

	[as set forth in the ‘Recreation’ standard] to use the law library.”	obtain library access the detainees must choose between outside recreation and the library.		
Health Services Standard 2 – Medical Care	<ul style="list-style-type: none"> III(A) – “A health care specialist shall determine medical treatment, except when there is disagreement on the type or extent of treatment that is medically necessary.” 	<ul style="list-style-type: none"> Interviewed detainees stated that when they are in need of medical attention they can fill out a request to see a nurse. However, Osborn charges \$3.00 to talk to a nurse; an expense that could be prohibitive in many cases 	<ul style="list-style-type: none"> Notes of delegation members (b)(6), (b)(6) 	
Detainee Services Standard 4 – Detainee Classification System	<ul style="list-style-type: none"> III(A) – “The facility shall abide by ICE policy, rules, and guidelines as set forth in this Standard and implement the attached Detainee Classification system for classifying detainees.” III(E) – “All facilities shall ensure that detainees are housed according to their classification level [within the prescribed 3-level system].” 	<ul style="list-style-type: none"> All detainees are classified level 3 and are housed with level 3 inmates. Six of 197 detainees are non-criminal detainees. 	<ul style="list-style-type: none"> Delegation observation Notes of delegation member (b)(6) 	
Security and Control Standard 12 – SMU (Disciplinary Segregation)	<ul style="list-style-type: none"> III(D), §15(c) – “Access to legal and non-legal reading material shall be as follows: Requests for access to legal material shall be accommodated as soon as possible, but in no case more than 24 hours after receipt of the initial detainee request to retrieve documents, except for documented security reasons.” 	<ul style="list-style-type: none"> “F-Block” is used for inmates and detainees with discipline problems. In F-Block there is no access to the library and no library cart. 	<ul style="list-style-type: none"> Notes of delegation member (b)(6) 	

MEMORANDUM

TO: Victor Cerda, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement
FROM: American Bar Association Delegation to the Osborn Correctional Institution
CC: Andrea Siemens, ABA Commission on Immigration
RE: Report on Observations of the Detention Standards at the Osborn, CT facility
DATE: September 14, 2004

This memorandum summarizes and evaluates information gathered at the Osborn Correctional Institution, Somers, Connecticut ("Osborn"), through interviews with detainees, observation by the delegation staff,¹ and discussions with Immigration and Customs Enforcement (ICE) and Osborn personnel on the June 29, 2004 visit.

ICE Detention Standards

The former Immigration and Naturalization Service promulgated the "*INS Detention Standards*" in November 2000 to insure the "safe, secure and humane treatment of individuals detained by the INS."² The thirty-six *Standards* contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These standards apply to ICE Service Processing Centers (SPC), Contract Detention Facilities (CDF), and state and local government facilities used by the ICE through Intergovernmental Service Agreements (IGSA). The Detention Standards went into effect at ICE SPCs on January 1, 2001. The ICE proposed to phase-in the standards in its contract facilities, and state and local facilities, by the year 2003. The ICE Detention Standards constitute a "floor" not a "ceiling" for treatment of ICE detainees. In other words, they are meant to establish the minimal requirements that ICE must adhere to in its facilities. Each Field Office or Officer in Charge (OIC) may, in his or her discretion, promulgate policies and practices affording ICE detainees more enhanced rights and protections than those provided for by the *Standards*.

Introduction

Osborn Correctional Institution is a Level 3-security prison used to house male detainees on behalf of the ICE through an IGSA. Currently, approximately 1,800 men are housed at Osborn. Of these, 192 are detainees.

Detainees interviewed by the delegation staff reported that they had initially been arrested for a criminal offense. Typically, a few days before the end of their sentence, the men were informed that they would be turned over to the custody of the ICE. The status of the detainees interviewed ranged from awaiting deportation to awaiting a decision on an "S"

¹ The delegation was comprised of (b)(6) Esq., Pepe & Hazard LLP; (b)(6) Esq., Pepe & Hazard LLP; (b)(6) Esq., Pepe & Hazard LLP; (b)(6) Esq., Pepe & Hazard, LLP; and (b)(6) Ph.D. a.k.a. (b)(6) Lawyers Without Borders.

² Now U.S. Immigration and Customs Enforcement (ICE).

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visa.

This memorandum discusses the delegation's observations of the Osborn facility's implementation of the *Standards*. The memo focuses on select portions of the standards where implementation is of particular importance for the achievement of ICE's stated goal to insure the "safe, secure, and humane treatment" of ICE detainees. In particular, this memo focuses on the following *Standards*: (1) Legal Access; (2) Telephone Access; (3) Access to Legal Materials; and (4) Group Rights Presentations, as well as additional observations.

I. Observations of Implementation of Legal Access Standards

A. Legal Access/ Visitation

The range of permissible visitors includes: Consular officials, attorneys, legal representatives, friends, family, and media.

1. Visitation by Attorneys

The *Standards* provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants and to meet with their consular officials. The Standards specify that legal visitation should be allowed seven days a week for a minimum of eight hours on weekdays and four hours on the weekends.¹ However, the Facility policy indicates that detainee access to attorneys and other legal professionals is limited to the normal visiting hours of the Facility.³

Legal representatives may visit detainees seven days a week at Osborn. Attorney visits may occur during regular visiting hours or at other times if arranged in advance through the facility and any reasonable request for an attorney visit is accommodated.⁴ There are two attorney visiting rooms adjacent to the public visitor's area. These private rooms are available to inmates and detainees on a first come, first serve basis but may be reserved in advance of a visit.

