for us in the time allotted because of the daily change in population and the type of manpower necessary for completion of a task like this.

II. LEGAL ACCESS/VISITATION

Overall, the Facility complies with the Standards for visitation for detainees with some persistent problems in procedure. The range of permissible visitors includes Consular officials, attorneys, legal representatives, friends, family, and the media. Visitation at the Facility varies by category.

A. VISITATION BY ATTORNEYS

The Standards provide that facilities should allow detainees to meet privately with their current or prospective legal representatives, legal assistants and Consular officials.

Attorneys are allowed to visit their clients at the Facility twenty-four hours a day, seven days a week.⁶ With respect to providing information over the phone to an attorney regarding the status of a detainee, if the attorney is “known” by the Facility personnel (i.e., the attorney represents several individuals, visits the Facility often, and the Facility has already performed a background check⁷ on the attorney), the Facility generally provides access to that information. If the attorney is “unknown,” the attorney is asked to contact the local INS docket officer for that information. Regarding visitation, if an attorney is “known” then the Facility allows access without presenting a bar card. If an attorney is “unknown,” the Facility typically requires the attorney to present his or her bar card. However, the Facility will allow an attorney to visit a client by providing a form of picture identification, and the Facility will check with the Texas State Bar Association to determine if the attorney is licensed to practice. If a non-Texas attorney seeks access to a client, the Facility requires a bar card. If a non-Texas attorney cannot produce a bar card then the Facility will attempt to verify that the person is a member of a bar and in some cases may refer the attorney to the INS for verification purposes. However, no attorney may meet with a detainee without submitting a G-28 form.⁸

⁵ [REDACTED] Interview.

⁶ [REDACTED] Interview.

⁷ To perform a background check the jail requests the attorney’s name, date of birth, drivers license number, bar card number and social security number. It is unclear what the jail does with this information to perform the background check, but the purpose of the background check is to learn whether the attorney has any connection to the detainee or inmate beyond an attorney client relationship or potential attorney client relationship.

⁸ *Id.* While this is the stated policy, in the preliminary stages of this investigation two attorneys from the delegation team met with several detainees without filling out G-28 forms.

Other members of a detainee’s legal team, such as legal assistants, law graduates, law students, and interpreters, are allowed to visit with a detainee, but only if the detainee’s lawyer is present.⁹ Experts are also allowed, but, again, only with the detainee’s attorney present. Independent medical service providers are allowed to visit under non-emergency conditions after contacting the medical staff at the Facility, but background checks are required and can sometimes delay visitation.

During the initial inspection, our delegation observed several attorneys in meeting rooms with their client(s).¹⁰ The Facility has 18 attorney meeting rooms, all “contact.” An attorney can choose to meet with a client in a “non-contact” room, also.¹¹ The attorney visitation rooms offer a fair degree of privacy, have sufficient chairs and tables, and are private and are out of earshot of Facility staff. Exchanges of documents, etc., are allowed freely (subject to the Facility’s general rules of permissible items in the Facility), and detainees are allowed to keep legal documents on their person or in their bunk.¹²

The Facility staff does not interrupt legal visitations for any reason, including meals or routine head counts.¹³ Often, however, the visit may be interrupted by staff to inform the detainee that the detainee will miss a meal. If a detainee misses a meal due to an attorney visit, the Facility provides a substitute “cold meal” to the detainee in the detainee’s cell,¹⁴ although the detainees interviewed were not aware of this option.¹⁵ All detainees are subject to a pat-down search after an attorney visit.¹⁶ In addition, detainees are subject to a strip search after an attorney visit, but only for a “good reason” or “reasonable suspicion” of contraband on the detainee’s person.¹⁷ One detainee revealed that he was subjected to a strip search after both of his visits with his attorney.¹⁸ If a detainee does not want to be subject to a strip search, the detainee may visit counsel in a non-contact room.¹⁹ Similar procedures are in place for visiting individuals in administrative or disciplinary segregation.²⁰

⁹ *Id.*

¹⁰ *Tour.*

¹¹ [redacted] *Interview.*

¹² (b)(6), (b)(7)c [redacted] *Interview; Tour.*

¹³ Interview with detainee [redacted] (b)(6), (b)(7)c [redacted], on March 7, 2002 ((b)(6), (b)(7)c interview”).

¹⁴ (b)(6), (b)(7)c *Interview.*

¹⁵ Interview with detainee [redacted] (b)(6), (b)(7)c [redacted], on March [redacted] (b)(6), (b)(7)c *Interview*”); Interview with detainee [redacted] (b)(6), (b)(7)c [redacted] on March 7, 2002 (b)(6), (b)(7)c *Interview*”).