2. Visitation by Family/Friends

Detainees at Osborn are permitted to meet with approved visitors subject to the visiting schedule and security requirements. The facility maintains a Visiting List of those persons authorized to visit detainees. Visitors are generally approved, up to seven persons per detainee, unless they possess a prior criminal history; exceptions are generally made for immediate family members. Minors may visit if accompanied by an authorized adult immediate family member who is on the approved visitor list. Visiting schedules are posted in the housing units, reception area, and visitors' area. There is also a schedule of visitation hours and procedures contained in the

³ Inmate Handbook, Section 2.10 (I) Privileged Visit

(b)(6) s notes

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Inmate Handbook⁵. Detainees with family members who demonstrate hardship may request and be approved for special visiting hours.⁶ A visitation log is maintained at Osborn and procedures are posted pertaining to visitors' search and identification requirements. There is contact visiting at the Osborn facility and detainees are subject to strip-search and pat-downs after visits.

B. Telephone Access

The *Standards* provide that facilities shall permit detainees to have reasonable and equitable access to telephones. Generally, at least one telephone must be available for every 25 detainees.⁷ In regard to detainees at Osborn there are two facets to the Facility's detainee telephone access. When detainees are picked up in Hartford and are in the holding cell in Hartford, they have access to free telephone calls to consulates, embassies, and attorneys.⁸ Detainees in Hartford are encouraged to use the telephone and signs, both in English and Spanish, which are posted to that effect.

ICE has been working to establish an identical phone system at Osborn and the system has received the appropriate administrative approvals. However, installation and implementation of a similar system at Osborn has been delayed because of disputes between two competing communication systems.⁹ In the interim, detainees are generally subject to the current Facility phone system.

Telephone procedures are set out in Section 2.11 of the Inmate Handbook. Currently, calls to attorneys are limited to two (2) per month. These calls are non-recorded and non-monitored and must be made collect. Advance arrangements through a Unit Counselor must be made in order to make those calls.¹⁰ One detainee reported that the Unit Counselor is helpful.¹¹ Staff places the call for verification and maintains observation of the detainee outside the listening range, thereby allowing the detainee reasonable privacy. Attorney calls are limited to 30 minutes. Detainee phone calls other than to counsel are monitored. Signs in English and Spanish concerning monitoring are posted by the telephones. Special access numbers will be available to detainees when the new system is installed.

Administrators at the Facility indicated that detainees are notified of calls that are made to them, however, interviewed detainees stated that messages are not forwarded.¹² Emergency phone call messages are immediately given to all inmates, including detainees. The procedure for placing an Emergency phone call is found in the Inmate Handbook.¹³

⁵ Inmate Handbook, Appendix C

⁶ (b)(6) notes

⁷ DOM, Standard 14, Telephone Access

(b)(6) s notes

Id

¹⁰ (b)(6) notes

¹¹ (b)(6) report

¹² (b)(6) s report; (b)(6) s report; (b)(6) report

¹³ Inmate Handbook, Section 2.11(J)

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The general procedure for telephone calls, as stipulated in Section 2.11 of the Inmate Handbook, is as follows: Each housing unit has collect call telephones. An inmate may enroll in a telephone privilege program. Once enrolled, the inmate submits each phone number that the inmate intends to call—up to ten for approval. These numbers are then programmed into the collect call system. These are the only numbers that the inmate may call from the collect call systems. Inmates can change these numbers every thirty (30) days. Inmates must sign up to use the telephone on a first come, first served basis. Each time slot is 15 minutes. Inmates may not sign up for two consecutive time slots. An interviewed detainee noted that guards “rush” inmates who are making calls.¹⁴ One detainee stated that he knows that there are specific scheduled phone times, but he says there is no privacy, and the phones are often “very busy.”¹⁵

Although the current phone system is less than desirable, when the new phone system is installed Osborn detainees will have greater access to phones, at a level comparable to the ICE standards.

C. Legal Materials

The *Standards* mandate the designation of a law library in each ICE facility.¹⁶ Each library must be large enough to facilitate detainee research and writing in a well-lit and reasonably quiet area. In addition to size, each library facility must have an adequate number of tables and chairs in order to provide access to all detainees who request to use the library. It must also provide materials, equipment and library holdings sufficient to enable detainees to research and prepare legal documents.

A. Library Conditions and Access

Osborn maintains the largest prison law library in the state.¹⁷ The prison spends about \$30,000 a year to update the legal materials.¹⁸ The library occupies a separate room in the prison and contains several tables and chairs where the inmates can sit. The library has a maximum capacity of 40 people, providing reasonable access to all detainees who request its use. The Law Library is housed within the main library. Denials of access to the library are only given if the library is over its limit, or the inmate/detainee has lost the use of recreation as a result of disciplinary procedures.¹⁹

The ICE *Standards* state that each detainee should be permitted to use the library for a minimum of five (5) hours per week, and those detainees should not be forced to forego their minimal recreation time to use the library.²⁰ Osborn has not conformed to this ICE standard. Detainees at Osborn are offered library access only 75 minutes every other weekday during the

¹⁴ (b)(6) report

¹⁵ (b)(6) report

¹⁶ DOM, Standard 1, Access to Legal Material.