¹⁶ (b)(6) *Interview.*

¹⁷ *Id.*

¹⁸ [redacted] *Interview.*

¹⁹ (b)(6), (b)(7)c [redacted] *Interview.*

²⁰ *Id.*

B. VISITATION BY FAMILY AND FRIENDS AND DETAINEE BANK ACCOUNTS

The Facility's visitation hours for family and friends are Monday through Friday from 7:00 p.m. to 9:00 p.m., Saturday from 1:00 p.m. to 4:00 p.m., and Sunday from 8:30 a.m. to 11:00 a.m.²¹ The hours are clearly marked in the Handbook and the Visitors Handbook, and are posted in the Facility.²² The visits can be as long as the posted visitation hours (i.e., two to three hours, depending on the day of the visit);²³ however, one of the detainees interviewed stated that personal visits are limited to 30 minutes,²⁴ while another detainee stated that personal visits are limited to 15 minutes.²⁵ Special visitation hours can be arranged directly with the Facility staff, but are granted only in special circumstances.²⁶

A detainee is allowed to list five visitors on the detainee's "inmate visitor authorization card."²⁷ Only those visitors listed on the authorization card are allowed to visit the detainee. The detainee may update his inmate visitor authorization card at the beginning of each month. Virtually any adult may be placed on the authorization card (family, friends, associates, etc.).²⁸ The only restriction is age — minors may not visit a detainee unless accompanied by an adult with proper documentation that the adult is the minor's legal guardian, (although this often is not enforced).²⁹ A detainee is allowed only one visitor per week (including two minors per adult visitor), subject to two exceptions. The first exception is if the detainee lists only one visitor on his authorization card, that visitor may visit the detainee twice per week.³⁰ The second exception is for "special visits," which are allowed for visitors that live more than 75 miles from the Facility.³¹ A person seeking a "special visit" need not be listed on the detainee's visitors card and may visit at any time of day (excluding feeding time).³² Contact visits are allowed for visitors listed on the authorization card.

Anyone, including visitors, may deposit money into a detainee's Facility-managed bank account.³³ The account is then accessible to the detainee through a "money chip" that the

²¹ *Handbook* at 4; *see also* *Visitors Handbook*, at 1 (revised February 2002), attached hereto as Appendix "C" ("Visitors Handbook").

²² *Tour*.

²³ (b)(6), (b)(7)c *Interview*.

²⁴ Interview with detainee (b)(6), (b)(7)c on March 7, 2002 (b)(6), (b)(7)c *Interview*".

²⁵ *Interview*.

²⁶ (b)(6), (b)(7)c *Interview*.

²⁷ *Handbook* at 5.

²⁸ However, "special visits" are allowed for persons living more than 75 miles from the Dallas facility. A person seeking a "special visit" need not be listed on the detainee's visitors card and may visit at any time of day (excluding feeding time). *Visitors Handbook* at 5.

²⁹ (b)(6), (b)(7)c *Interview*.

³⁰ *Id.*

³¹ *Visitors Handbook* at 5.

³² *Id.*

³³ *Id.* at 6-7.

detainee wears on his wrist. If not restricted, a detainee may use the money in his account to purchase food, supplies, and other items from the Facility's commissary. When making purchases at the commissary, the detainee is given a receipt that lists (1) the account balance before the purchase and (2) the account balance after the purchase; the receipt does not detail the purchase amounts.

An interview with a detainee revealed that problems exist with the current money-chip system.³⁴ When one detainee who had approximately \$140 in his account purchased food and a beverage for \$3.45 from the commissary, the commissary purportedly charged the detainee \$50.³⁵ When the detainee pointed out the error to the commissary, the commissary recognized the mistake and agreed to credit the detainee's account for the next month — but the commissary explained that “he could do nothing” until the following month.³⁶ The detainee's concern was that if he were released or transferred within the month, he would lose his money.

Another detainee complained that money deposited into the detainee's account is not accessible for the payment of court costs and filing fees.³⁷ For instance, when a person sends money to a detainee through the mail, the money is deposited in the detainee's account. In order to pay for court costs and filing fees, detainees are required to obtain money orders or cashier's checks for exact amounts to pay such costs and fees. The procedure for receiving money orders is outlined in the *Handbook*.³⁸

Another detainee claimed that if a money-chip is lost (e.g. falls out of the bracelet) it is replaced, but all of the money on the chip is lost. According to the detainee, detainees are told that there is no way of tracking or knowing how much money a detainee had on a chip when the chip was lost.³⁹

III. TELEPHONE ACCESS

The Facility appears to have a sufficient number of phones for detainee use, however, the fact that detainees are not allowed free phone calls to their legal counsel or to their Consulate is in violation of the Standards. The Standards provide that facilities shall permit detainees to have “reasonable and equitable access to telephones.”

While visiting the Facility, the delegation observed that telephones were provided in each holding area.⁴⁰ The Facility provides a minimum of one phone per cell or tank and a maximum of three phones per area or tank. The delegation did not observe any instructions on how to use the phones, and we did not observe any privacy panels placed around the phones to ensure

³⁴ (b)(6), (b)(7) *Interview*.

³⁵ *Id.*

³⁶ *Id.*

³⁷ (b)(6), (b)(7) *Interview*.

³⁸ *Handbook* at 6 and 8.

³⁹ Letter from (b)(6), (b)(7) dated March 2002 (b)(6), (b)(7) Letter”.

⁴⁰ *Tour*.

privacy. The *Handbook* did not have any instructions in it that described how to use the telephones at the Facility.