¹⁷ (b)(6) s notes

¹⁸ (b)(6) s notes

¹⁹ Information verbally conveyed by the Librarian to (b)(6)

²⁰ DOM, Standard 1

summer. In the winter, library access increases to 90 minutes/ 7 days a week.²¹ To obtain library access the detainees must choose between outside recreation and the library, this is in direct contradiction with the ICE standard mentioned above.²²

B. Materials Identified in Attachment A of the Standards

Per DOM Standard 1, Access to Legal Materials, the library should contain the publications listed in Attachment A of the *Standards*. Because the prison normally handles criminal law, the immigration law is still new to them. The library only had a limited number of legal books on immigration. The library has however separated some major immigration cases into its own separate notebook that is tabbed by the case name.²³ In addition, there is an inmate who works in the library to help other inmates use the law books. The library had no legal materials in a foreign language, but one Library Clerk does speak Spanish.²⁴

The library receives donations, for example the Federal Digest, from different organizations. However, once these books are donated, they are usually out of date so they are not very helpful. The Librarian explained that it has been years since an inmate has requested a book. However, if an inmate requests one that is not part of the Osborn Library collection, the Librarian would request it from the State Library in Hartford.

C. Photocopies

Per the *Standards*, facilities must make copies of detainees' legal documents as required for court filings.

At Osborn, if the detainee is going to court the library will make copies for him. However, if the detainee wants copies for any other purpose the library charges 25 cents a page.²⁵ Sometimes this is waived for the ICE detainees.²⁶ If the inmates have less than \$5.00 in their inmate account they are considered indigent and the prison will give them any needed essentials.²⁷

D. Computer Access, Equipment and Holdings

The *Standards* require that an adequate number of typewriters, and/or computers, carbon paper, writing implements, writing tablets and non-toxic liquid paper are available for use by the detainees.²⁸

The library did appear to have adequate equipment for detainees to prepare their own

²¹ (b)(6) notes
²² and (b)(6) report; (b)(6) report; (b)(6) report
²³ s notes
²⁴ (b)(6) s notes
²⁵ s notes
²⁶ Verbal communication from the Librarian to (b)(6)
²⁷ Verbal communication from a Prison Official to (b)(6)
²⁸ DOM, Standard 1, Access to Legal Material.

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legal documents.²⁹ Pens and paper were available in the library for detainee use. Detainees do not have access to computers right now, but they do have access to typewriters. At the time of our visit the typewriters were no longer available pending purchase of typewriter ribbons.³⁰ Computers have been set up, but the facility is waiting for certain information in order to let the inmates use the computers.³¹ Once the computers are available the detainees will still not have access to the Internet.

V. Group Rights Presentations

The *Standards* provide that facilities shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operations of the IGSA.³² All facilities must cooperate fully with authorized persons seeking to make such presentations.

The ICE Field Officer would be accommodating to any group wishing to make a group legal rights presentation within the guidelines. This was evidenced by the ICE Field Officer's willingness to host the delegation staff, and his full cooperation in allowing the delegation to interview several detainees as it requested. In addition, the ICE Field Officer verbally agreed to permit any attorneys, non-profits, or BIA certified organizations to make group presentations. The Prison Major noted that to date, no organization had requested permission to make a group presentation, and that therefore no group rights presentations had been made.

VI. Recreation Issues

The *Standards* require that facilities housing ICE detainees must provide "recreational programs and activities, under conditions of security and supervision that protect safety and welfare..." with every effort made to provide outdoor recreation (weather permitting).³³ Osborn has satisfied the *Standards* with its outdoor and indoor facilities and recreation programs.

The *Standards* require a recreation specialist if the facility houses more than 350 detainees. There are two recreation specialists at Osborn, and all equipment is checked routinely for damage and to ensure safety.³⁴

There is daily recreation time for all inmates, including detainees, seven days a week for approximately one hour per day.³⁵ This transcends the floor set by the *Standards* of one hour per day, five days per week. There are playing fields available for softball, and soccer as well as outdoor basketball courts. The indoor facilities include basketball courts, universal weights and

²⁹ (b)(6) notes

³⁰ Verbal communication from the librarian to (b)(6)

³¹ (b)(6) notes

³² DOM, Standard 8, *Group Presentation on Legal Rights*.

³³ Detainee interviewed by (b)(6) and (b)(6) indicated that he receives daily recreation time, and opts for it in favor of library time. Games are available, and the detainee prefers to spend the time playing Dominoes, but occasionally he partakes in soccer games held on the external field.

³⁴ (b)(6) notes

³⁵ Several detainees interviewed indicated that recreation period lasts approximately 45 minutes. See (b)(6) and (b)(6) report. Osborn officials represented that recreation lasts for at least one hour. (b)(6) S notes.

board games. Detainees are also permitted to engage in sedentary indoor recreation activities (i.e., board games, chess, dominoes) in the day rooms in their respective cell blocks. Although Osborn meets the recreation *Standards*, one problematic fact is that detainees must forego recreation in order to use the library.³⁶

VII. Grievance and Disciplinary Procedures

The Standards require the facility to have a “standard operating procedure” to address grievances, which establishes a reasonable time limit for processing and responding to grievances, convening a grievance committee to review complaints, and providing written responses to formal grievances. There must also be procedures for informal resolution of oral grievances.³⁷

The Inmate Handbook for the Osborn Correctional Institution provides for a three-tier system for resolving inmate grievances.³⁸ The first tier allows for oral resolution of problems through verbal contact with the staff member in charge (i.e., the housing unit officer, unit treatment officer, unit counselor or unit manager). This is intended to be a first step before appealing to a supervisor.³⁹

There is also an Inmate Request System, which provides an informal way of obtaining information or a written answer to a question or an issue about a policy, procedure or practice. This system requires the inmate to submit a request form (Form CN 9602) to a staff member, up to and including the warden. The request system serves as the “Informal Resolution” process in the inmate grievance procedure (see next paragraph).

Finally, there is an Inmate Grievance Procedure which allows an inmate to obtain a formal disposition of an issue or a problem from the unit administrator or official above the unit administrator.⁴⁰ This procedure requires the inmate to fill out a grievance form (Form CN 9601) within thirty (30) days of the cause of the grievance, to attach a copy of the Inmate Request Form, and to deposit the grievance in the Inmate Grievance Procedure box. These grievance forms are available from the housing unit officer. The grievance coordinator collects the grievances from the box and makes a preliminary determination whether the matter is grievable. The Inmate Handbook is clear that not all issues are grievable. Grievable issues are limited to the following:

1. The interpretation and application of policies, rules and procedures of the unit, division and department.
2. The existence or substance of policies, rules and procedures of the unit, division and department.

³⁶ (b)(6) report; (b)(6) report

³⁷ DOM, Standard 18, *Detainee Grievance Process*.

³⁸ Inmate Handbook, Section 1.12.

³⁹ Inmate Handbook, Section 1.12.B.

⁴⁰ Inmate Handbook, Section 1.12.D.

3. Individual employee and inmate actions, including any denial of access of inmates to the grievance procedure other than as provided herein.
4. Formal or informal reprisal for use of or participation in the grievance procedure.
5. Any other matter relating to access to privileges, programs and services, conditions of care or supervision, and living unit conditions within the authority of the Department of Correction, except as noted herein.
6. Property loss or damage.

Not grievable are:

1. State and federal laws and regulations.
2. State and federal court decisions;
3. Actions pursuant to the code of penal discipline;
4. Classification decisions;⁴¹
5. The designation of an inmate as a security risk group member or a security risk group safety threat member;
6. Health services diagnosis or treatment decisions;⁴² and
7. Matters beyond the control of the department, including parole decisions.

If the matter is grievable, the matter will be investigated. The warden is required to provide a formal response to the grievance within thirty (30) days after the grievance is received. The unit administrator is the Level 1 review. If the grievance is rejected or denied at Level 1, an inmate can appeal to Level 2 within five days. Instructions for how to appeal are contained on the grievance form. There are a total of three levels. Not all grievances can be appealed to Level 3, however.

There is also a procedure for emergency grievances for matters which involve a threat of death or injury to the inmate, present a threat of disruption to the facility, endanger the inmate's physical safety or health, or become an emergency because the time is lapsing when meaningful action or a decision is possible. Emergency grievances must be submitted directly to a staff member, rather than being deposited into the grievance box. Responses to emergency grievances must be prompt (*i.e.*, 8 hours for a verbal response at Level 1).

⁴¹ These are appealable through the classification procedure provided in Administrative Directive 9.2, Inmate Classification.

⁴² Health services diagnosis or treatment decisions are appealable through a health services appeal process.

With respect to medical and health related grievances, these must be placed in the medical grievance box at the entrance to the hospital in the facility. These are not to be placed in the inmate grievance box located in the main corridor. The health services grievance coordinator will then pick up the grievance and it will be processed through the health services chain of command.

A summary of the inmate grievance procedures is included in Appendix B to the handbook. Moreover, questions about the use of the inmate grievance procedure may be sent to the grievance coordinator on a request form. A copy of the inmate grievance procedure is to be provided to all newly admitted inmates at orientation, and may also be obtained upon request from the unit counselor. The names of the grievance coordinators are required to be posted on a bulletin board.

Although there are various references to a separate inmate grievance procedure document, which is also contained in "Administrative Directive 9.6, Inmate Grievances," those documents were not provided to us during our review of the facility.

In touring the Osborn Correctional Institution, we confirmed that there was a grievance box located in the main hallway which inmates pass daily on the way to and from meals, recreation, work and/or school. There is also a grievance counselor to handle these grievances. We did not note whether there was a separate grievance box in the disciplinary segregation area. There is also a special mailbox in the hallway by which detainees can submit grievances directly to the ICE. From our interviews with inmates, however, it appears that the purpose for this box was never explained to the detainees and, therefore, they did not realize they could submit grievances directly to the ICE using this box.

From our conversations with the staff and detainees of the facility, it appears that the above grievance procedures are followed in this facility. If a detainee has a grievance, they are required to fill out a form and place it in a grievance box. A grievance coordinator then picks up the forms for the mailbox. The coordinator then investigates and prepares a decision.

While these procedures are consistent with the intent of the Standards, there are a few specific standards which are not met. For example, the complete grievance procedures are not set forth in the Inmate Handbook, as stated above. There is only a summary of the procedures in the handbook. According to the handbook, the complete procedure may be obtained from the unit counselor. A copy of this complete procedure was not provided to us during our review of the facility.