The Standards also provide, pursuant to an interim measure, that detainees in Inter-Governmental Service Agreements such as the Facility should be allowed to make free phone calls to attorneys on the list of free legal service providers, to the detainee's consulate and to other local numbers in certain circumstances. The Facility is not in compliance with this Standard. One of the detainees interviewed explained that *all* calls placed from the Facility, whether local or long distance, must be made collect.⁴¹ The detainee further explained that the Facility's phone system apparently prohibits detainees from making calls to certain regions of the country — in this instance, Arizona and California⁴² (although this could not be confirmed by any other detainee).

The Facility has no procedure for delivering messages to detainees. The Facility does have a system in place to notify detainees of a death in the family or similar family emergencies. In the event of such an emergency, a phone message is taken by the prison chaplain and delivered to the detainee. The detainees interviewed were not aware of this option.⁴³

The Facility, with the assistance of the INS, is currently in the process of implementing a new phone system that would allow a detainee to push a pre-programmed number that would directly dial the detainee's Consulate at no cost.⁴⁴ The timetable for this upgrade was not discussed. The Facility's current provider of local service is Southwestern Bell and its current provider of long-distance services is MCI-WorldCom.

IV. LEGAL MATERIALS

The Facility has sufficient library space; however, it is lacking in actual legal resources. Detainees do not have access to a photocopier. There did not appear to be any materials in any language other than English besides a Spanish/English dictionary. Furthermore, the Facility's policy that requires an officer to read detainee legal mail to verify that the documents are legal in nature before sending the mail free of charge is unconscionable in that it violates basic attorney client privileges. Detainees are also sometimes asked to choose between library time and exchanging their clothes for clean clothes.

The Standards mandate the designation of a law library in each INS facility. Each library must be large enough to facilitate detainee research and writing in a well-lit and reasonably quiet area. In addition, each library facility must have an adequate number of tables and chairs, in order to allow access to all detainees who request to use the library. The Standards also state that each facility must provide materials, equipment and library holdings sufficient to enable detainees to research and prepare legal documents.

⁴¹ (b)(6), (b)(7)c Interview.

⁴² *Id.*

⁴³ (b)(6), (b)(7)c

⁴⁴ (b)(6), (b)(7)c Interview.

A. ACCESS TO LEGAL MATERIALS

The Facility assigns a full-time officer to the library (the “Librarian”).⁴⁵ While adequately staffed, the Facility’s library is limited in the number and scope of resources it makes available to detainees.⁴⁶ For instance, none of the detainees interviewed had heard of the Florence Project’s “Know Your Rights” packet. Specifically on the topic of immigration law, the library contains only the following:

1. Administrative Decisions Under Immigration and Naturalization Laws of the United States (through 1998);
2. Interim Decisions;
3. Steel on Immigration; and
4. Department of Justice Pamphlets on assorted immigration issues (in both English and Spanish).

The materials that were available were current and up to date. The edition of the Federal Register was dated as of 2002, and pocket parts are sent regularly.⁴⁷

No formal procedure exists for requesting specific materials.⁴⁸ Detainees must ask the Librarian for a specific item, and the Librarian then requests materials from the main inmate library located at another Dallas County detention facility. However, all immigration materials are housed at the INS Detention facility and include only those listed above.

B. LIBRARY FACILITY AND HOURS

The library is housed in its own room.⁴⁹ It seats up to 18 people. The room is open and well lit. The hours are from 7:00 a.m. to 3:30 p.m., Monday and Wednesday. Access during these hours is unlimited. According to interviews with the detainees, a formal request to use the law library must be made in advance by filling out an Inmate Request Form or “Kite” (“Kite”).⁵⁰

Detainees are not asked to choose between library time and recreation time. However, because the law library time is Monday morning, which is at the same time that the detainees exchange their clothes and linen, detainees must choose between library time and exchanging their clothes and linen for clean clothes and linen.⁵¹

⁴⁵ Interview of Officer (b)(6), (b)(7)c March 7, 2002 (b)(6), (b)(7)c Interview”). Officer (b)(6), (b)(7)c is the Facility employee solely in charge of the Facility’s library. The interview also included a private tour of the library.

⁴⁶ *Tour.*

⁴⁷ (b)(6), (b)(7)c *Interview.*

⁴⁸ (b)(6), (b)(7)c *Interview*

⁴⁹ *Tour.*

⁵⁰ (b)(6), (b)(7)c

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Although the library does not offer a segregated area for private study, Officer (b)(6), (b)(7)c indicated that no one has requested such an area.⁵² The Facility provides several typewriters, but detainees do not have computer or Internet access.⁵³

C. PHOTOCOPIER AND LEGAL MAIL

The Standards require that a facility make photocopies of detainee's legal documents as required for filing. The Facility has one photocopier, and it is not located in the library.⁵⁴ Because the photocopier is not located in the library, detainees do not have access to the photocopier. Detainees are therefore required to ask the Librarian to make copies. However, this procedure regularly denies detainees access to the photocopier because the Librarian is not allowed to leave anyone unattended in the library and detainees and prisoners are always in the library during library hours. Consequently, detainees effectively have no ability to make photocopies absent a court order allowing access to the photocopier.⁵⁵ One detainee explained that in order to get photocopies for his case, he sent a letter to a friend on the "outside" with the relevant citations and had the cases and statutes sent to him.⁵⁶ Detainees are offered carbon paper.⁵⁷

According to the Standards, indigent detainees are entitled to free postage for a specified number of legal and personal documents. One detainee explained that as an indigent, he is able to mail legal documents at no cost.⁵⁸ However, the detainee complained that the Facility's officers read all such mail to verify that all documents enclosed are legal in nature before sending the mail free of charge.⁵⁹

V. GROUP RIGHTS PRESENTATIONS

The Facility does not allow any group rights presentations. The Standards provide that facilities will permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operation of the INS facility. There are currently no Groups Rights Presentations being conducted or scheduled at the Facility for the purpose of informing detainees about their rights under U.S. immigration law.⁶⁰ Insubordination concerns appear to be the overriding reason for the lack of such presentations.