With respect to discipline, the Standards require that the detainee handbook list disciplinary procedures and sanctions including the grievance and appeal procedures. The disciplinary system must contain progressive levels of reviews, appeals, procedures and documentation procedures. Moreover, the policies and procedures must clearly define the rights and responsibilities of the inmates. The Standards require that all incidents be investigated within 24 hours and that the detainee is entitled to a staff representative to help him prepare his defense. All facilities must have a disciplinary panel to adjudicate detainee incident reports. Durations of punishment must be within established limits based on four categories of offenses:

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1. Greatest;
2. High;
3. High Moderate; and
4. Low Moderate.

All reports of incidents must be sent to ICE immediately.

The Inmate Handbook for the Osborn Correctional Institution contains a fairly brief section on disciplinary actions/code of penal discipline. The “code of penal discipline” is a separate document which sets forth all disciplinary offenses, authorized sanctions and the process of adjudication. Per the Inmate Handbook, the code of penal discipline is to be distributed separately from the Inmate Handbook to all inmates at orientation.

VIII. Medical Issues

The Standards provide:

All detainees shall have access to medical services that promote detainee health and general well-being. Medical facilities in . . . contract detention facilities will maintain current accreditation by the National Commission on Correctional Health Care.⁴³ Each facility is also to have regularly scheduled times, known as sick call, when medical personnel will be available to see detainees who have requested medical services.... The INS policy with respect to emergency care states, "if a detainee requires emergency medical care, the officer will immediately take steps to contact a health care provider through established procedures."⁴⁴

The medical facility is managed by the University of Connecticut, and appeared to be well staffed.⁴⁵ There is 24-hour medical staffing therefore all pharmaceuticals are dispensed solely by medical staff.⁴⁶

Medical screening of detainees is done prior to their transfer to Osborn. The screening includes a tuberculosis test and mental health screening.⁴⁷ Interviewed detainees stated that when they are in need of medical attention they can fill out a request to see a nurse. However, Osborn charges \$3.00 to talk to a nurse; an expense that could be prohibitive in many cases.⁴⁸

⁴³ DOM, Section 24, at 1

⁴⁴ DOM, Section 24, at 6

⁴⁵ (b)(6) notes

⁴⁶ Verbal communication from the second shift Nursing Supervisor, (b)(6)

⁴⁷ Id

⁴⁸ (b)(6) report; (b)(6) report; (b)(6) and (b)(6) s report

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Detainees have full medical access.⁴⁹ There is a nurse, (b)(6) who is assigned to detainee medication distribution and evaluation.⁵⁰ The facility has a Health Services Administrator, a psychiatrist, and on site medical doctors. The hospital has 27 beds for general medical patients, and 8 beds for mental health patients.⁵¹ Procedures that cannot be performed onsite are performed at Johnson Memorial Hospital, a facility within eight and one half miles of Osborn. The medical staff tours the detention facility once per shift to assess any medical needs, and provides detainees with informed consent and the right to withhold treatment information.⁵² The medical facility has JCAHO accreditation.

The medical facility is large enough to be cost effective, and appeared to have sufficient space and equipment available to provide detainee privacy. The facility waiting room, which appeared to be under the direct supervision of medical staff and custodial officers, allowed detainee access to a water fountain and restroom.

The most common complaint from detainees interviewed was that there is a long wait for dental care. For example, one detainee mentioned that a fellow detainee complaining of a toothache had to wait two weeks to see a dentist.⁵³

A. Suicide Prevention

Suicide-prevention training is given to staff members every year. Written procedures from the University of Connecticut and the Prison Directive cover when and how to refer at-risk detainees to medical staff.⁵⁴ Nursing Supervisor, (b)(6) stated that the facility provides a room with a blanket, mattress, and a camera for 1:1 observation during suicide-watch.⁵⁵

B. Hunger Strikes

In the case of hunger strikes, detainees who refuse food for 48 hours are observed and immediately reported to appropriate ICE and medical authorities. Treatment attempts are documented, and strikers are informed of their rights to refuse. In the past year, there was one hunger strike that lasted just over 48 hours⁵⁶

IX. Religious Issues

The underlying purpose of the *Standards* for religious practice is to ensure that all Detainees have the reasonable opportunity to practice the religion of their choice. Osborn's religious facilities meet and exceed the *Standards*. The *Standards* require a full-time religious

⁴⁹ Verbal communication from the second shift Nursing Supervisor, (b)(6) to (b)(6)

⁵⁰ Id

⁵¹ Id

⁵² (b)(6) notes

⁵³ Id

⁵⁴ Id

⁵⁵ (b)(6) notes

⁵⁶ Verbal communication from the second shift Nursing Supervisor, (b)(6) to (b)(6)

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leader to be employed at the facility who is to facilitate the availability of clergy from various religious faiths to meet the needs of detainees. Osborn has a full-time Chaplain, and detainees have weekly access to clergy, including, but not limited to, a Catholic deacon, an Islamic Imam, and a Rabbi. Osborn's Chaplain recognizes that weekly worship in accordance with a detainee's religion is a "right" rather than a privilege, and according to the Chaplain, Osborn makes reasonable accommodations for all recognized religions.⁵⁷

In addition to the ample religious leadership available, there is significant space set aside for religious practice of inmates and detainees alike. There is a Catholic church, a Jewish temple, a Protestant chapel and a space set aside as a Mosque. There is also an outdoor prayer space reserved for Indian religion. The Chaplain has established a religious literature database and reference library covering a number of religions. This database and library is available to the detainees.

The *Standards* also require that a detainee have equal opportunity to participate in the practice of his respective faith, no matter if he is the only individual housed in the facility who might practice that faith. The Chaplain indicated, and further demonstrated through the computer system and library, that he and his staff make every effort to accommodate the religious needs of all inmates and detainees; especially with respect to those with religious needs transcending the more common Western religions (i.e., by making accommodation for Jehovah's Witnesses, Buddhists, Hindus, etc.).

Detainees are permitted to have religious property including, but not limited to, oils, prayer rugs, rosaries, religious texts, and medallions. Finally, the Chaplain's office coordinates with food services to ensure that religious dietary requirements are satisfied (i.e., special programs for Ramadan). Osborn exceeds the *Standards* for religious practices.

X. Other Issues

A. Detainee Classification System

The Facility does not have a sophisticated system for classifying ICE detainees. All detainees are classified level 3 and are housed with level 3 inmates.

Currently, there are 192 detainees at the Facility. Of that number, six detainees are non-criminal detainees.⁵⁸ As a result of the standard classification at the Facility, there is no color coded uniform or wrist band provided based on classification level.⁵⁹ All inmates, whether detainees or not, wear the same uniform – khakis and a white tee-shirt.

As detainees are in the general population, their housing assignments and their meal times are not based on a classification level. An assignment to a housing unit is based on work or school assignments or "other classification status."⁶⁰ Virtually all housing is in double cells.

⁵⁷ These accommodations extend to detainees housed in special management units. (b)(6) s notes.

⁵⁸ (b)(6) s notes

⁵⁹ Id

⁶⁰ The Inmate Handbook at Section 1.10

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Detainees have the same recreational opportunities as all inmates in the Facility and participate in recreation with all inmates. Similarly, work assignments are not restricted to non-detainees. However, work assignments to the manufacturing segment of the Facility – which manufactures bedding, mattresses and t-shirts – are generally not available for detainees, but rather are open only to long term residents of the Facility.⁶¹ Detainees are not assigned to the manufacturing segment because of the investment and time in training to teach someone to work in the manufacturing facility.

Both ICE Agent (b)(6), (b)(7) and Warden (b)(6), (b)(7) justified the one level classification system as the best use of facilities and concern for singling out and segregating detainees. However, one detainee reported harassment from other inmates due to detainee status.⁶² The same detainee expressed a preference for segregation of detainees.⁶³ Another detainee expressed no concern for safety because of intermingling and had no objection to intermingling.⁶⁴

B. Accommodations

The issuance of clothing, bedding and linens conforms to the *Standards* and procedures are in place at Osborn for the washing and exchange of these items on a regular basis.⁶⁵ Detainees are provided clean clothing, bedding, linens and towels and additional weather-appropriate apparel as needed and required by the *Standards*.⁶⁶ The facility maintains standards for the manner in which clothing and headgear may be worn. Detainees are not permitted to wear dirty or ripped clothing and they must maintain standards of cleanliness and hygiene at all times.

Laundry facilities are provided, which allows the detainees to wash their own laundry as often as they wish subject to posted facility policies and procedures. The facility supplies personal hygiene items on a regular basis to indigent detainees. In general, detainee's uniforms were observed to be clean and presentable.⁶⁷

C. Personal Item Retention

The *Standards* indicate that detainees are permitted to retain the following: small religious items, soft-covered religious and secular reading materials, legal documents and papers, prescription glasses, dentures, address books, personal correspondence, a wedding ring, and up to ten 5" x 7" photographs.⁶⁸

⁶¹ See "Detainee Work Program" below

⁶² (b)(6) and (b)(6) report

⁶³ Id

⁶⁴ (b)(6) and (b)(6) report
⁶⁵ (b)(6) notes

⁶⁶ Id

⁶⁷ (b)(6) notes

⁶⁸ DOM, Standard 6, Funds and Personal Property

Detainees at the Osborn facility are permitted to retain personal property in their possession subject to standards for total volume, type, specific articles and quantity. The variety of items that may be retained exceeds that of the ICE detention standards but is limited to 6 cubic feet of property per detainee, of which 2 cubic feet may be Commissary or food.⁶⁹ All personal property is retained at the detainees own risk and must be permanently marked with the name and number of the detainee. Any unauthorized property, or property that exceeds standards for volume, may be inventoried and stored at the facility or may be shipped at the detainee’s expense to an approved address.⁷⁰

Detainees are not permitted to hold funds in their possession and upon their arrival an Inmate Account is established into which wages or allowances are deposited. Funds in the form of a money order may be received from those on the detainees approved Visitor List or from detainees Attorney of Record.⁷¹

D. Administrative Segregation

The “Standards” state that administrative segregation is a non-punitive separation when there is a threat to self, staff, other detainees, property or the security/orderly operation of the facility. Administrative segregation also includes segregation pending a disciplinary hearing, but in no case may be used as punishment.⁷²

The Standards state that detainees in administrative segregation are entitled to the same privileges as the general population with certain security-related exceptions. The facility is required to have written procedures consistent with this standard.