52 (b)(6), (b)(7)c *Interview.*

53 *Tour.*

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57 (b)(6), (b)(7)c
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The detainees do receive an individual rights advisory and a list of free legal services available, which currently has only one organization listed — Catholic Charities Organization.⁶¹ Notably, the Facility runs the “Know Your Rights” video, created by the Florence Project, on its closed-channel network once daily on weekdays, and twice daily on Saturdays and Sundays.

VI. RECREATION ISSUES

No outdoor recreation is available in the Facility because it is a “higher security” facility.⁶² However, in other facilities utilized by the INS, such as the Denton facility, outdoor recreation is provided. Other types of recreation are available, and allowed in specific recreation/exercise rooms.⁶³ In the recreation/exercise rooms, the detainees have access to a ping pong tables (it was broken during our tour), kinetic exercise equipment, and videotapes with aerobic/cardiovascular exercise routines. The delegation was informed that the Facility does not provide free weights, because free weights could be used as weapons by the detainees and inmates.⁶⁴

The State of Texas requires that criminal inmates be provided access to exercise and/or recreation a minimum of three times per week for a minimum of one hour per session.⁶⁵ The Facility provides detainees and other inmates with five one-hour recreation/exercise sessions per week, Monday through Friday only. One detainee explained, however, that recreation time often conflicts with the evening feeding time, requiring detainees who desire recreation time to either forgo a meal or eat in the recreation area (which has no tables or chairs).⁶⁶ The Facility does not provide recreation/exercise on Saturdays or Sundays unless the normally scheduled recreation/exercise for a weekday was missed, in which case they will make up the recreation/exercise session on the weekend.⁶⁷

In addition to the physical exercise recreation available to detainees, the delegation observed televisions in each cell that received basic channels from outside the Facility.⁶⁸ The delegation also observed that television is available in the day room for detainees. Detainees appear to be allowed to possess recreation material (e.g., games and other devices that could not be used as weapons) in their cells.

⁶¹ See List of Free Legal Service Providers Dallas, Texas, attached hereto as Appendix “D.”

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

VII. CLASSES

The Facility does not provide any classes for detainees. At least one of the detainees interviewed complained that such programs have not been made available to INS detainees.⁶⁹

VIII. MEDICAL ISSUES

The Standards require that all detainees shall have access to medical services that promote detainee health and general well-being. Also, all facilities should maintain current accreditation by the National Commission on Correctional Health Care. The Facility maintains a medical staff on site and is capable of meeting any and all additional health needs of detainees through an agreement with Parkland Hospital in Dallas. Detainees indicated, however, that there were problems with the administration of medical services that have resulted in untimely or incomplete medical treatment. To receive medical attention, detainees must submit a medical request on a Kite to the officers in the Facility.⁷⁰ After a detainee submits a request for medical attention, the officers bring the request to the nurse's station, where the nurses process the request and set up a time for the detainee to see a nurse or doctor who will pre-screen the detainee. Although one of the detainees interviewed was never personally denied medical attention, he related the story of (b)(6), (b)(7)c⁷¹ whom the detainee⁷² claims repeatedly requested medical attention and was denied such treatment by the staff. The detainee further alleges that the staff insisted that (b)(6), (b)(7)c was "faking" his ailment. According to the detainee, (b)(6), (b)(7)c condition deteriorated to the point where he could not move from the floor and would urinate where he was lying.⁷³ At this point, according to the detainee, he was taken to Parkland Hospital for treatment and returned to the Facility after treatment in a wheelchair.⁷⁴

Another detainee interviewed stated that he had to wait three weeks (and ultimately file a grievance against the Facility's medical department) before he was examined by the Facility's nurse regarding a bronchial infection and complications from asthma.⁷⁵ Upon examining the detainee, the nurse gave the detainee one dose of cough medicine and never followed up with the detainee to determine whether his condition had improved. Moreover, at the time of the interview, the detainee was suffering from a skin condition that he stated had gone largely untreated for more than three weeks. As of the date of the interview, the detainee had been told that he was scheduled to visit a local hospital regarding the skin condition but had not been informed of any specific date and time for the visit.

⁶⁹ (b)(6), (b)(7)c Interview.

⁷⁰ A sample Kite is attached hereto as Appendix "E."

⁷¹ (b)(6), (b)(7)c (Nigeria) Booking Number (b)(6), (b)(7)c An interview was requested with (b)(6), (b)(7)c but he was transferred or released before our vis

⁷² Interview.

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⁷⁴ (b)(6), (b)(7)c

⁷⁵ Interview.