There are no provisions in the Inmate Handbook related to administrative segregation. The only provisions even remotely relating to this issue concern “security risk groups/gangs” designated by the Commissioner as posing a threat to the safety staff, the facility, inmates or the community.⁷³

We were told during our visit to Osborn that while they do have a separate block (Block F) for segregation, there is no “administrative segregation” at the Osborn Correctional Facility. If a detainee requires administrative segregation, he is transferred to another facility (Cheshire or to Corrigan) that provides administrative segregation.

E. Disciplinary Segregation

F-Block is used for inmates and detainees with discipline problems. If an inmate is disciplined he receives what is called a ticket. There is a disciplinary hearing officer that hears the ticket and imposes punishment.⁷⁴ Inmates in the disciplinary segregation unit are housed in

⁶⁹ (b)(6) notes

⁷⁰ Id

⁷¹ (b)(6) notes

⁷² DOM, Standard 32, *Administrative Segregation*.

⁷³ Inmate Handbook, Section 1.9.

⁷⁴ (b)(6) s notes

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their cells for 23 hours/day.⁷⁵ There is one inmate per cell with a toilet in each cell. There is a separate recreation yard for F-Block. The inmates are allowed outside once a day for one hour. If there is a pending investigation the longest anyone is held in F-Block is 30 days.

All prison officials, such as medical staff and mental health staff, tour F-Block every day. Inmates in F-Block are not allowed to receive family visits. If an attorney comes to visit a detainee in F-Block the visit will take place in the separate attorney room. There are counselors in F-Block through whom detainees can contact their attorneys. In F-Block there are no televisions for the inmates, no access to the library, and no library cart.⁷⁶

F. Correspondence & Mail

Pursuant to the *Standards*, the detainee handbook is supposed to set forth the policies regarding correspondence. Osborn meets this requirement in § 2.9 of the inmate handbook. The policies articulated therein generally comply with the *Standards*, though there are some shortcomings, especially with regard to indigent mail limits.

Osborn provides indigent detainees (less than \$5.00 in an account) with two (2) free social letters per week, and up to five (5) legal letters (addressed to attorneys or the courts) per month. The indigent postage policies of Osborn do not satisfy the standards, which require “at least five pieces of special correspondence and three pieces of general correspondence” each week.⁷⁷ Osborn represents that it provides writing paper, implements and envelopes to detainees.⁷⁸ This was corroborated by at least one detainee, who said he received writing paper when he requested it.⁷⁹

Osborn represents that it makes daily mail deliveries.⁸⁰ There are several mail boxes placed throughout Osborn, and they are accessible by the population on a daily basis. There are also special “ICE” boxes geared directly for complaints/grievances and mailings to BCIS.⁸¹ Mailings from the “ICE” boxes are reportedly picked up twice a week.⁸² One of the detainees interviewed stated that he was not informed about the special “ICE” boxes.⁸³ Thus, he was not aware that grievances could be submitted directly to the ICE using that mailbox.

According to prison officials, Osborn screens incoming mail for obvious signs of contraband, but otherwise, mail is left undisturbed and is not read—especially legal correspondence. The detainee handbook informs detainees of the screening procedure, and

⁷⁵ (b)(6) notes; (b)(6) notes

⁷⁶ (b)(6) notes

⁷⁷ DOM, Standard 3, Correspondence and other mail

⁷⁸ It should be noted that Osborn has typewriters available for detainee use, but at the time of our review of the facility, none of the typewriters were functioning because Osborn did not have typewriter ribbon.

⁷⁹ (b)(6) s notes.

⁸⁰ At least on detainee interviewed indicated that he did receive mail, but not on a daily basis. (b)(6) notes

⁸¹ The detainee handbook does not detail the existence or procedures for the “INS Box,” and according to detainees interviewed, Prison Officials failed to tell them of the “INS Box.” Thus, detainees are not aware that grievances could be submitted directly to the BCIS using this box

⁸² (b)(6) notes

⁸³ (b)(6) and (b)(6) s report

further provides notice to detainees that the Warden can review mail if there is reasonable suspicion that security and safety are threatened.

Finally, there are notaries public available for detainees when the need arises. Certified mail is permitted under certain circumstances where court requires certified mail (i.e., request for speedy trial, correspondence to Sentence Review Board) and by permission of the Warden.

Osborn generally satisfies the *Standards* for Correspondence, though detainees would be better suited if the detainee handbook detailed the purpose and procedure of the "ICE Box."

G. Handbook

The *ICE Detention 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 will also describe the services, programs, and opportunities available through various sources including the facility, ICE, private organizations, etc."⁸⁴ The handbook should constitute a comprehensive guide to life in the facility and include, at a minimum, the information specified in Section III, A through I of the *Detainee Handbook Standard*, of the *INS Detention Standards*. The purpose of the Handbook requirement is to give detainees notice of all applicable rules, policies, and privileges of the facility. An IGSA is not obligated to create a new detainee handbook, and may use its inmate handbook "provided [the procedures described in the handbook] meet or exceed the objective represented by each standard."⁸⁵

As an IGSA, Osborn is not obligated to create a separate Detainee Handbook, and may use its Inmate Handbook. The Lead Warden and the ICE District Officer both orally assured our delegation that each detainee was given a copy of the Inmate Handbook upon admittance to the facility. Contrary to this assurance, one of the three detainees interviewed stated that he did not receive the Inmate Handbook when he arrived at Osborn in May 2004.⁸⁶

The Handbook at Osborn pertains to inmates, with no additional information regarding the policies, procedures, and rules governing ICE detainees.⁸⁷ Therefore, it does not inform the detainees of the ICE policies governing their rights. For instance, the Inmate Handbook includes the prison's policies and procedures governing telephone access, but does not inform the ICE detainees of the additional telephone access that a detainee is required to be offered per Detention Operations Manual Standard 14, Telephone Access. This fact is particularly troublesome because most of the detainees are not in the position to question the conditions of their confinement for the sole reason that they were recently prisoners. They may not understand that, having completed their criminal prison sentences, they are no longer prisoners, and have additional rights.