A third detainee stated that he entered the Facility shortly after major surgery that included, among other things, having screws inserted into his legs.⁷⁶ The screws were to be removed within ten days of his detention. At the time of the interview — over three months later — the screws had not been removed. He stated that he has not been allowed to see a specialist or receive the surgical attention he needs, but is merely given painkillers.

Detainees receive standard and emergency medical care at the Facility.⁷⁷ For major procedures, detainees are taken to Parkland Hospital. Dallas-area facilities have approximately 100 nurses and seven doctors, however, only four of them are full-time and three of them are part-time. The Facility's nurses and doctors are assigned to each of the Dallas facilities on a daily basis, and on weekends a part-time physician is always available. Nurses are available 24 hours per day, and doctors are available during normal business hours; but at least one doctor is on call 24 hours per day.

Translators are normally available to detainees seeking medical attention, if such is necessary.⁷⁸ Detainees do have a right to refuse treatment or examination. Health records for detainees may be obtained by the detainee from the Facility by submitting a notarized request or a court order.

Detainees with infectious diseases are diagnosed by the nurse practitioner or the doctor.⁷⁹ If a detainee has an infectious disease that is airborne (e.g., tuberculosis), the detainee will be quarantined. However, one detainee complained that new detainees are not screened for tuberculosis or other infectious diseases until one or sometimes two weeks after being in a tank.⁸⁰ If a detainee has an infectious disease that is not airborne (e.g., HIV), the detainee will not be quarantined unless the detainee requests such quarantine.

The Facility provides dental care three days per week for detainees.⁸¹ The Facility also provides an OBGYN doctor five days per week in the female infirmary on a full time basis. The Facility provides mental health services to detainees through a psychiatric team, consisting of a psychiatrist, counselors, social workers, and caseworkers. A detainee may obtain dental or feminine care by request; a detainee may obtain mental health care by request or by referral by one of the Facility's officers.

The health care procedures are outlined for detainees in the *Handbook*.⁸² The procedures describe what to do in case of an emergency or in case of a request for nonemergency service. The *Handbook* also describes what to do with medication, including the procedure for taking

⁷⁶ (b)(6), (b)(7) interview.

⁷⁷ Interview of (b)(6), (b)(7)c March 11, 2002 (b)(6), (b)(7) interview"). (b)(6), (b)(7)c is in charge of Dallas-area nurses for the jails, including the Facility.

⁷⁸ (b)(6), (b)(7)c interview.

⁷⁹ (b)(6), (b)(7)c Interview.

⁸⁰ (b)(6), (b)(7)c letter.

⁸¹ (b)(6), (b)(7)c Interview.

⁸² *Handbook* at 11.

medications, and the restrictions on whether detainees may pick up medications for other detainees and a prohibition on sharing medication with other detainees.⁸³

IX. RELIGIOUS ISSUES

In violation of the Standards, the Facility does not provide special diets for the detainees based upon the detainees' specific religious requirements. The Standards require that Detainees of different religious beliefs shall be provided with reasonable and equitable opportunities to participate in their religion and such opportunities will be available regardless of the prevalence of the religion in the particular facility.

Religious requests are handled by the Inmate Program Division of the Facility.⁸⁴ Regular religious services are offered on site. Bible study meetings are offered several times per week (at least twice that the delegation was able to confirm) by volunteers from outside organizations. In addition to the Bible study opportunities during the week, denominational services are available to detainees on the weekends. On Saturday, a Catholic Mass is available to detainees. On Sunday, several Christian denominations are represented. In any event, a third-party organization, typically a volunteer group from a local church, visits the Facility on Saturday and Sunday. The Facility performs background checks on all volunteers providing religious services to detainees, but typically the organization brings the same volunteers on a weekly basis.

In addition to the services available to Catholic and other Christian denominations, Muslim and Jewish ceremonies are provided.⁸⁵ While these services are typically not provided on a regular basis, they do include services for respective holy days.

In addition to regularly scheduled religious services, all detainees may request a visit from a chaplain or other religious leader.⁸⁶ The Inmate Program Department maintains a list of current contacts for a variety of religious organizations, so that if a detainee requests a particular type of religious counseling, the Inmate Program Division can give a referral to a leader from that religious organization, after which a meeting can be set up for the detainee to seek religious counseling.

The Facility does not provide special diets for the detainees based upon the detainees' specific religious requirements.⁸⁷ The Facility maintains a registered, licensed dietician on staff, but special dietary requirements are only permitted for medical purposes (e.g., no salt diets, diabetic diets, etc.).⁸⁸ If a detainee requires a specific diet for religious reasons, the detainee may be (but is not required by the INS to be) moved to another INS facility;⁸⁹ for example, a detainee

⁸³ *Id.*

⁸⁴ (b)(6), (b)(7)c interview.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Interview of (b)(6), (b)(7)c on March 18, 2002 (“(b)(6), (b)(7) Interview”) (registered, licensed dietician for the Facility); Interview of Capt. (b)(6), (b)(7)c on March 18, 2002 (“(b)(6), (b)(7)c Interview”).

⁸⁸ (b)(6), (b)(7)c interview.

⁸⁹ (b)(6), (b)(7)c Interview.

may be moved to the Denton facility, which provides special diets for religious-based reasons. Typically, officers will report on detainees who are not eating due to religious reasons.⁹⁰ Based on this report, the INS will evaluate the validity of the detainee's desire for a special diet based on religious requirements, and attempt to move the detainee to another INS facility.⁹¹

Detainees are allowed to have one Bible or other soft cover book for religious purposes.⁹² Detainees are also allowed to have "valid" religious documents; however, such documents may be in English only.⁹³ For example, a religious text written in Arabic may not be kept by the detainee because Facility personnel are not able to determine that such a document is a bona fide religious document. Detainees are allowed to access religious documents in their own language, but only by requesting that such documents be kept in the library.⁹⁴ If a detainee requests that a religious document in his or her native language be kept in the library, the library will order the document from a retail distributor, in order to ensure that the documents are bona fide religious documents.

Other than religious books and documents, detainees are allowed to keep reasonable religious medallions or other small religious items on their person or in their cells.⁹⁵ For example, a detainee may keep a small cross or rosary beads, but a detainee may not keep any item that could be used as a weapon. Detainees are also not allowed to wear special religious clothing (i.e. hats, yarmulkes, or special clothing), because all detainees are required to wear the specified Facility jumpsuit.

X. OTHER ISSUES

A. DETAINEE CLASSIFICATION

The Facility maintains the detainees in separate units from the general population for the majority of the time and also has provided for disciplinary segregation. These procedures are in place to ensure the safety of the detainees and appear to satisfy the Standards. The Standards require that the Facility establish a Special Management Unit that will isolate detainees from the general population of a facility for either administrative or disciplinary reasons.

Detainees are organized within the Facility based on like charges and criminal sophistication.⁹⁶ Detainees are also classified by security risk, but are not commingled with criminal inmates. A detainee pointed out that while detainees do not share a tank with criminal inmates, they do commingle with them during exercise time.⁹⁷ Another detainee stated that

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94 *Id.*

95 *Id.*

96 *Id.*

97 (b)(6), (b)(7) *Interview.*



detainees also co-mingle with criminal inmates during library time and at religious services.⁹⁸ Detainees may also be classified based on medical needs, protective segregation, escape risk, diet, or administrative and disciplinary segregation.⁹⁹ Detainees are, of course, segregated based on gender.

In addition to other classifications and segregation, the Facility provides protective custody to detainees.¹⁰⁰ Protective custody typically involves three categories: homosexuals, detainees who lives have been threatened by other detainees or inmates; and known gang members. Protective custody typically involves three- to six-man tanks, but 12-man tanks are used for protective custody for homosexuals. The Facility does provide medical quarantine, but medical quarantine is only provided either (a) at the request of a detainee with a diagnosed communicable disease, or (b) if an airborne communicable disease is diagnosed.¹⁰¹

B. ACCOMMODATIONS

The *Handbook* provides that “[C]lean linens are provided for each person entering the facility to include two sheets, one towel, one hand towel, one pillow case, and two blankets.”¹⁰² The Handbook also provides a schedule for laundering linens, personal items, and jumpsuits.¹⁰³

Detainees sleep in two-bed cells housed in multi-housing units or “pods.”¹⁰⁴ Toilets are available in each cell; showers are available in each “pod.” The pod sizes vary from 2-4, 4-8, 6-10, and 10-12 detainees per pod.¹⁰⁵ Detainees are provided with a jumpsuit, shoes, socks, and underwear, all of which are laundered once per week.¹⁰⁶ Detainees are also provided with a linen change consisting of fresh sheets once per week.¹⁰⁷ One detainee complained of not being given a blanket.¹⁰⁸ The detainee stated that the linens provided were not sufficient to keep him warm. The detainee further stated that detainees often use newspaper to cover themselves at night — a practice discouraged by Facility staff.

Free hygiene packages consisting of a razor, comb, toothpaste, toothbrush, shampoo, and deodorant are provided to each detainee upon arrival.¹⁰⁹ Replacement hygiene packages are

⁹⁸ [REDACTED] Interview.

⁹⁹ (b)(6), (b)(7)c [REDACTED] Interview.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*; (b)(6), (b)(7)c [REDACTED] interview.

¹⁰² *Handbook* at 3.

¹⁰³ *Id.*

¹⁰⁴ *Tour.*

¹⁰⁵ *Id.*; (b)(6), (b)(7)c [REDACTED] interview.

¹⁰⁶ *Handbook* at 7, 9; (b)(6), (b)(7)c [REDACTED]

¹⁰⁷ *Handbook* at 3.