⁸⁴ Detention Operations Manual, (hereinafter "DOM"), Detainee Handbook

⁸⁵ *Id*

⁸⁶ (b)(6) report

⁸⁷ See "Osborn Correctional Institution, Inmate Handbook", attached.

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H. Immigration Court

There is an immigration court within the facility. Both detainee and counsel appear before a judge via satellite from the in-house video court. For off-site court appearances, detainees are transferred by bus to/ from court in Hartford and are shackled during transport. The average wait before an individual's first court hearing is 72 hours.⁸⁸

While being interviewed by our delegation, a detainee stated that he found the in-house video court appearance unsatisfactory. One detainee said he was not able to appreciate the manner of the judge nor was the judge able to have a clear picture of the prisoner's manner and demeanor that he would otherwise have if they met in person.⁸⁹ The detainee noted also that because he had a microphone on he could not speak privately with his attorney during the court hearing.⁹⁰

Interviewed detainees were not aware of any pro bono legal services available to them. One detainee stated that he was told he could not have a lawyer at the government's expense because he was under ICE custody and was not being charged with a crime.⁹¹ Initially, he represented himself *pro se*, but has since hired an attorney to handle the appeal.

I. Detainee Work Program

The facility has an extensive voluntary work program in industries, which includes textile shop, print shop, laundry, industry warehouse, and industry janitors. Inmates selected for these assignments are required to have a minimum of one year to eighteen months left on their sentence.⁹² These jobs pay from 75 cents to \$1.75 per hour.⁹³ Due to the sentencing requirement, detainees are not eligible for these jobs. The detainees who are employed in industries were grandfathered into the program.⁹⁴

Detainees are eligible for work in the kitchen, cleaning the hallways, or janitorial duties.⁹⁵ They are paid approximately 75 cents per day and work five days a week.⁹⁶ The staff maintains a written chart with all inmate work assignments.

Classes are available to detainees however there is a waiting list for all classes.⁹⁷ One of the detainees interviewed has taken classes in Business Education. This class was approximately nine months long, and he waited approximately two months to get into the class.⁹⁸

⁸⁸ (b)(6) report

⁸⁹ (b)(6) re

⁹⁰ (b)(6) report, (b)(6) report

⁹¹ (b)(6) report

⁹² Inmate Handbook Chapter 3.7 "Industries"

⁹³ (b)(6) notes

⁹⁴ Verbal communication from Warden (b)(6), (b)(7)(D) (b)(6)

⁹⁵ (b)(6) report; (b)(6) and (b)(6) s report

⁹⁶ (b)(6) notes, (b)(6) notes

⁹⁷ (b)(6) notes, (b)(6) notes, (b)(6) s notes

⁹⁸ (b)(6) notes, (b)(6) s notes

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J. Food Service

Osborn satisfies the health code portion of the *Standards*. Osborn follows the Hazard Analysis and Critical Control Point (“HACCP”) principles for safe food handling and safe food temperature.⁹⁹ HACCP is a food handling and preparation system adopted by the United States Food and Drug Administration. There is a full-time dietician and food service administrator ensuring that the HACCP principles are satisfied and that the inmates/detainees are receiving sufficiently nutritional meals.

Detainees interviewed universally complained about the food, but there was no indication that there was any health risk posed by the fare provided to detainees. Detainees receive at least two hot meals per day, not more than twelve (12) hours apart, which exceeds the fourteen (14) hour maximum between meals set forth in the *Standards*. In fact, a review of the menu cycle reveals that detainees, more often than not, receive a hot breakfast option. Therefore, on most days, detainees receive three hot meals, generally not more than six (6) hours apart.

The *Standards* require a 35-day rotation for a menu. Osborn follows a 28-day (4-week) rotation, which fails to comply with the *Standards*. Despite the 28-day schedule rotation, Osborn otherwise satisfies the food service *Standards*. The 28-day menu takes ethnic diversity into account. Religious, as well as non-meat eating fare are provided. The Religious office cooperates and meets with the dining facility to comply with the requirements of religious seasons, including, but not limited to, Passover, Lent and Ramadan.

XI. Conclusion

Overall, Osborn provides "safe, secure and humane treatment of individuals detained by the ICE," in that it is a well-run prison. However, as noted by the above, the policies, procedures and rules at Osborn currently pertain to inmates, and little effort is made to distinguish the individuals detained by the ICE from the other inmates in the facility. The facility needs to prioritize the phasing-in of the *Standards*, (ex: telephone access, library access) as required by the *Standards* themselves.

⁹⁹ (b)(6) s notes

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