¹⁰⁸ (b)(6), (b)(7)c [REDACTED]

¹⁰⁹ *Handbook* at 3; (b)(6), (b)(7)c [REDACTED]

delivered to “indigent” detainees (i.e., detainees with less than \$5 in their detainee account for a period of 72 hours or longer) every two weeks.¹¹⁰

The detainees are responsible for cleaning their own tanks. Although the Facility’s procedures require that cleaning supplies (i.e., mops, brooms, etc.) be provided to the detainees three times daily,¹¹¹ one detainee complained that such supplies often are not supplied.¹¹² As a result, dust and dirt accumulate in the cells, inhibiting the detainee’s breathing (the detainee suffers from asthma).¹¹³

C. PERSONAL ITEM RETENTION

As prescribed by the *Handbook*, detainees are permitted to retain only the following items: small religious items (English-language only), soft-covered religious and secular reading materials, a small “cross” or other religious medallion, rosary beads, legal documents and papers, prescription glasses, dentures, and prescription medication.¹¹⁴ Other property is itemized and stored by the Facility.¹¹⁵

D. DIETARY REQUIREMENTS

The Facility has a licensed, registered dietician on staff, with a bachelor’s degree and specialized dietary training.¹¹⁶ Diets endeavor to include 2900 calories per day.¹¹⁷ Detainees do not help in food preparation.¹¹⁸ The daily cost of food per detainee, for the fiscal year beginning October 1, 2000 through September 30, 2001, was \$.572 for food only, \$.830 total cost (excluding depreciation of property and equipment).¹¹⁹

E. DETAINEE WORK PROGRAM

While work opportunities are made available to inmates, they are not made available for the INS detainees at the Facility.¹²⁰ When asked about the work program, one detainee

¹¹⁰ *Handbook* at 7.

¹¹¹ *Handbook* at 9.

¹¹² (b)(6), (b)(7)c *Interview*.

¹¹³ *Id.*

¹¹⁴ *Handbook* at 3, 10.

¹¹⁵ *Id.* at 3.

¹¹⁶ (b)(6), (b)(7)c *Interview*.

¹¹⁷ *Id.*

¹¹⁸ [REDACTED]

¹¹⁹ (b)(6), (b)(7)c

¹²⁰ [REDACTED]

explained that they were not allowed to participate in the program because they are not trusted.¹²¹

F. GRIEVANCE AND DISCIPLINARY PROCEDURES

The Facility has established and maintains a detailed grievance procedure applicable to criminal inmates and detainees alike. The Standards require that the Facility develop and implement a standard operating procedure that addresses detainee grievances. These procedures should establish reasonable time limits for addressing grievances through investigations, responses, hearings and rulings.

The grievance procedures for detainees are outlined in the *Handbook* and are regulated and administrated internally by the Facility, not by the INS.¹²² Detainees are instructed to file a written grievance (Kite) to appeal or protest the following: (1) any violation of civil rights; (2) any criminal act by detainees or Facility staff; (3) any proscribed act by Facility staff; (4) the denial or failure to allow access to any privilege without just cause or due process.¹²³ The Kite allows detainees approximately half a normal page of paper to describe their request. Kites are placed in one of several collection areas and collected by staff on a daily basis.¹²⁴ Detainees typically file grievances regarding four basic problems: detention staff; food; the library; and abridgement of rights.¹²⁵ The chief grievance officer at the Facility is Officer (b)(6), (b)(7)c.

Detainees are informed that all grievances will be forwarded to the Inmate Grievance Board for review. Actions of the Inmate Grievance Appeal Board will be final.

The *Handbook* also defines five categories of rule violations, outlining possible sanctions for each category depending on the severity of the infraction.¹²⁶ The violations are divided into two basic categories — Minor and Major.¹²⁷ When a violation occurs, the detainee will be cited by the officer observing the violation.¹²⁸

Minor infractions are divided into two categories: “Section A” violations and “Section B” violations.¹²⁹ A listing of Section A and Section B violations is provided in the *Handbook*.¹³⁰ The basic difference between Section A and Section B violations is the length of restriction

¹²¹ (b)(6), (b)(7)c Interview.

¹²² *Handbook* at 16.

¹²³ *Id.*

¹²⁴ (b)(6), (b)(7)c Interview.

¹²⁵ *Id.*

¹²⁶ *Handbook* at 12.

¹²⁷ *Id.*

¹²⁸ (b)(6), (b)(7)c Interview.

¹²⁹ *Handbook*. at 12-13.

¹³⁰ *Id.*

assessed against the detainee. While detainees are restricted for two to 10 days for Section A violations, they are detained for five to 15 days for Section B violations.¹³¹

When a Facility staff member observes and cites a detainee for a Minor violation, the detainee will soon thereafter receive a copy of the violation report.¹³² At least 24 hours after receiving notice of the violation, the detainee will attend a Minor disciplinary board hearing at which guilt or innocence is determined. The Minor disciplinary board consists of the INS supervisor and one non-officer from a different shift than the shift on which the violation occurred. For example, if a detainee is accused of violating a Minor rule at 5:00 p.m. on a Monday, the detainee will receive a hearing no sooner than 5:00 p.m. on Tuesday. The hearing occurs during a different shift in order to ensure impartiality. The delegation was unable to determine if there is a maximum time limit within which the hearing must occur, but the sense of the delegation was that hearings invariably are held at the earliest possible opportunity.

Major violations are also divided into three categories: Section C, Section D, and Section E violations.¹³³ A Section C violation typically results in between five and 20 days of restriction; Section D, ten to 25; Section E, 15 to 30 days. A listing of Section C, Section D and Section E violations is listed in the *Handbook*.

For a Major violation, the accused detainee has ten days to prepare for the hearing in order to gather witnesses and any other evidence or advice.¹³⁴ While no one from the delegation was able to confirm this, it appears that detainees are not allowed to be represented by an attorney in such a hearing. The board for a Major disciplinary hearing typically consists of three Facility-employed non-officers. The board hears the case and determines the innocence or guilt of the detainee on the alleged Major violation. Although not officers of the Facility, the three-member Major disciplinary board typically consists of employees of the Facility; otherwise, the detainee's case may be delayed for an extended period of time because it is practically impossible to get volunteers from outside the Facility to sit on the board. Again, the board consists of individuals that did not witness the infraction to ensure impartiality. Hearings for major rules violations are video taped by the Facility.

For both Minor and Major rule violations, the punishments are assessed and implemented immediately following the hearing.¹³⁵ All disciplinary hearing board decisions are final — no specific review or appeal system exists.

G. IMMIGRATION COURT

There is no immigration court at the Facility.¹³⁶ The nearest immigration court is located at 1100 Commerce Street, the Earl Cable Federal Building (located three blocks from the

¹³¹ *Id.*

¹³² (b)(6), (b)(7)c interview.

¹³³ *Handbook* at 13-15.

¹³⁴ *Id.* at 15.

¹³⁵ *Id.*

¹³⁶ (b)(6), (b)(7)c interview.

Facility). The Facility has established procedures for transportation to and from the court. The court will submit a list of specific detainees for which it has judicial business. The detainees listed by the court are considered to be “down and out,” which means that they are released from the Facility, but are not fully released. The detainees are then transferred from the Facility to the Dallas INS office, located at 8101 North Stemmons Freeway, Dallas, Texas 75245. The detainees are processed and then transferred to the court from the INS office.

Once at the Federal Building, a detainee will be held in the detention facility until the detainee is called into court.¹³⁷ After the court concludes the detainee’s judicial business, the detainee is returned to INS headquarters, where the detainee is again processed, and any action following from the judicial action is taken. The detainee is then returned to the Facility. Typically this process begins at 5:00 a.m., but may begin as early as 4:00 a.m. or as late as 6:00 a.m. From 7:00 a.m. to 8:00 a.m., the detainees are actually at the INS facility. Typically the court hearings for detainees occur between 8:00 a.m. and 9:00 a.m. Usually the detainees will be at the Federal Building for approximately two hours. Detainees who have morning hearings are usually returned to their cells at the Facility around 2:00 p.m. Detainees who have afternoon hearings are typically returned to the Facility by 5:00 p.m.

While being transported to court, the detainees are fed cold meals usually consisting of sandwiches that are delivered every two weeks to the INS facility. An interview with a detainee revealed that the detainees are often asked to choose between eating and making their court appearance.¹³⁸ The detainee stated that although he awakened at approximately 4:30 a.m. and arrived at the INS facility at around 7:00 a.m., he was not given his meal until it was time for him to make his court appearance at lunch time. INS staff then asked the detainee whether he wanted to eat or appear in court. The detainee suggested that meals could be provided well before the detainee is to appear before the court; therefore the choice between eating and going to court would be moot.

The detainees are restrained throughout their transfer from the Facility, INS headquarters, and the Federal Building.¹³⁹ Typically, the restraint involves handcuffs—which is a lesser degree of restraint than is used for criminal inmates. If a detainee has posed a problem in the past, however, additional restraints are used as necessary.

The average wait before an individual detainee receives his or her first court hearing depends upon the action of the immigration court.¹⁴⁰ After a detainee is detained, he has 72 hours before a notice to appear or charging document must be filed. Pursuant to INS policy, a detainee should receive his first hearing within 30 days. For instance, one detainee had his first hearing after being detained for less than 15 days.¹⁴¹ However, in the delegations’ interviews with other detainees, the delegation discovered that this policy was not being enforced: one

¹³⁷ *Id.*

¹³⁸ [REDACTED] interview.

¹³⁹ [REDACTED] Interview.

¹⁴⁰ (b)(6), (b)(7)c

¹⁴¹ [REDACTED] interview.

detainee had his first hearing after being detained five weeks,¹⁴² while another detainee had his first hearing after being detained over nine months.¹⁴³

CONCLUSION

Based on the delegation's interviews and tour, it appears that some of the Facility personnel and the INS are generally aware of the Standards and have made an effort to be fair to the detainees. However, it does not appear that any specific efforts have been made to bring the Facility into compliance with the Standards. In fact, when asked about certain Standards relating to issues such as group rights presentations or outdoor recreation, the Facility stated frankly that this Facility would not be able to comply with those Standards. Of particular concern to the delegation were (1) reports by detainees of inadequate medical access, (2) inadequate legal access including, charges for phone calls to counsel and consulates, a significantly incomplete legal library, lack of access to a photocopier and an unconscionable process of reading legal mail to determine whether in fact it is legal mail, and (3) a general feeling among the detainees that they were abandoned in the Facility with little or no contact with the INS and in several cases little or no understanding of the status of their cases. While the Facility has until December 2002 to achieve compliance with the Standards, significant work must be done and several areas must be improved upon before the Facility will reach compliance with the Standards.

¹⁴² [REDACTED] *Interview.*

¹⁴³ (b)(6), (b)(7) [REDACTED] *Interview.*